

SURFACE TRANSPORTATION BOARD

Docket No. AB 979 (Sub-No. 2X)

DECISION

CONNECTICUT SOUTHERN RAILROAD, INC.—ABANDONMENT EXEMPTION—  
IN HARTFORD COUNTY, CONN.

Decided: February 7, 2012

Connecticut Southern Railroad, Inc. (CSO) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 2.4 miles of rail line extending between milepost 2.0 and milepost 4.4 on its Suffield Subdivision in Hartford County, Conn. Notice of the exemption was served and published in the Federal Register on January 9, 2012 (77 Fed. Reg. 1,126-27). The exemption is scheduled to become effective on February 8, 2012.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on January 13, 2012. In the EA, OEA states that the U.S. Army Corps of Engineers (Corps) has submitted comments stating that it does not have enough information on the proposed abandonment to adequately determine whether salvage operations would impact jurisdictional wetlands or waterways under Section 404 of the Clean Water Act. In its comments, the Corps also states that the bridge crossing at Stony Brook is the only potential Section 404 resource identified within the area, but if there are others present, they need to be identified so potential impacts can be assessed. CSO believes that no Section 404 permits would be required but has provided no additional information to support its belief. However, CSO did provide, in detail, the best management practices it plans to implement during the salvage process. Under these practices, CSO has stated that it would not perform the following: (1) remove any ballast, bridges, or culverts; (2) disturb any underlying roadbed; (3) create any new access roads; (4) perform any activities that would cause sedimentation or soil erosion; or (5) deposit dredge or fill in any areas during the removal of track material. Given the nature of the proposed undertaking, OEA believes these practices would provide sufficient protection for any potential Section 404 resource. However, to ensure that the Corps' concerns are adequately addressed, OEA has recommended in the EA that, prior to commencement of any salvage activities, CSO be required to consult with the Corps regarding potential impacts to waters of the United States, including wetlands, and comply with the reasonable requirements of the Corps.

OEA also states in the EA that it has not heard from the Connecticut Historical Commission, State Historic Preservation Office (SHPO) and, therefore, has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing in the National Register of Historic Places (National Register). Accordingly, OEA has recommended in the EA that CSO be required to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects

within the project right-of-way (the Area of Potential Effect) that are eligible for listing or are listed in the National Register until completion of the section 106 process of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, that CSO be required to report back to OEA regarding any consultations with the SHPO and the public, and that CSO not be allowed to file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

Two comments in response to the EA were received by the January 31, 2012 due date. The first comment was received from the SHPO stating that it has concluded that 2 bridges on the line proposed for abandonment are eligible for listing on the National Register. Because the abandonment proposal would retain the 2 bridges, roadbed and ballast, the SHPO has concluded that the proposed abandonment would have no adverse effect on the National Register listed or eligible properties affected by this undertaking. Therefore, OEA recommends in the final EA that the Section 106 condition previously recommended in the EA not be imposed.

The second comment was received from the U.S. Department of Commerce, National Geodetic Survey (NGS) stating that it has identified 1 geodetic station marker that may be affected by the proposed abandonment. Therefore, OEA recommends in the final EA that a new condition be imposed requiring CSO to consult with and notify the NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers. OEA continues to recommend the other environmental condition as set forth in the EA.

Accordingly, the conditions recommended by OEA in the EA, as modified in the final EA, will be imposed. Based on OEA's recommendation, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on January 9, 2012, exempting the abandonment of the line described above is subject to the conditions that CSO shall: (a) prior to commencement of any salvage activities, consult with the Corps regarding potential impacts to waters of the United States, including wetlands, and comply with the reasonable requirements of the Corps; and (b) consult with and notify the NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.