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SEA

SERVICE DATE – MARCH 13, 2007

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-290 (Sub-No. 283X)

Norfolk Southern Railway Company – Abandonment Exemption – in Orange County, NY

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a petition under 49 U.S.C.10502 for exemption from the provisions of 49 U.S.C. 10903 for NSR to abandon service over a 1.64-mile line of railroad, extending from milepost ZU 45.00 to milepost ZU 46.64 at Harriman, Orange County, NY (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the petition becomes effective, NSR will be able to salvage track, ties, and other railroad appurtenances and dispose of the right-of-way.

ENVIRONMENTAL REVIEW

The Railroad submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment of service or any post-abandonment activities, including salvage and disposition of the right-of-way. The Railroad served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to the Railroad, no local traffic has moved over the Line since October 2005, when Nepera Chemical Company, the only shipper on the line, permanently ceased operations. NSR states that there been no demand for service on the Line since that time. Therefore, the proposed abandonment of service would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could cause significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and re-grading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

According to the Railroad, the Line is in an industrial area within the City of Harriman, New York. NSR states that the Line was owned by the Consolidated Rail Corporation (Conrail) until NSR's acquisition of the Line in 1999. Historically, the Line was once part of the Erie Railroad Company main line. However, according to NSR, the Line has been a 1.64-mile dead-end spur for over 20 years.

The Railroad states it seeks to abandon the Line, in part, to reclassify and retain the segment of Line proposed for abandonment between milepost ZU 45.00 and ZU 45.90 as industrial or storage track.¹ Consequently, NSR states that it does not intend to conduct salvage activities along this section of the Line. Moreover, according to NSR, Conrail removed the track materials from the remaining segment of Line between ZU 45.90 and ZU 46.64 several years prior to NSR's acquisition of the Line. However, SEA has considered the potential environmental impacts in the event that the Line does not remain in continued rail use and salvage activities are conducted over the Line.

The Railroad states that it has received inquiries regarding public use of the Line from Orange County, New York. The County has indicated to NSR that it would like to use a portion of the Line to extend its Heritage Trail. Since NSR intends to retain the segment of the Line between milepost ZU 45.00 and milepost ZU 45.90 for future industrial use, NSR does not believe that this segment would be suitable for public or trails use.² However, NSR states that it will consider trails use negotiations with Orange County for the Line segment between milepost ZU 45.90 and milepost ZU 46.64.

In a September 26, 2006 letter to NSR, the Village of Harriman also indicated its interest in acquiring the Line for public purposes following the proposed abandonment. The Village proposes to incorporate the Line property into its "Mary Harriman Park" located adjacent to the Line.

¹ NSR states that it seeks to reclassify this segment of track as industrial or house track for ancillary rail uses partly because the former Nepera Chemical Plant site may become available for industrial development which could result in a new railroad customer locating along the line.

² In its Petition for Exemption, NSR requested an exemption from 49 U.S.C. 10904 [offer of financial assistance (OFA) procedures] and 49 U.S.C. 10905 [public use conditions].

The New York State Division of Coastal Resources has indicated to NSR that the proposed abandonment would not affect coastal uses or resources pursuant to the Coastal Zone Management Act (16 U.S.C. 1451).

The United States Army Corps of Engineers (Corps) has submitted comments to NSR regarding the proposed abandonment. The Corps has indicated to NSR that, based on the information contained in the environmental report, no permits would be required in connection with 100-year floodplains or adjacent wetlands and no impacts to jurisdictional waters or wetlands under Corps control are anticipated. SEA will ensure that the Corps is added to the service list for this proceeding and receives a copy of this EA for its review and comment.

The New York State Department of Environmental Conservation, Division of Water Permits, has indicated to NSR that the proposed abandonment is consistent with State Water Quality Standards and that no state permits under Section 402 of the Clean Water Act are required.

The Railroad states that the Line does not pass through state parks or forests, or wildlife sanctuaries. Therefore, no adverse effects on wildlife sanctuaries, National Parks or Forests, or State Parks or Forests are anticipated.

The National Geodetic Survey (NGS) provided comments stating that one geodetic station marker may be located in the area of the proposed abandonment. NGS requests 90 days advance notice to relocate the station marker. Accordingly, we will recommend that a condition be imposed on any decision granting abandonment authority requiring NSR to notify NGS at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of the geodetic station marker identified by NGS.

SEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment of service.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. SEA is providing a copy of this EA to the City of Harriman, Orange County, the Natural Resources Conservation Service, the United States Environmental Protection Agency, the United States Fish and Wildlife Service, the Corps, and NGS for review and comment.

HISTORIC REVIEW

The Railroad submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the New York State Office of Parks, Recreation and Historic Preservation (State Historic Preservation Office or SHPO) pursuant to 49 CFR 1105.8(c). The historic report states that there are no historic properties (structures or bridges)

within the Line's right-of-way (also the Area of Potential Effect, APE). In response to the historic report, the SHPO provided a letter to NSR on December 20, 2006 indicating that the proposed abandonment will have No Adverse Effect upon properties in or eligible for inclusion in the National Register of Historic Places (National Register).³

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing Section 106 of the National Historic Preservation Act at 36 CFR 800, we have determined, in consultation with the SHPO, that the proposed abandonment of service will result in a No Adverse Effect determination upon historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(e), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's web site at <http://www.stb.dot.gov>.

SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify Federally recognized tribes that may have ancestral connections to the project area; no tribes were listed.

CONDITION

We recommend that the following condition be imposed on any decision granting abandonment authority:

Norfolk Southern Railway Company (NSR) shall notify the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of the one geodetic station marker identified by NGS.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended condition is imposed, the proposed abandonment of service will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment of service would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

³ In its December 20, 2006 letter to NSR, the SHPO indicated that the subject Line is eligible for listing on the National Register of Historic Places, but will not be adversely affected as a result of the Board's approval of the proposed abandonment.

PUBLIC USE

Following abandonment of service and salvage of the Line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this EA, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Catherine Glidden, who prepared this EA. Environmental comments may also be filed electronically on the Board's web site, <http://www.stb.dot.gov>, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 283X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Catherine Glidden, the environmental contact for this case, by phone at (202) 245-0293, fax at (202) 245-0454, or e-mail at gliddenc@stb.dot.gov.

Date made available to the public: March 13, 2007.

Comment due date: April 12, 2007.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment