

35277

SERVICE DATE – NOVEMBER 23, 2004

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-290 (Sub. No. 256X)

**Norfolk Southern Railway Company -- Abandonment Exemption --
in Chester County, PA**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for NSR to abandon a 0.80 mile rail line located between milepost 18.92 and milepost 19.72 at Downington in Chester County, Pennsylvania. A map depicting the entire rail line in relationship to the area served is appended to the report. If the notice becomes effective, NSR would be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to NSR, the section of line proposed for abandonment is the dead end branch of the rail line sometimes referred to as the “Old Chester Valley Running Track.” The line was constructed sometime between 1850 and 1853 by the Chester Valley Railroad Company. In 1859, the Chester Valley Railroad Company was leased to the Philadelphia and Reading Railroad system. In 1888, the Philadelphia and Chester Valley Railroad Company was incorporated after it acquired the Chester Valley Railroad Company through a foreclosure sale. In 1896, the Philadelphia and Chester Valley Railroad Company was reorganized as the Philadelphia and Reading Railway Company.

During the early part of the 20th century, the line was acquired by the Reading Company through the merger of its subsidiaries which included the Philadelphia and Reading Railway Company. In 1976, the line was then acquired by the Consolidated Rail Corporation (Conrail). Conrail controlled the line until 1999 when the line was allocated to Pennsylvania Lines LLC (PRR). The merger of PRR into NSR on August 24, 2004 allowed NSR to operate the PRR line through direct ownership. ¹

NSR states that there is now no demand for or prospect of rail service over the line, and that no traffic has originated, terminated, or moved overhead on this line

¹ A more detailed history of the line can be found in the historic report for this proceeding available on the Board’s web site at <http://www.stb.dot.gov>

segment for at least two years. Consequently, no rail traffic would be diverted to highway mode as a result of the abandonment. If the abandonment is approved, NSR would be able to eliminate a grade crossing which will improve safety and traffic flow.

According to NSR, the line passes through a largely rural farming area with approximately 10 percent developed and 90 undeveloped land. NSR states that the proposed action would have no effect on any prime agricultural lands that may be located within the path of the line.

NSR has received no inquiries about public use of the right-of-way underlying the line segment to be abandoned. The railroad intends to sell the right-of-way to Hansen Aggregates, a local company, which would use the property to expand its business. NSR believes that this public use is consistent with the Borough of Downingtown's support of local business interests. NSR is not aware of any restrictions that would affect the conveyance of land for purposes other than railroad uses. However, the railroad states that they do not believe a public use condition should be imposed on the line due its impending sale to Hansen Aggregates.

The rail line crosses one unnamed waterway and a 100-year flood plain. NSR states that it does not intend to appreciably remove or alter the contour of the roadbed underlying the rail line to be abandoned. They note that the areal extent of disturbed areas would be kept to a minimum and limited to the right-of-way wherever possible. There are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed abandonment. Since the geometry of the roadbed would not be significantly altered, NSR does not expect discernible effects on either 100-year flood plains or adjacent farmlands in connection with the proposed abandonment.

ENVIRONMENTAL REVIEW

NSR submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR 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) reviewed and investigated the record in this proceeding.

According to NSR, the US Fish and Wildlife service has indicated that the project area is within the range of the bog turtle (*Clemmys muhlenbergii*), a listed Federally threatened species that inhabits wetlands like those identified in the project area. The railroad also states that the Pennsylvania Department of Conservation and Natural Resources has indicated that other listed threatened and/or endangered flora and fauna are known to occur in Chester County, Pennsylvania. These include the coastal plain leopard frog (*Rana utricularia*), and the plants glade spurge (*Euphorbia purpurea*), swamp pink (*Arethusa bulbosa*), variable sedge (*Carex polymorpha*), small whorled

pogonia (*Isotria medeoloides*), and serpentine aster (*Aster depauperatus*). NSR provided a listing of other endangered and threatened species that may be located within the project area in Appendix F of their environmental report.

NSR indicates that the proposed abandonment would not likely impact any known or suspected Federally listed threatened or endangered species that may be located in the project area as salvage operations would be generally restricted to the right-of-way. The railroad also states that they are willing to perform any mitigation that may be required to protect Federally listed threatened or endangered species that might be impacted by the proposed project. It should be noted, however, that the environmental report submitted by NSR to SEA does not include any project specific documentation from either the US Fish and Wildlife Service or the Pennsylvania Department of Conservation and Natural Resources regarding potential impacts to Federally listed threatened or endangered species within the project area. The environmental report only lists potential species that may be impacted. SEA therefore recommends that the railroad not engage in any salvage activities or otherwise dispose of the line until the Section 7 process under the Endangered Species Act, 16 U.S.C. 1536, has been completed.

NSR has indicated the rail line proposed for abandonment crosses an unnamed waterway and passes through wetlands. The railroad states that the proposed abandonment would not adversely impact these wetlands as salvage operations would generally be restricted to the right-of-way. However, SEA recommends a consultation condition requiring that NSR contact the Army Corps of Engineers, Philadelphia District, prior to conducting any salvage activities on this project to evaluate the need for a permit as required under Section 404 of the Clean Water Act, 33 U.S.C. 1344.

HISTORIC REVIEW

NSR submitted a historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)]. NSR served the report on the Pennsylvania Historical and Museum Commission (SHPO) pursuant to 49 CFR 1105.8 (c). In a letter to NSR, the SHPO has stated that the proposed abandonment activities and sale of the right-of-way for commercial purposes would have an adverse effect on properties eligible for the National Register including the railroad line itself. In order to address the concerns of the SHPO, we are recommending a condition to govern the completion of the Section 106 process.

CONDITIONS

We recommend that the following three environmental conditions be placed on any decision granting abandonment authority:

1. The Pennsylvania Historical and Museum Commission (SHPO) has not completed its evaluation of the potential impact of this project on historic resources. Accordingly, the Norfolk Southern Railway Company shall retain its interest in and take no steps to alter the historic integrity of the rail line or any sites and structures eligible or potentially eligible for the National Register of Historic Places until completion of the Section 106 process of the National Historic Preservation Act, 16. U.S.C. 470f.
2. According to the Norfolk Southern Railway Company, the US Fish and Wildlife Service has indicated that the project area is within the range of the bog turtle (*Clemmys muhlenbergii*), a listed Federally threatened species. The Norfolk Southern Railway Company also indicates that that the Pennsylvania Department of Conservation and Natural Resources has provided a list of other threatened and endangered flora and fauna that occur in the vicinity of the project area. Therefore, prior to conducting any abandonment and salvage activities, the Norfolk Southern Railway Company shall consult with the Hadley, Massachusetts Office of the U.S. Fish and Wildlife Service (Region 5) regarding potential impacts from salvaging activities to threatened and endangered species, and shall report the outcome of these consultations to the Board's Section of Environmental Analysis.
3. The rail line proposed for abandonment crosses an unnamed waterway and passes through wetlands. Therefore, the Norfolk Southern Railway Company shall consult with the U.S. Army Corps of Engineers, Philadelphia District, to determine if a permit is required under Section 404 of the Clean Water Act, 33 U.S.C. 1344 prior to conducting salvage operations on the line.

CONCLUSIONS

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

Alternatives to the proposed abandonment 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.

PUBLIC USE

Following abandonment and salvage of the rail 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 the petition for 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 responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL COMMENTS

If you wish to file comments regarding this environmental assessment, 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 environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub No. 256X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Catherine Glidden, the environmental contact for this case, by phone at (202) 565-1542, fax at (202) 565-9000, or e-mail at gliddenc@stb.dot.gov

Date made available to the public: November 23, 2004.

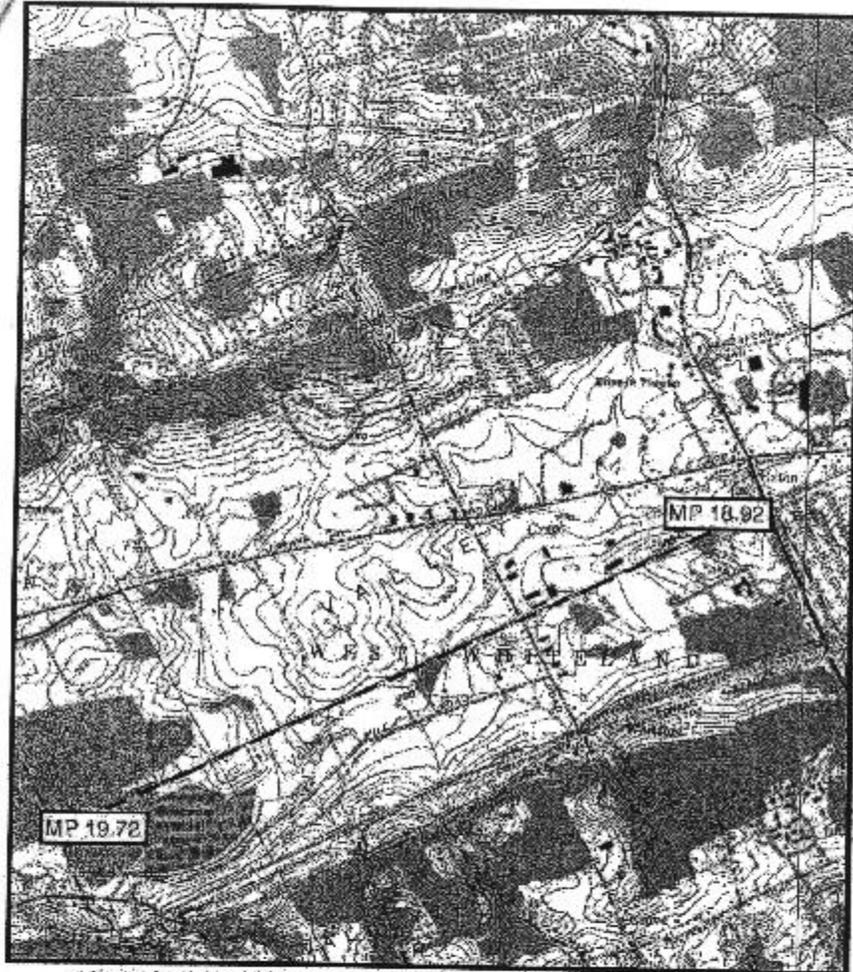
Comment due date: **December 8, 2004 (15 days).**

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

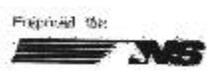
Vernon A. Williams
Secretary

Attachment

HB-290 (256X)



NOBLE SOUTHERN RAILWAY COMPANY - DOWNINGTOWN, PENNSYLVANIA
PORTION OF DECS P.E. MASTERS, CHICAGO, ILL. AND DOWNINGTOWN, PA. QUADRANGLE



Downingtown, Pennsylvania
Proposed Abandonment NS District
MP 18.92-19.72

