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SERVICE DATE – LATE RELEASE SEPTEMBER 13, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 267X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—
IN KANAWHA COUNTY, WV

Decided: September 13, 2006

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 12.22-mile line of railroad between milepost TP-14.69 at Blue Creek, and milepost TP 26.91 at Acup (Sanderson), in Kanawha County, WV. Notice of the exemption was served and published in the Federal Register on August 15, 2006 (71 FR 46976). The exemption is scheduled to become effective on September 14, 2006.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on August 18, 2006. In the EA, SEA states that, although NSR has contacted the United States Army Corps of Engineers (USACE) and the West Virginia Department of Environmental Protection (WVDEP) regarding the permit requirements of section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act, NSR has not received written responses. Therefore, because NSR has indicated that the trestles in the various waterways crossed by the rail line would be removed, SEA recommends that NSR, prior to the commencement of salvage activities, further consult with USACE and the WVDEP regarding bridge removal at water bodies in accordance with those permit requirements.

SEA also states in the EA that NSR contacted the U.S. Environmental Protection Agency (USEPA) to determine if the proposed abandonment would likely result in impacts to water quality under section 402 of the Clean Water Act, but did not include any responses in its environmental report and does not believe a section 402 permit would be required. However, to ensure appropriate consideration of the National Pollutant Discharge Elimination System (NPDES) requirements, SEA recommends that NSR consult with USEPA and/or WVDEP prior to the commencement of any salvage activities for possible impacts to waterways during the removal of bridges.

Finally, SEA states in the EA that NSR submitted a historic report and served it on the West Virginia Division of Culture and History, the State Historic Preservation Office (SHPO). In addition, SEA states that NSR submitted a Memorandum of Agreement, which is under review by the SHPO, for adherence to 1999 requirements stemming from the acquisition of Consolidated Rail Corporation. Based on the

information provided by NSR, SEA determined that the proposed abandonment would have an adverse effect upon the rail line, which is considered eligible for listing in the National Register of Historic Places (National Register). Therefore, and because the SHPO has not completed its evaluation of the potential impact of the proposed abandonment on historic resources, SEA recommends that NSR retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way 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, 16 U.S.C. 470f (NHPA). In addition, SEA recommends that NSR be required to report to SEA the results of any consultations with the SHPO and any other consulting parties.

Comments to the EA were due by September 5, 2006. No comments were received. Accordingly, the conditions recommended by SEA in the EA will be imposed. Based on SEA'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 August 15, 2006, exempting the abandonment of the line described above is subject to the conditions that NSR shall: (1) consult with USACE and WVDEP prior to commencement of any salvage activities regarding bridge removal at water bodies in accordance with the permit requirements of section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act; (2) consult with USEPA and/or WVDEP prior to commencement of any salvage activities to ensure appropriate consideration of the NPDES requirements; and (3) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are eligible for listing or are listed in the National Register until completion of the section 106 process of the NHPA, and report to SEA the results of any consultations with the SHPO and any other consulting parties.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary