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SERVICE DATE – JULY 14, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 265X)

NORFOLK SOUTHERN RAILWAY COMPANY–ABANDONMENT EXEMPTION–IN  
CALHOUN COUNTY, AL

Decided: July 13, 2006

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 5.8-mile line of railroad between milepost 55.3-N at Fort McClellan, and milepost 61.1-N, at Anniston, in Calhoun County, AL. Notice of the exemption was served and published in the Federal Register on February 2, 2006 (71 FR 5734-35).

By decision and notice of interim trail use or abandonment served on March 3, 2006 (March 2006 decision), the proceeding was reopened at the request of the Board’s Section of Environmental Analysis (SEA), and the exemption was made subject to three environmental conditions.<sup>1</sup> In a letter to SEA dated June 8, 2006, NSR states that the environmental conditions have been satisfied, and asks that the conditions be removed.

The first condition imposed in the March 2006 decision required NSR to consult with the United States Army Corps of Engineers (USACE) prior to the commencement of any salvage activities to determine whether a permit under section 404 of the Clean Water Act (33 U.S.C. 1344) is required. USACE has informed NSR that the proposed abandonment is not likely to have an impact on jurisdictional wetlands, provided all salvage activities are conducted within the limits of the existing railroad right-of-way and previously filled areas. Therefore, SEA recommends that this condition be removed.

The second condition imposed in the March 2006 decision required NSR to consult with the U.S. Fish and Wildlife Service (USFWS) prior to the commencement of salvage activities regarding possible impacts to federally listed threatened or endangered species that may occur in the vicinity of the proposed abandonment. USFWS has informed NSR that it has no record of federally protected species within the study area likely to be affected by the proposed salvage activities. Therefore, SEA recommends that this condition be removed.

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<sup>1</sup> In addition to trail use and environmental conditions, the March 2006 decision also imposed a public use condition. The trail use negotiating period and public use condition expire on August 31, 2006. The public use condition may not be extended.

The third condition imposed in the March 2006 decision required NSR to retain its interest in and take no steps to alter the historic integrity of all sites and structures in the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. The Alabama Historical Commission informed NSR that it has completed its review of the proposed abandonment, and has determined that the proposed abandonment would have no effect on any known cultural resources listed on or eligible for listing in the National Register of Historic Places. Therefore, SEA recommends that the section 106 historic preservation condition imposed in the March 2006 decision be removed.

Based on SEA's recommendations, the proceeding will be reopened and the three previously imposed environmental conditions will be removed.

This decision 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 conditions requiring consultation with USACE and USFWS, and the section 106 historic preservation condition imposed in the March 2006 decision are removed.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary