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SERVICE DATE - MARCH 1, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-601 (Sub-No. 1X)

PINE BELT SOUTHERN RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN
LEE AND CHAMBERS COUNTIES, AL

Decided: February 27, 2004

Pine Belt Southern Railroad Company (PBRR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 17.4-mile line of railroad between milepost T-322.40 at Roanoke Junction and milepost T-339.66 at Lafayette, in Lee and Chambers Counties, AL. Notice of exemption was served and published in the Federal Register on December 22, 2003 (FR 68 71223).

By decision served January 20, 2004, the proceeding was reopened and the exemption was made subject to the condition that PBRR take no steps to alter the historic integrity of the right-of-way until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.¹

The Board's Section of Environmental Analysis (SEA) has now been informed by the Alabama Historical Commission (SHPO) that the abandonment would not have an adverse effect on historic properties as long as salvaging activities are limited to either the railroad right-of-way or previously disturbed areas. The SHPO states that it would require that a cultural resource assessment be performed by a professional archaeologist before any salvage activities could occur outside the right-of-way or previously disturbed areas. The SHPO also noted that, if artifacts or archaeological features are encountered during salvaging activities, work should cease and it should be contacted immediately. SEA now recommends that the previously imposed section 106 condition be modified to require instead that: (1) PBRR shall limit salvaging activities to either the existing right-of-way or previously disturbed areas, but if salvaging activities need to occur outside these areas, then a cultural resource assessment of these areas shall be performed by a professional archaeologist and the assessment report shall be submitted to the SHPO and SEA for review and comment before commencing with salvage activities in these areas; and (2) if artifacts or archaeological features are encountered during salvaging

¹ The January 20, 2004 decision also imposed a 180-day public use condition that required PBRR to keep intact the right-of-way, including bridges, trestles, culverts and tunnels (but not track, ties and signal equipment) for period of 180 days from the January 21, 2004 effective date of the exemption. The public use condition will expire on July 19, 2004.

activities, work shall cease and the SHPO shall be consulted immediately (this condition shall be placed on any salvage plans to ensure that contractors are aware of its requirements).

SEA also states that the U.S. Fish and Wildlife Service (USFWS) filed a comment stating that the following seven Federally listed threatened or endangered species may occur in the area of the line: Mussels: Ovate clubshell (*Pleurobema perovatum*), Southern clubshell (*Pleurobema decisum*), and the Finelined pocketbook (*Lampsilis altilis*); Plants: Relict trillium (*Trillium reliquum*), and the Little amphianthus (*Amphianthus pusillus*); Birds: Red-cockaded woodpecker (*Picoides borealis*), and the Bald eagle (*Haliaeetus leucocephalus*). USFWS stated that the listed mussels and their habitats, if present, could be impacted by the abandonment if salvaging activities occur in streams or if soil erosion is not avoided or properly controlled. USFWS states that the listed plants and birds, if present, could be impacted if salvaging activities occur outside the existing railroad bed or already disturbed areas of the right-of-way. The birds could also be disturbed if salvaging activities produce loud noises during their nesting seasons. Therefore, to address the concerns of USFWS, SEA recommends that the following new conditions be imposed: (1) if salvaging activities, including bridge removal, need to occur within streams, PBRR shall consult with the USFWS (Daphne, AL Field Office) on the need for and scope of field surveys for Federally listed mussel species and report the results of these consultations to SEA; (2) PBRR shall prepare and implement an erosion and sediment control plan for salvaging activities (the erosion and sediment control plan shall be consistent with the appropriate requirements of the 2003 Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management); (3) PBRR shall limit salvaging activities, including vehicle parking and equipment storage, to the existing railroad bed or already disturbed areas of the right-of-way (if salvaging activities need to occur outside these areas, PBRR shall consult with USFWS (Daphne, AL Field Office) on the need for and scope of field surveys for Federally listed plant species and report the results of these consultations to SEA); and (4) PBRR shall limit salvaging activities to the months of June through September to avoid potential disturbances of nesting Federally listed bird species (if salvaging activities need to occur during the months of October through May, PBRR shall consult with the USFWS (Daphne, AL Field Office) on the need for and scope of field surveys for Federally-listed bird species and report the results of these consultations to SEA).

Finally, USFWS also expressed concerns regarding the storage and disposal of salvaging materials including railroad ties and bridge timbers. Therefore, SEA recommends that a condition be imposed to require that PBRR shall store, transport and dispose of all solid waste in the compliance with applicable regulations of the Alabama Department of Environmental Management.²

² USFWS also stated that, if contamination from historic spills of petroleum products or other chemical may be present, then sampling should be conducted. However, PBRR stated in (continued...)

Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be modified and the recommended conditions will be imposed.

It is ordered:

1. This proceeding is reopened.

2. Upon reconsideration, (1) the historic preservation condition previously imposed in the decision served January 20, 2004, is modified to require instead that: (a) PBRR shall limit salvaging activities to either the existing right-of-way or previously disturbed areas, but if salvaging activities need to occur outside these areas, then a cultural resource assessment of these areas shall be performed by a professional archaeologist and the assessment report shall be submitted to the SHPO and SEA for review and comment before commencing with salvaging activities in these areas; (b) if artifacts or archaeological features are encountered during salvaging activities, work shall cease and the SHPO shall be consulted immediately (this condition shall be placed on any salvaging plans to ensure that contractors are aware of its requirements); and (2) the following new conditions are imposed: (a) if salvaging activities, including bridge removal, need to occur within streams, PBRR shall consult with the USFWS (Daphne, AL Field Office) on the need for and scope of field surveys for Federally listed mussel species and PBRR shall report the results of these consultations to SEA; (b) PBRR shall prepare and implement an erosion and sediment control plan for salvaging activities (the erosion and sediment control plan shall be consistent with the appropriate requirements of the 2003 Alabama Handbook for Erosion Control, Sediment Control, and Stormwater Management); (c) PBRR shall limit salvaging activities, including vehicle parking and equipment storage, to the existing railroad bed or already disturbed areas of the right-of-way (if salvaging activities need to occur outside these areas, the railroad shall consult with the USFWS (Daphne, AL Field Office) on the need for and scope of field surveys for Federal listed plant species and report the results of these consultations to SEA; and (d) PBRR shall limit salvaging activities to the months of June through September to avoid potential disturbances of nesting Federally listed birds species (if salvaging activities need to occur during the months of October through May, BPRR shall consult with USFWS (Daphne, AL Field Office) on the need for and scope of field surveys for Federally-listed bird species and report the results of these consultations to SEA.

²(...continued)

its environmental report that it “has no knowledge of any hazardous waste sites where there have been known hazardous material spills on the right-of-way of the line proposed for abandonment or which will be affected by the abandonment.” Therefore, SEA does not see the need to require a sampling program at this time.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary