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SEA

SERVICE DATE – DECEMBER 18, 2009

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-290 (Sub-No. 315X)

**Norfolk Southern Railway Company – Notice of Exemption –
in Chemung County, NY**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Elmira, Chemung County, New York. The rail line proposed for abandonment extends 1.85 miles from milepost KV 249.55 near East Thurston Street to milepost KV 251.40 near Lennox Avenue (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

NSR submitted an environmental report that concludes the quality of the human environment will 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) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to NSR, no traffic has originated or terminated on the Line for at least two years and any overhead traffic can be rerouted over other lines. Accordingly, the proposed abandonment 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 result in significant environmental impacts, including impacts to air quality and the local transportation network. Additionally, no complaint is pending with the Board or a U. S. District Court or has been decided in favor of a complainant concerning cessation of service over this line within the two-year period.

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 regrading 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.

NSR states that the Line crosses one small stream which runs through a culvert underneath the Line. The culvert would remain in place following abandonment. NSR plans to conduct all salvage activities within the existing double track right-of-way. Access would be through existing road crossings. According to NSR, salvage activities would not alter the contour or geometry of the roadbed or involve any dredging or the use of fill materials. No discernible effects on either 100-year flood plains or adjacent wetlands are expected. NSR does not expect the abandonment to produce any adverse environmental impacts and would undertake all reasonable mitigation to assure no impacts result from abandonment activities.

The Line is in an urban setting (the City of Elmira, population approximately 31,000) of mixed use areas comprising light industrial, retail, and residential properties. The right-of-way width varies from 50 to 99 feet on each side of the track centerline. According to NSR, it may not have fee title to the entire right-of-way underlying the Line proposed for abandonment; therefore, NSR may not have a contiguous corridor available for public use. There are six at-grade crossings located on the Line.

The City of Elmira responded to NSR's request for comments by e-mail. It states that city representatives have reviewed the Combined Environmental and Historic Report and have no comments. It further states that the city supports the proposed abandonment.

NSR contacted the U. S. Fish and Wildlife Service (USFWS), which has not responded to date. Based on site investigations and the provided map, no parks, forests, or wildlife sanctuaries exist along the Line. No adverse effects on wildlife sanctuaries, forests, or parks are anticipated.

Additionally, given the current land usage of the surrounding areas and Elmira's location near the PA-NY state line midway between New York State's eastern and western boundaries, there would be no effect on prime agricultural land or effects to land or water uses within a designated coastal zone. NSR contacted the Natural Resources conservation Service and the New York Department of State, Division of Coastal Resources. To date neither has responded to NSR's request for comments.

The New York State Department of Environmental Conservation (NYS DEC) responded to NSR's request for comments. NYS DEC advised NSR that the project is near or in mapped NYS Freshwater Wetland EL-1. NYS DEC also stated that a NYS Freshwater Wetlands permit is required for any physical disturbance within the designated wetland or within the 100 foot

adjacent area of the wetland. SEA will recommend a condition that NSR further consult with NYS DEC concerning the possible need to obtain a Freshwater Wetland permit.

NSR contacted the regional office of the U.S. Environmental Protection Agency. To date no response has been received.

The U.S. Army Corps of Engineers (the Corps) submitted comments upon review of NSR's Combined Environmental and Historic Report relative to Section 404 of the Clean Water Act. NSR does not believe a permit under Section 404 of the Clean Water Act would be required for the abandonment and that no designated wetlands or 100-year flood plains would be affected by the proposed abandonment. After providing additional details to the Corps, the Corps concurs with NSR that the abandonment will not involve a discharge of dredged or fill material into "Waters of the United States," that the Corps has no jurisdiction over the proposal, and a Department of the Army permit is not required. Additionally, the Corps requests NSR take proper measures to prevent unintentional discharges from entering waterways, which NSR has stated it would do.

NSR contacted the National Geodetic Survey (NGS) and received an e-mail response. NGS stated that no geodetic survey marks are located in the area of the Line.

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.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts.

HISTORIC REVIEW

NSR served the historic report on the New York State Office of Parks, Recreation and Historic Preservation (SHPO), pursuant to 49 CFR 1105.8(c). The SHPO is of the opinion that the project will have no effect upon cultural resources in or eligible for inclusion in the National Register of Historic Places.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 CFR 800.5(c) and 36 CFR 800.8, we have determined that the proposed abandonment will not adversely affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), 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.

SEA conducted a search of the Tribal Directory Assessment Tool at <http://www.hud.gov/offices/cpd/environment/tribal/index.cfm> to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the following Federally recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment: Cayuga Nation of New York and Seneca Nation of New York. Accordingly, SEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

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

The Norfolk Southern Railway Company shall consult with the New York State Department of Environmental Conservation prior to beginning salvage activities to determine whether a New York State Freshwater Wetlands permit is required.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended condition is 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 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 Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

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 Alan Cassiday, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 315X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Alan Cassiday, the environmental contact for this case, by phone at (202) 245-0308, fax at (202) 245-0454, or e-mail at alan.cassiday@stb.dot.gov.

Date made available to the public: December 18, 2009.

Comment due date: January 4, 2010.

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

Attachment