

44948
OEA

SERVICE DATE – DECEMBER 24, 2015

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 568 (Sub-No. 2X)
Southeast Shortlines, Inc.
Discontinuance Exemption

Rutherford Railroad Development Corporation
Docket No. AB 567 (Sub-No. 2X)
Abandonment Exemption

in Rutherford County, North Carolina

BACKGROUND

In this proceeding, Southeast Shortlines, Inc., d/b/a Thermal Belt Railway (TBRY) and Rutherford Railroad Development Corporation (RRDC) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the discontinuance (TBRY) and abandonment (RRDC) of a line of railroad in Rutherford County, North Carolina. The rail line proposed for abandonment extends 4.97 miles from milepost 175.5 near Alexander Mills to milepost 180.47 near Spindale (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

RRDC submitted an Environmental Report that concludes that 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. RRDC 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 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 567 (Sub-No. 2X).

Diversion of Traffic

According to RRDC, no local traffic has moved over the Line for at least two years and all overhead traffic was rerouted years ago. 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 impacts to air quality or the local transportation network.

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. According to RRDC, rail infrastructure (rails, ties, track material) will be salvaged, but the subgrade will remain in place; no excavation or significant ground disturbance is contemplated.

RRDC states that the line does not cross and is not immediately adjacent to any waterway. RRDC plans to conduct salvage activities by using the existing right-of-way for access, along with existing public and private road crossings, and no new access roads are contemplated. According to RRDC, salvage activities would not cause sedimentation or erosion of the soil, and RRDC does not anticipate any dredging or use of fill when removing the track material. RRDC states that no debris would be discarded along the right-of-way and any work along the right-of-way would be subject to appropriate measures to prevent or control spills from fuels, lubricants or any other pollutant materials.

According to RRDC, the Line is in a mixed-use area combining residential, commercial, and industrial uses; the majority of the Line traverses the downtown area of the Town of Forest City and runs parallel to Main Street. The Line is connected to the 7.87-mile Thermal Belt Rail Trail, which was railbanked more than ten years ago. RRDC intends to railbank the Line and connect the right-of-way to this trail as part of a 13.36 mile rails to trails corridor system. OEA has received comments from both the Town of Forest City and the Town of Spindale enthusiastically supporting the project and the proposed abandonment.

Several federal agencies submitted comments that the proposed abandonment would have no foreseeable impacts to resources under their jurisdictions. OEA confirmed with the North Carolina Department of Environmental Quality (NCDEQ), Division of Coastal Management that coastal impacts are unlikely and no state coastal management consistency certification is required. The U.S. Fish and Wildlife Service submitted comments stating that the proposed abandonment would not affect federal trust resources under its jurisdiction and currently protected by the Endangered Species Act. The Natural Resources Conservation Service commented that no farmland area will be affected or converted.

The NCDEQ submitted comments requesting that RRDC perform a Phase I Environmental Site Assessment² on the property to determine whether any contamination from historical pesticide application, fuel or chemical leaks, or other rail activities on the Line is present that may pose a threat to human health or the environment and submit the resulting report to NCDEQ for review. Additionally, NCDEQ reminded TBRY and RRDC of their duty to report any known environmental contamination and investigate any suspected environmental contamination. Accordingly, OEA is recommending that any decision granting abandonment authority include a condition that RRDC consult with NCDEQ prior to conducting any salvage activities within the rail line right-of-way.

OEA 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, OEA does not believe that activities related to the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to NCDEQ for review and comment.

HISTORIC REVIEW

RRDC served the Historic Report on the North Carolina State Historic Preservation Officer (SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would not adversely affect any known archaeological sites or historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). OEA has reviewed the report and the information provided by the SHPO and concurs with the SHPO's comments.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that no known historic properties listed in or eligible for inclusion in the National Register would be adversely affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 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 through posting on the Board's website at www.stb.dot.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral

² An environmental site assessment (ESA) is the process by which a person or entity seeks to determine if a particular parcel of real property (including improvements) is subject to recognized environmental conditions. NCDEQ is requesting RRDC perform a Phase I ESA using the current ASTM International standard (E1527-13 as of December 21, 2015).

connections to the project area.³ The database indicated that the federally-recognized tribe of the Eastern Band of Cherokee Indians may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment. Accordingly, OEA is sending a copy of this EA to this tribe for review and comment.

CONDITIONS

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

- 1. Prior to commencement of salvage activities, RRDC shall consult with NCDEQ to determine if any known environmental contamination is present within the rail line right-of-way.**

CONCLUSIONS

Based on the information provided from all sources to date, OEA 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 C.F.R. § 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 C.F.R. § 1152.29).

³ Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited December 18, 2015).

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 Adam Assenza, 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 567 (Sub-No. 2X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Adam Assenza, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at adam.assenza@stb.dot.gov.

Date made available to the public: December 24, 2015.

Comment due date: January 8, 2016.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment: Map