

SERVICE DATE – JUNE 3, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 310X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN  
FLOYD AND POLK COUNTIES, GA

Decided: June 3, 2009

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 12.31-mile line of railroad between milepost 3.69-N and milepost 16.00-N, in Floyd and Polk Counties, GA.<sup>1</sup> Notice of the exemption was served and published in the Federal Register on May 5, 2009 (74 FR 20776). The exemption is scheduled to become effective on June 4, 2009.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on May 8, 2009. In the EA, SEA recommends two conditions. First, SEA indicates that the National Geodetic Survey (NGS) has advised SEA that 11 geodetic station markers have been identified that could be affected by the proposed abandonment. Accordingly, SEA recommends that NSR be required to consult with NGS and to notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers.

Second, SEA indicates that the U.S. Army Corps of Engineers – Mobile District (Corps) had not replied to NSR's environmental report at the time the EA was prepared. According to SEA, after the EA had been prepared, NSR informed SEA by letter that the 19 bridges located on the right-of-way would be removed during salvage activities. SEA states that, because bridge removal has the potential to result in the placement of fill in the waters of the U.S., including wetlands, SEA recommends that NSR, prior to commencement of any salvage activities, be required to consult with the Corps regarding potential impacts to waters of the U.S., including wetlands, and to comply with the reasonable requirements of any Corps permit. SEA notes that a copy of the EA has been provided to the Corps for review and comment.

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<sup>1</sup> In its verified notice of exemption, NSR had also sought exemption from the requirements of 49 U.S.C. 10904 (offers of financial assistance) (OFA). Because no notice of intent to file an OFA was submitted by the May 15, 2009 due date for such notices, the request for an exemption from the OFA provisions is moot and requires no Board action. It should be noted that, in future proceedings, any party seeking a similar exemption from the requirements of 49 U.S.C. 10904 will be expected to file a separate request, along with the appropriate filing fee.

SEA notes in the EA that it conducted a search of the Native American Consultation Database (database) at [www.cast.uark.edu/other/nps/nacd/](http://www.cast.uark.edu/other/nps/nacd/) to identify Federally recognized tribes that may have ancestral connections to the project area, and the database identified the following four tribes as having connections to Floyd and Polk Counties: Eastern Band of Cherokee Indians of North Carolina; Seminole Nation of Oklahoma; Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations; and Muscogee (Creek) Nation, Oklahoma. SEA states that a copy of the EA has been provided to each tribe for review and comment.

Comments to the EA were due by May 22, 2009. No comments to the EA were received by the due date. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

Based on SEA's recommendations, 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 exemption of the abandonment of the line described above is subject to the conditions that NSR shall: (1) consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers; and (2) prior to commencement of any salvage activities, consult with the Corps regarding potential impacts to waters of the U.S., including wetlands, and comply with the reasonable requirements of any Corps permit.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary