

43426  
OEA

SERVICE DATE – NOVEMBER 15, 2013

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB- 290 (Sub-No. 346X)**

**Norfolk Southern Railway Company – Abandonment Exemption –  
in Lake County, Indiana**

**BACKGROUND**

In this proceeding, Norfolk Southern Railway Company (NSR) filed a petition under 49 C.F.R. § 10502 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Lake County, Indiana. The rail line proposed for abandonment extends approximately 2.95 miles from Milepost MQ 280.15 near Main Street to Milepost MQ 283.10 near West Joliet Street in the Town of Schererville, Indiana (the Line). Maps depicting the Line in relationship to the area served are 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 would 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 (the Board) environmental rules [49 C.F.R. § 1105.7(b)].<sup>1</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

***Diversion of Traffic***

NSR states that there is currently no freight or passenger rail traffic on the Line. The Line had previously been used to serve one shipper, Midwest Pipe. NSR states that, as of March, 2013, NSR reached an agreement with Wisconsin Central Limited (WCL), a subsidiary of Canadian National Railway Company whereby WCL now provides direct switching service to

---

<sup>1</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB-290 (Sub-No. 346X)

Midwest Pipe. Midwest Pipe retains access to NSR line-haul service under the terms of the agreement. Accordingly, because no rail traffic is currently moving over the Line, the proposed abandonment would not adversely impact the development, use, or transportation of energy resources or recyclable commodities; the 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*

If abandonment authority is granted in this proceeding, NSR states that it intends to salvage rail and related track material from the Line. The contour of the existing roadbed and existing drainage systems would remain intact. No ballast would be removed and no digging, burying, or other soil disturbance would take place. NSR does not intend to undertake any in-stream work or to dredge or to use fill material during salvage operations. No bridges or other structures would be affected.

The Town of Munster, Indiana (Munster) and the Town of Schererville, Indiana (Schererville) submitted comments pertaining to the proposed abandonment. In its comments, Munster expresses its support for the proposed abandonment and states that the right-of-way would be suitable for use as part of a proposed bike path and trail connecting the two towns. In its comments, Schererville expresses its interest in acquiring the right-of-way for use as a bike path and trail.

Schererville subsequently submitted additional comments in response to NSR's Environmental and Historic Report. In these comments, Schererville notes that the Environmental Report states that NSR does not know if there are any state and/or local plans that may be facilitated by the proposed abandonment. Schererville argues that this statement is not accurate, because Schererville's previously submitted comments indicate that its local development plans would indeed be facilitated by the proposed abandonment. Schererville also notes that NSR's Environmental Report states that NSR does not expect the proposed abandonment to result in any adverse environmental impacts. Schererville argues that this statement is overly broad and does not include any details or references. Schererville also states that the sample letter soliciting agency comments submitted by NSR in its Environmental and Historic Report was not the same letter that Schererville received prior to the filing of the abandonment petition.

OEA notes that the Board's environmental rules require rail applicants in abandonment proceedings to provide general information regarding the proposed project and its potential environmental impacts. It is OEA's responsibility under the National Environmental Policy Act<sup>2</sup> to review and verify the information presented in the applicant's Environmental and Historic

---

<sup>2</sup> 40 C.F.R. § 1508.18.

Report and to identify and document potential environmental impacts of the proposed abandonment. This EA presents the results of OEA's analysis.

OEA further notes that Schererville has not raised any specific concerns about potential environmental impacts that could occur as a result from the proposed abandonment. Accordingly, OEA cannot recommend any potential mitigation measures in response to Schererville's comments.

The Natural Resources Conservation Service (NRCS) submitted comments stating that the proposed abandonment would not result in the conversion of prime farmland.

NSR states that it believes that the proposed abandonment would be consistent with Indiana's Lake Michigan Coastal Program (Coastal Zone Management Program or CZMP). Because salvage activities would be limited to the removal of rails and track material, OEA concurs with NSR's determination that the proposed abandonment would be consistent with Indiana's CZMP.

Based on OEA's review of available geospatial data, the Line appears to cross one stream.<sup>3</sup> In its comments, the Indiana Department of Natural Resources (IDNR) states that its review of aerial photographs and topographical maps also indicated that the Line crosses one stream. NSR states that the stream is conveyed under the Line through a culvert. Portions of the Line appear to be adjacent to areas containing wetlands.<sup>4</sup>

NSR requested comments from the Indiana Department of Environmental Management (IDEM) regarding potential impacts to water quality, but has received no response to date. NSR believes that a permit under Section 402 of the Clean Water Act<sup>5</sup> would not be required for the proposed abandonment because the salvage would not result in the discharge of pollutants. Because salvage activities would be limited to the removal of track and track material, OEA concurs with NSR's determination that a Section 402 permit would not be required.

U.S. Army Corps of Engineers (the Corps) submitted comments stating that, as proposed, the abandonment would not result in any impacts to waterways or wetlands. Accordingly, a Corps permit under Section 404 of the Clean Water Act<sup>6</sup> would not be required. OEA concurs with the Corps' determination that a Section 404 permit would not be required.

---

<sup>3</sup> Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited November 12, 2013).

<sup>4</sup> U.S. Fish and Wildlife Service. National Wetlands Inventory, <http://www.fws.gov/wetlands/data/index.html> (last visited November 12, 2013).

<sup>5</sup> 33 U.S.C. § 1342.

<sup>6</sup> 33 U.S.C. § 1344.

In its comments, IDNR recommends a number of potential mitigation measures to avoid impacts to waterways and wetlands. IDNR also recommends that NSR consults with IDEM regarding potential impacts to waterways and wetlands. Accordingly, OEA is recommending a condition requiring NSR to consult with IDNR and IDEM regarding the use of mitigation measures to prevent potential impacts to waterways and wetlands and to comply with those agencies' reasonable recommendations.

NSR states that there are no known hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA review has confirmed that there are no listed Superfund sites in the vicinity of the Line. Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

The United State Fish and Wildlife Service (USFWS) submitted comments noting that a portion of the Line is adjacent to Plum Creek Park, a local recreation area located in a residential community south of Main Street and west of Indianapolis Boulevard in Schererville, Indiana. The Line is separated from Plum Creek Park by a row of trees. USFWS states that, if the row of trees is not removed during salvage activities, then the proposed abandonment would have no effect on the aesthetics and use of Plum Creek Park. Because NSR does not intend to remove any trees during salvage activities, OEA concludes that the proposed abandonment would have no impact on Plum Creek Park.

USFWS also notes that the Line is located near Hoosier Prairie State Nature Preserve (Hoosier Prairie), an approximately 750 acres protected area owned by IDNR's Division of Nature Preserves. USFWS notes that the Line is closest to Hoosier Prairie south of 61<sup>st</sup> Avenue/Division Street, between Central Avenue/Mary Street and Junction Avenue. Junction Avenue lies between the Line and Hoosier Prairie at this location.

USFWS states that Hoosier Prairie is a complex of native habitats, including sedge meadow, wet prairie, marsh wetlands, and upland oak savanna communities. Numerous species of wildlife are found in Hoosier Prairie, including several state-listed protected species. The federally listed endangered Karner blue butterfly (*Lycaeides Melissa samuelis*) was formerly present in Hoosier prairie, but is no longer extant. USFWS states that it does not anticipate any impacts to Hoosier Prairie as a result of the proposed abandonment.

In its comments, IDNR identifies three ecological communities of state concern located within Hoosier Prairie. These communities are wet-mesic sand prairie, sedge meadow, and mesic sand prairie communities. To avoid potential impacts to these communities, IDNR recommends that NSR should not stockpile materials or allow parking in areas containing these communities during salvage activities. Accordingly, OEA is recommending a condition requiring NSR to consult with IDNR regarding the use of mitigation measures to prevent potential impacts to Hoosier Prairie and to comply with that agency's reasonable recommendations.

In its review of available data, OEA has concluded that the Line is not located within an area designated as critical habitat for federally listed threatened or endangered species.<sup>7</sup> OEA conducted a search of the USFWS Environmental Conservation Online System in order to identify any federally listed endangered or threatened species that may be present in the vicinity of the Line.<sup>8</sup> The table below shows the federally listed protected species known or thought to occur in the county in which the proposed abandonment is located.

Federally Listed Protected Species in Lake County, Indiana			
Group	Common Name	Scientific Name	Status
Mammals	Indiana Bat	<i>Myotis sodalis</i>	Endangered
Insects	Karner Blue Butterfly	<i>Lycaeides melissa samuelis</i>	Threatened
Plants	Mead's Milkweed	<i>Asclepias meadii</i>	Threatened
	Pitcher's thistle	<i>Cirsium pitcher</i>	Threatened

In its comments, USFWS states that there is no available habitat for these species in the project area. Accordingly, USFWS concludes that the proposed abandonment would have no impact on federally listed threatened or endangered species. OEA has reviewed the available information and concurs with USFWS that no federally listed threatened or endangered species would be affected by the proposed abandonment.

In its comments, IDNR identified two state-listed protected plant species that may be present within 0.5 miles of the Line. These species are the earleaf foxglove (*Agalinis auriculata*), a state-listed threatened species and the narrow-leaved cotton-grass (*Eriophorum angustifolium*), a state-listed rare species. IDNR states that it does not anticipate any impacts to these state listed protected species. Accordingly, OEA is not recommending any mitigation regarding federally listed or state-listed protected species.

The National Geodetic Survey (NGS) has not submitted comments regarding the potential impact of the proposed abandonment to any geodetic survey markers that may be present in the project area. Accordingly, OEA is recommending a condition requiring the City to consult with NGS prior to beginning salvage activities.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to the following agencies for their review and comment: IDNR, IDEM, and Schererville.

---

<sup>7</sup> U.S. Fish and Wildlife Service, Critical Habitat Portal, <http://ecos.fws.gov/crithab/> (last visited November 12, 2013).

<sup>8</sup> U.S. Fish and Wildlife Service, Environmental Conservation Online System, <http://ecos.fws.gov/ecos/home.action> (last visited November 12, 2013).

## **HISTORIC REVIEW**

According to NSR, the Line was originally constructed by the Pittsburg, Cincinnati, Chicago, and St. Louis Railroad (PCC&StL), also known as the Panhandle Route. The PCC&StL was leased by the Pennsylvania Railroad (PRR) in 1921 and merged with the PRR subsidiary Philadelphia, Baltimore and Washington Railroad in 1956. PRR combined with the New York Central Railroad (NYC) to form Penn Central Transportation Company (Penn Central) in 1968. Consolidated Rail Corporation (Conrail) assumed control of the Line following the bankruptcy of Penn Central. NSR assumed control of the Line in 1999.

The Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology (State Historic Preservation Officer or SHPO) submitted comments on the proposed abandonment. In its comments, the SHPO concludes that, based on available information, no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected by the proposed abandonment.

The SHPO states that one archaeological site is located within the proposed project area. The SHPO notes that, because salvage of the Line would not entail any digging, excavation, or removal of ballast, no archaeological investigations would be necessary. The SHPO states that, should archaeological artifacts or human remains be uncovered during salvage activities, NSR should report the discovery to the SHPO. Accordingly, OEA is recommending a condition requiring NSR to cease work and notify the SHPO, OEA, and interested federally recognized tribes, if any, should archaeological artifacts or human remains be discovered during salvage activities.

In its comments, the SHPO also identifies one structure near the proposed project area that the SHPO believes meets the criteria for the National Register of Historic Places (National Register). This structure is a railroad bridge located near Junction Avenue. According to the SHPO, the bridge is historically significant as a rare example of a Pennsylvania thru truss railroad bridge, of which fewer than ten examples remain in Indiana. The SHPO states that the bridge is only one of a handful of iron railroad bridges remaining in Lake County. The SHPO notes that the bridge is not located within the project area and that the proposed abandonment, as described, would not result in any impacts to the bridge. OEA concurs with the SHPO's determination that the railroad bridge would not be affected by the proposed abandonment.

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, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be 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](http://www.stb.dot.gov).

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.<sup>9</sup> 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:

- Citizen Potawatomi Nation in Oklahoma;
- Forest County Potawatomi Community in Wisconsin;
- Hannahville Indian Community in Michigan; and
- Prairie Band of Potawatomi Nation in Kansas.

Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

### **CONDITIONS**

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

- 1. Prior to the commencement of any salvage activities, Norfolk Southern Railway Company shall consult with the Indiana Department of Natural Resource and the Indiana Department of Environmental Management regarding mitigation measures to prevent potential impacts to waterways and wetlands and shall comply with those agency's reasonable recommendations.**
- 2. Prior to the commencement of any salvage activities, Norfolk Southern Railway Company shall consult with the Indiana Department of Natural Resource regarding mitigation measures to prevent potential impacts to Hoosier Prairie State Nature Preserve and shall comply with that agency's reasonable recommendations.**
- 3. Prior to the commencement of any salvage activities, Norfolk Southern Railway Company (NSR) shall consult with the National Geodetic Survey (NGS). If NGS identifies geodetic station markers that may be affected by the proposed abandonment, NSR shall notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS.**
- 4. In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during the railroad's salvage activities,**

---

<sup>9</sup> National Park Service, National NAGPRA Program Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited November 12, 2013).

**Norfolk Southern Railway Company (NSR) shall immediately cease all work and notify the Office of Environmental Analysis (OEA), interested federally recognized tribes, and the Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology (State Historic Preservation Officer or SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA shall then consult with the SHPO, interested federally recognized tribes, NSR, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are 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**

Requests for a notice of interim trail use (NITU) are 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).

## **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 Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket Nos. AB-290 (Sub-No. 346X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at [waylandj@stb.dot.gov](mailto:waylandj@stb.dot.gov).

Date made available to the public: November 15, 2013

**Comment due date: December 16, 2013**

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