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SERVICE DATE – LATE RELEASE JANUARY 13, 2010

SURFACE TRANSPORTATION BOARD

DECISION

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

NORFOLK SOUTHERN RAILWAY COMPANY–ABANDONMENT EXEMPTION–IN  
CHEMUNG COUNTY, NY

Decided: January 13, 2010

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 1.85-mile line of railroad between milepost KV 249.55 and milepost KV 251.40 in Elmira, Chemung County, NY. Notice of the exemption was served and published in the Federal Register on December 14, 2009 (74 FR 66195). The exemption becomes effective today.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on December 18, 2009, requesting comments by January 4, 2010. In the EA, SEA states that the New York State Department of Environmental Conservation (NYS DEC) has advised NSR that the project is near or in mapped NYS Freshwater Wetland EL-1. NYS DEC also stated that a New York State Freshwater Wetlands permit is required for any physical disturbance within the designated wetland or within the 100 foot adjacent area of the wetland. Therefore, SEA recommends a condition requiring NSR to consult with NYS DEC concerning the possible need to obtain a Freshwater Wetland permit.

No comments to the EA were received by the January 4, 2010 due date. Accordingly, the condition recommended by SEA in the EA will be imposed.

Based on SEA's recommendation, 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 rail line described above is subject to the condition that NSR consult with NYS DEC prior to beginning salvage activities to determine whether a New York State Freshwater Wetlands permit is required.

3. This decision is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.