

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-192 (Sub-No. 2X)

BIRMINGHAM SOUTHERN RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN JEFFERSON COUNTY, AL

Decided: January 22, 2007

Birmingham Southern Railroad Company (BSRC) filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 0.18-mile line of railroad known as the Old Port Branch, extending from Survey Station 936+04.07 of Turnout P-63 A, over Trestle 17.9, to a connection with Ergon Terminaling, Inc.'s (Ergon) rail line at Survey Station 945+52.55 in Jefferson County, AL. Notice of the exemption was served and published in the Federal Register on December 22, 2006 (71 FR 77095). The exemption is scheduled to become effective on January 23, 2007.

The Board's Section of Environmental Analysis (SEA) issued an environmental assessment (EA) in this proceeding on December 29, 2006. In the EA, SEA advised that the Alabama Historical Commission (State Historic Preservation Officer or SHPO) had not yet submitted its comments in response to BSRC's historic report, and pointed out that potential impacts to historic sites or structures would occur only if the line is salvaged. Because BSRC might not salvage the line, SEA recommended that, in the event BSRC does not sell the line for continued rail use and decides to salvage the line, BSRC be required, prior to beginning any salvage activities, to: (a) reinitiate the consultation process pursuant to section 106 of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA), (b) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or are listed in the National Register of Historic Places until completion of the section 106 process, (c) report back to SEA regarding any consultations with the SHPO and any other section 106 consulting parties that have been identified, and (d) refrain from initiating any salvage activities related to abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition.

By letter dated January 5, 2007, the Alabama Department of Environmental Management (ADEM) submitted comments on the EA. ADEM recommends that BSRC be required to (1) ensure that all salvage activities associated with the abandonment are in compliance with the permit requirements of the National Pollutant Discharge Elimination System (NPDES) for stormwater discharges, and (2) prior to initiating salvage activities, install Best Management Practices in order to minimize the release of pollutants to surface waters. Therefore, SEA recommends that, prior to commencement of any salvage activities, BSRC be required to consult

with ADEM and comply with the reasonable NPDES requirements, and that BSRC be required to consult with ADEM regarding its land disturbance requirements and comply with its reasonable requirements. Accordingly, the environmental condition recommended by SEA in the EA and the two new conditions recommended by SEA 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 line described above is subject to the conditions that BSRC shall: (1) prior to commencement of any salvage activities, consult with ADEM and comply with the reasonable requirements of NPDES; (2) prior to commencement of any salvage activities, consult with ADEM regarding its land disturbance requirements and comply with its reasonable requirements; and (3) in the event BSRC does not sell the line for continued rail use and decides to salvage the line, prior to beginning any salvage activities, (a) reinstate the consultation process pursuant to section 106 of the NHPA, (b) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or are listed in the National Register of Historic Places until completion of the section 106 process, (c) report back to SEA regarding any consultations with the SHPO and any other section 106 consulting parties that have been identified, and (d) not initiate any salvage activities related to abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary