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OEA

SERVICE DATE – FEBRUARY 12, 2013

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

DOCKET NO. AB-1103X

**RUSK COUNTY RURAL RAIL DISTRICT — ABANDONMENT EXEMPTION—
IN RUSK COUNTY, TEX.**

BACKGROUND

On January 18, 2013, the Rusk County Rural Rail District (RCRRD) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon 0.9 miles of the Henderson-Overton Branch Spur beginning at milepost 15.2 and extending to milepost 16.1 in the City of Henderson, Rusk County, TX (Line). A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

The Board's Office of Environmental Analysis (OEA), which has prepared with Environmental Assessment, notes that the proposed abandonment was part of an earlier and larger abandonment by Union Pacific Railroad Company (UP), AB 33 Sub No. 275, which was approved by the Board in a decision dated September 11, 2009.¹ The UP abandonment encompassed the Henderson-Overton Branch Spur and began at milepost 0.59, near Overton and extended to milepost 16.28, near Henderson, a distance of 15.69 miles. However, before the abandonment was consummated, RCRRD purchased the rail line from UP in April 2010.

In an email dated February 7, 2013, RCRRD states that there was a single shipper using the Line in 2011, Sierra Frac Sand, LLC. According to RCRRD, no rail traffic has moved over the Line since August 2011 and all rail traffic has terminated approximately one mile north of downtown. Therefore, no rail traffic would be diverted if the abandonment is approved.

RCRRD states that there is no reasonable alternative to abandonment. Furthermore, there is no overhead rail traffic nor is RCRRD aware of any new business's that may be interested in relocating to the Line.

¹ See Board decision, Union Pacific Railroad Company – Abandonment – in Rusk County, TX dated September 11, 2009. The decision can be found at:

[http://www.stb.dot.gov/decisions/readingroom.nsf/\(search-71.175.16.137-28043\)?OpenView&Count=5000](http://www.stb.dot.gov/decisions/readingroom.nsf/(search-71.175.16.137-28043)?OpenView&Count=5000)

If the Board should approve this abandonment, RCRRD would first salvage the rail, ties and other track materials and then sell the Line to the City of Henderson (City) for use in a road construction project. During the late 1950's, the City constructed a street, Mill Street, in the Line's right-of-way. The City is currently in the process of securing the required agreements from landowners regarding any possible claims of revisionary interests. RCRRD states that the Line was originally designed to terminate in the heart of the City's downtown business district. However, with changes in land use and business markets, the location of the Line has now become problematic.

If the abandonment is approved, RCRRD states that it would continue to provide rail service, through its operator, Blacklands Railroad, on the remaining 13 miles of the Henderson-Overton Branch Spur, with service terminating one-mile north of downtown Henderson, TX.

DESCRIPTION OF THE RAIL LINE

The Line begins on the north side of the City, just north of State Highway 64 traveling south and terminating at a point near Webster Drive, in downtown Henderson, TX. The Line passes through an area that is mixed residential and light industrial. The width of the right-of-way is 100 feet wide and traverses United States Postal Service Zip Code 75652.

According to RCRRD, the Line does not contain any federally granted rights-of-way but believes that the Line may be subject to some reversionary interests that could affect the transfer of title or use of the property for other than rail purposes. Therefore, as noted earlier, the City is currently in the process of securing the required agreements from landowners regarding any possible claims of revisionary interests.

RCRRD also notes that the Line does not contain any structures that are 50 years old or older.

ENVIRONMENTAL REVIEW

RCRRD 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. RCRRD served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules (49 C.F.R. § 1105.7(b)).² The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

²The 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 1103X.

Diversion of Traffic

RCRRD states that the lone shipper using the Line, Sierra Frac Sand, LLC, moved 250 carloads in 2011 and that all rail traffic ceased over the Line in August 2011.³ Consequently, no rail-to-truck diversions would occur. Therefore, OEA believes that there would be no impact on existing regional or local transportation systems or patterns. Further, there would be no effect on the movement and/or recovery of energy resources, recyclable commodities or change in overall energy efficiency.

RCRRD also states that that it would continue to provide rail service, through its operator, Blacklands Railroad, on the remaining 13 miles of the Henderson-Overton Branch Spur, with service terminating one-mile north of downtown Henderson, TX. Blacklands Railroad states that it supports the abandonment, as proposed.

Salvage Activities

As stated earlier, if the abandonment is approved, RCRRD would salvage the rail, ties and track materials. Following salvage, RCRRD intends to sell the right-of-way to the City who would use it to complete much needed repairs to Mill Street as well as complete previously unfinished redesign of the State Highway 64 crossing. Therefore, RCRRD believes that the proposed abandonment is consistent with local land use plans.

The Natural Resources Conservation Service (NRCS) states that the proposed project may contain Important Farmland Soils; however, it does not normally consider the abandonment of an existing rail line a conversion of Important Farmland. The NRCS has completed a Farmland Conversion Impact Rating indicating RCRRD's exemption.

RCRRD states that there are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the Line. RCRRD also notes that the abandonment, if approved, would result in the removal of one at-grade crossing.

OEA conducted a search the U.S. Fish and Wildlife Service's (USFWS) website⁴ to search for any species of concern in Rusk County, TX. The USFWS website lists the following species as threatened or in recovery:

- Bald Eagle (*Haliaeetus leucocphalus*) – Recovery
- Louisiana Black Bear (*Ursus americanus luteolus*) – Threatened

Upon review of the list of species listed as threatened or in recovery, OEA does not believe that any salvage activities associated with the abandonment would result in any adverse

³ RCRRD provided this information via email dated February 7, 2013.

⁴ U.S. Fish and Wildlife Website, Find Endangered Species:
<http://www.fws.gov/endangered> (last visited February 6, 2013).

impacts to these species. Nevertheless, OEA has provided a copy of this EA to the USFWS for review and comment.

The Texas Department of Parks & Wildlife states that proposed abandonment does not pose significant adverse impacts to rare, threatened or endangered species, or other fish and wildlife resources.

OEA was not able to identify any National or State parks, wildlife sanctuaries, or refuges that would be affected by the proposed abandonment. The National Park Service has not responded to the railroad's environmental report. OEA has provided a copy of this EA to the National Park Service for review and comment.

According to RCCRD, it does not anticipate any adverse environmental impacts resulting from the proposed salvage of the Line. The Army Corps of Engineers, Fort Worth District (Corps) and the Texas Commission on Environmental Quality (TX-CEQ) have not responded to the railroad's environmental report. OEA has provided a copy of this EA to the Corps and the TX-CEQ for review and comment.

In an email dated October 9, 2012, the U.S. Department of Commerce, National Geodetic Survey states that no geodetic station markers are located in the area of the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would result in significant environmental impacts.

HISTORIC REVIEW

In its Historic Report, RCCRD states that the Line contains no structures that are 50 years old or older and that it does not contain any federally granted rights-of-way. However, RCCRD believes that the Line may be subject to some reversionary interests that could affect the transfer of title or use of the property for other any rail purposes. As noted earlier, RCCRD intends to sell the Line to the City. The City is currently undertaking negotiations to avert any potential reversionary issues.

Based on available information, RCCRD concludes that no culturally significant locations, archaeological sites or unique landforms would be affected by the abandonment, as proposed.

The Henderson and Overton Branch Railroad Company (HOBR) was chartered on April 29, 1874, to construct a line in Rusk County from a connection with the International and Great Northern Railroad Company (INRC) at Overton, TX to Henderson, TX, a distance of 16 miles with the line opening on May 7, 1877. The HOBR was acquired by the INRC on September 27, 1880. The IGNR was later acquired by UP.

In 2008, UP announced plans to abandon the Line. The RCRRD was formed in an attempt to acquire the Line from UP. In October 2009, UP accepted an offer to purchase the Line with the deal finalized in May 2010.⁵

RCRRD served the Historic Report as required by the Board's environmental rules (49 C.F.R. § 1105.8(a)) and served the report on the Texas Historical Commission, State Historic Preservation Office (SHPO) pursuant to 49 C.F.R. § 1105.8(c).⁶ In an email dated June 28, 2012, the SHPO determined that its previous finding of 'Not Eligible; Project May Proceed', which was offered for AB 33 Sub No 275 on October 29, 2008, is still valid and that no further coordination is required.

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 the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. 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 <http://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 connections to the project area.⁷ The database indicated that there are no tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment.

CONDITIONS

We do not recommend that any conditions be imposed on any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed that abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

⁵ Historical discussion can be found at: <http://www.tshaonline.org/handbook/online/articles/eqh05>

⁶ Guidance regarding the Board's historic preservation review process is available on the Board's Web site at: <http://www.stb.dot.gov/stb/environment/preservation.html>.

⁷ Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited February 6, 2013).

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 4-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).

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 original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, 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 1103X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at Troy.Brady@stb.dot.gov.

Date made available to the public: February 12, 2013.

Comment due date (20 days): March 4 2013.

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

Attachment