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SERVICE DATE – FEBRUARY 10, 2006

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-290 (Sub-No. 237X)

**Norfolk Southern Railway Company – Abandonment Exemption –
in Baltimore County, MD**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a petition for exemption under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10903 to abandon its freight operating rights and rail freight service over 12.8 miles of a line of railroad in Baltimore County, Maryland. The line extends from milepost UU-1.0 at Baltimore to milepost UU-13.8 at Cockeysville.¹ A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA). If the petition is granted, NSR will be able to cease all rail freight service over the line and to extinguish its common carrier obligation to provide rail freight service over the line.

DESCRIPTION OF THE LINE

The line is owned by the Maryland Department of Transportation (MDOT), which uses the line for light rail commuter passenger service. MDOT, through the Maryland Transit Administration (MTA), plans to continue to use the line for light rail commuter passenger service following NSR's abandonment of its freight operating rights and rail freight service. According to NSR, Consolidated Rail Corporation (Conrail) sold the line to MDOT through an agreement developed between 1990 and 1997 and retained a freight operating easement to continue to provide rail freight service over the line. Conrail also entered into a related operating agreement with MTA in order to continue to conduct rail freight transportation service over the line.

Pursuant to the Conrail Transaction Agreement approved by the Surface Transportation Board (Board) in 3 S.T.B. 196 (1998), certain Conrail assets, including Conrail's interest in the line, were allocated to Pennsylvania Lines, LLC (PRR). PRR's assets, in turn, were leased to and operated by NSR under the terms of an allocated assets operating agreement between PRR and NSR. NSR acquired the right to operate over the line from Conrail through the merger of

¹ NSR's petition for exemption states that the endpoints of the line are at mileposts UU-1.0 and UU-12.8. However, the environmental and historic reports, as well as subsequent filings by NSR, have clarified that the line proposed for abandonment of freight operating rights and rail freight service extends from milepost UU-1.0 to milepost UU-13.8.

NSR with Conrail's former subsidiary, PRR, on August 27, 2004. See CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Operating Leases/Agreements – Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388 (Sub-No. 94), Decision No. 2 (STB served Nov. 7, 2003).

According to NSR, there are currently three active shippers on the line: E.C.C.A. Calcium Products, Inc. d/b/a IMERYS Pigments and Additives Group (IMERYS); Baltimore Gas & Electric Company (BG&E); and Fleischmann's Vinegar Company, Inc. (Fleischmann). NSR states that MDOT has entered into agreements with these shippers so that they would use rail-truck transload service, bulk transfer, intermodal or motor carrier service to meet their transportation needs. NSR states that there are no overhead operations on the line because it is a dead-end segment.

NSR states that the line is located primarily in the suburbs of Baltimore. The line passes through Lutherville-Timonium and Cockeysville and the land use along the line is 60 percent residential, 20 percent industrial, and 20 percent commercial. NSR also states that the line passes through the following parks: Robert E. Lee Park; Seminary Park; and W. Lutherville Park. The rail line crosses Western Run, Lake Roland, Towson Run, Roland Run, and Goodwin Run, and passes through 100-year floodplains and wetlands associated with these waterways. The portion of the line between mileposts UU-1.0 and UU-7.0 parallels a river, causing the width of the right-of-way to vary throughout the line.

ENVIRONMENTAL REVIEW

NSR submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment of its freight operating rights and rail freight service or any post-abandonment activities. NSR served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Transportation

NSR states that the commodities that have moved over the line in recent years have primarily been limestone, ethyl alcohol, and utility poles. NSR states that it has a transload facility on its main line about one mile from the end point of the line proposed for abandonment of its freight operating rights and rail freight service, and thus, NSR expects that the long haul for much of the freight traffic on the line would continue to be made by rail. According to NSR, the shippers on the line began to shift their rail traffic to rail-truck transload service in 2005.

In its petition, NSR states that a total of 193 carloads of freight moved over the line in 2004. In calculating the potential diversion of rail traffic to truck traffic, SEA generally uses a conversion factor of four trucks per railcar, which accounts for the rail to truck diversion of

varied commodities. Using the traffic data provided by NSR for 2004 as the Base Year, if all of the rail traffic on the line were diverted to truck traffic, 772 loaded trucks per year (1,544 trucks per year assuming an empty backhaul) could be added to area roadways. This equates to approximately six trucks per day being added to area roads in a 250 workday year.²

The Board's environmental regulations at 49 CFR 1105.7(e)(5) and 49 CFR 1105.7(e)(6) require the railroad to include more detailed air quality analysis and noise analysis in the environmental report if the diversion from rail traffic to truck traffic would be more than 10 percent of the average daily traffic or 50 vehicles per day on a given road segment. The diversion of the rail traffic on the line to truck traffic falls well below those thresholds. Six trucks per day is well under 50 trucks per day and, according to the 2004 Annual Average Daily Traffic maps prepared by the Maryland State Highway Administration, six trucks per day is much less than 10 percent of the Annual Average Daily Traffic on area roadways.³ Thus, SEA believes that the diversion of rail traffic to truck traffic from NSR's proposed abandonment of its freight operating rights and rail freight service would cause minimal air quality and noise quality impacts and more detailed analysis is not necessary.

The Board's environmental rules at 49 CFR 1105.7(e)(4)(iv) require the environmental report to provide the net change in energy consumption if there would be a diversion from rail to motor carriage of 1,000 railcars per year or an average of 50 rail carloads per mile per year for any part of the affected line. The traffic on the line is less than 1,000 railcars per year and less than an average of 50 rail carloads per mile per year (193 railcars divided by 12.8 miles equals about 15 railcars per mile per year). Accordingly, SEA believes that the net change in energy consumption from the diversion of rail traffic would not be significant and more detailed analysis of this issue is not required.

SEA believes that the minimal diversion of rail traffic to truck traffic would not significantly impact public health and safety in the area of the proposed abandonment of freight operating rights and rail freight service. Moreover, the Hazardous Materials Regulations at 49 CFR Parts 171 through 180 set forth specific guidelines for hazardous materials transport that shippers and carriers would be required to follow to prevent potential safety impacts from any such transport.

Mr. James Riffin filed a protest to NSR's petition for abandonment of its freight operating rights and rail freight service on January 13, 2006, alleging that NSR's environmental report did not comply with the Board's environmental rules at 49 CFR Part 1105, and that the abandonment of freight operating rights and rail freight service would cause significant, adverse

² 193 railcars X 4 = 772 loaded trucks per year. 772 loaded trucks + 772 empty backhaul trucks = 1,544 total trucks per year. 1,544 total trucks per year ÷ 250 workdays = 6 trucks per day.

³ See <http://www.sha.state.md.us/SHAServices/mapsBrochures/maps/OPPE/trafficvolumemaps/2004/baltimore.pdf>.

effects on the human environment.⁴ Specifically, Mr. Riffin alleges that NSR's environmental report did not provide the information required by the Board's environmental rules for energy, air quality, and safety.

According to Mr. Riffin, Fleischmann receives about 2 million gallons of ethanol per year, which equates to 71 rail cars per year at 28,000 gallons per rail car, IMERYS ships about 200 rail cars a year of calcium carbonate slurry, and BG&E receives an unknown number of rail cars of utility poles.⁵ Thus, Mr. Riffin states, NSR's abandonment of its freight operating rights and rail freight service would cause a diversion from rail traffic to truck traffic that exceeds the Board's thresholds for conducting detailed energy and air quality analyses at 49 CFR 1105.7(e)(4)(iv)(B) and 49 CFR 1105.7(e)(5)(i)(C). Moreover, according to Mr. Riffin, if NSR's petition is granted, ethanol, a hazardous material, will be shipped to the Canton area of Baltimore, loaded onto tanker trucks, and then transported via tanker truck eight miles through the city of Baltimore to Fleischmann's facility, and about 286 tanker trucks per year would be needed. Mr. Riffin states that in order to comply with the Board's requirements at 49 CFR 1105.7(e)(7), NSR needs to include specific information about the hazardous materials transport in the environmental report. Finally, Mr. Riffin states that the diversion of rail traffic to truck traffic would cause significant adverse impacts to air quality and safety in the Baltimore area.

As discussed above, SEA believes that the diversion of rail traffic to truck traffic from the proposed abandonment of freight operating rights and rail freight service would not result in significant environmental impacts and a more detailed analysis of potential air quality impacts, energy impacts, and hazardous materials transportation is not required. SEA specifically invites comments on these matters from all interested persons.

Salvage Activities

According to NSR, MTA intends to rehabilitate the line in order to facilitate the restructuring of its rail service to communities located along the line and has asked NSR to cease providing freight service over the line. Because MDOT owns the line and MTA would continue to use the line for light rail transportation purposes, NSR would not conduct any salvage activities as part of the proposed abandonment of its freight operating rights and rail freight service. Thus, SEA believes that the proposed abandonment of freight operating rights and rail freight service would not adversely affect any water resources, Federally-listed threatened or endangered species, or existing land uses in the area. SEA is providing a copy of this EA to the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the Natural Resources Conservation Service, the National Geodetic Survey

⁴ Mr. Riffin's filing also includes arguments for dismissing NSR's petition on non-environmental grounds. Such non-environmental issues relate to the merits of this proceeding and are beyond SEA's purview to address in this EA.

⁵ SEA is unable to verify the information provided by Mr. Riffin at this time.

(NGS), the Maryland Coastal Zone Management Program, and the Maryland Department of the Environment for review and comment.

SEA notes that NGS previously submitted information indicating that 33 geodetic station markers have been identified that may be affected by the proposed abandonment. NGS requested at least 90 days notification in advance of any activities that would disturb or destroy these markers in order to plan for their possible relocation by NGS. However, because NSR would not undertake any salvage activities, SEA does not believe that the imposition of a condition requiring NSR to consult with NGS is necessary.

HISTORIC REVIEW

NSR served a historic report on the Maryland Historical Trust (State Historic Preservation Officer or SHPO), pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the engineering structures on the line between Woodberry in Baltimore City and Texas in Baltimore County were determined eligible for listing in the National Register of Historic Places (National Register) in August 2000. However, based on the information submitted by NSR, the SHPO states that the historic properties would not be affected by the proposed abandonment of freight service, because the line would continue to be used for MTA's light rail operations. We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the National Historic Preservation Act at 36 CFR 800.4(d) and 36 CFR 800.8, we have determined that the proposed abandonment of freight operating rights and rail freight service will not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of NSR's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

SEA conducted a search of the Native American Consultation Database at <http://www.cast.uark.edu/other/nps/nacd/> and did not identify any Federally recognized tribes that may have an interest in the proposed abandonment of freight operating rights and rail freight service.

CONDITIONS

We recommend that no environmental conditions be imposed on any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, the abandonment of freight operating rights and rail freight service will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment of freight operating rights and rail freight service 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 the abandonment of freight operating rights and rail freight service, 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 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice. NSR seeks an exemption from a public use condition, because MDOT through MTA will continue to use the line for the public purpose of providing light rail commuter passenger service. The Board will address NSR's request in its final decision.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within the time specified in the Federal Register notice. 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 CFR 1152.29). NSR indicates that, because of the continuing use of the line for light rail commuter passenger operations by MTA, NSR will not consent to a trail use negotiation condition.

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, 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 Rini Ghosh, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking

on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 237X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Rini Ghosh, the environmental contact for this case, by phone at (202) 565-1539, fax at (202) 565-9000, or e-mail at ghoshr@stb.dot.gov.

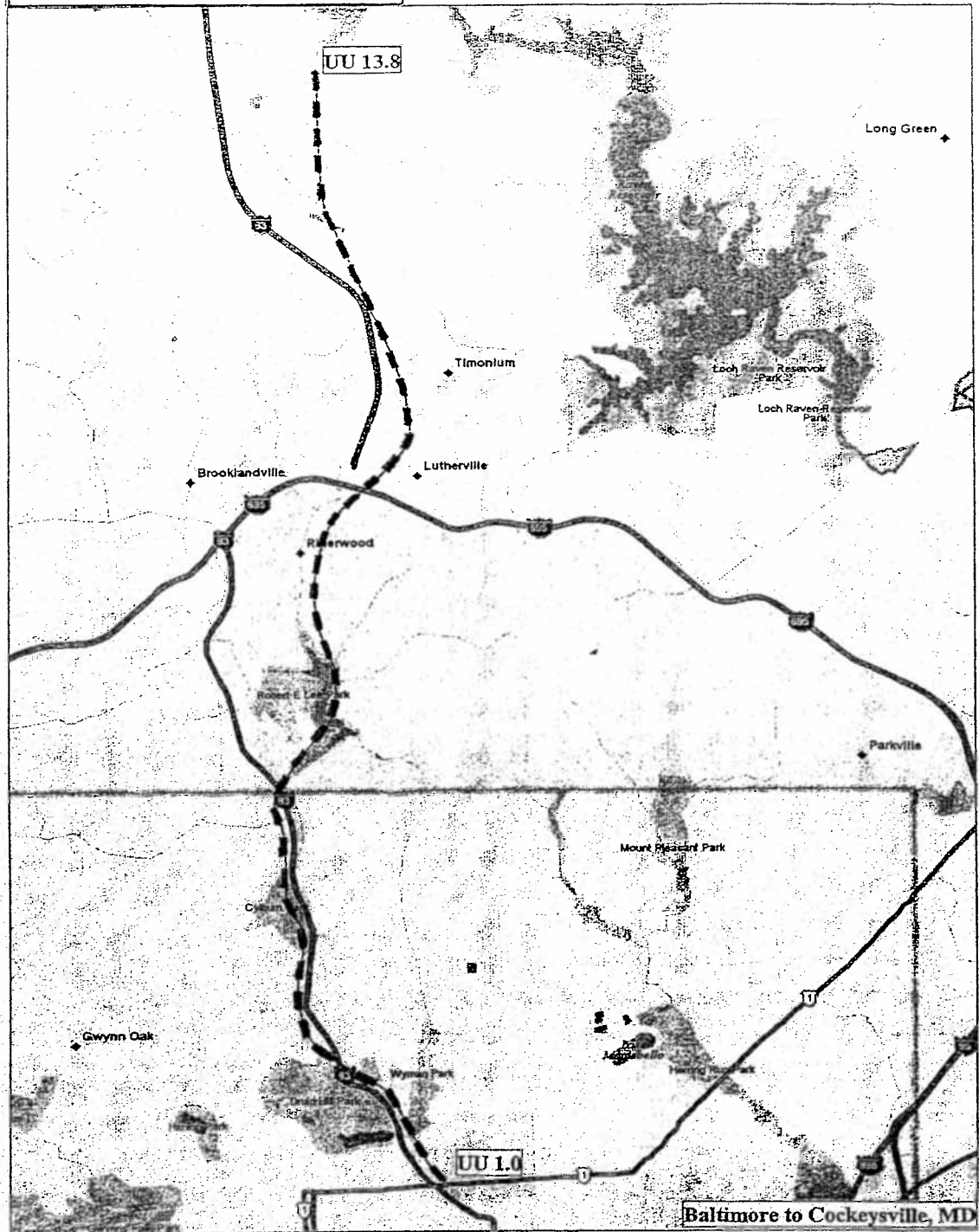
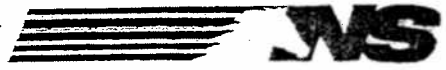
Date made available to the public: February 10, 2006.

Comment due date: March 13, 2006.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment



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