

Rail Abandonment in Botetourt County, Virginia

Joshua Wayland

to:

Andrea.kampinen

01/22/2014 01:55 PM

Hide Details

From: Joshua Wayland/STB

To: Andrea.kampinen@dhr.virginia.gov

2 Attachments



LTR STB-OEA 1.14.14-signed.pdf Roanoke Cement Quarry Expansion_DOE (DHR File 2011-3603).pdf

Hi Andrea,

Following up on our conversation this afternoon, I wanted to pass along the two attached letters regarding STB Docket No. 290 (Sub-No. 351X). The first letter is from Titan American, which owns Roanoke Cement company, to the Surface Transportation Board's Office of Environmental Analysis. The letter states that the expansion of Roanoke Cement company's facilities is not contingent on the abandonment of the railroad line. The second letter is from the Department of Historic Resources to the Army Corps of Engineers describing the results of DHR's cultural resources investigations regarding the expansion of Roanoke Cement company's facility expansion. From what I understand, the facility expansion project APE encompassed the rail line proposed for abandonment. However, please note that the letter misidentifies the rail line as part of the Norfolk and Western Railway; it is actually the Cloverdale Branch, originally constructed as an industrial spur. I hope this information is helpful.

Thanks again for all of your help,

Josh Wayland
Environmental Protection Specialist
Office of Environmental Analysis
Surface Transportation Board
Tel: (202) 245-0330



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January 14, 2014

Victoria Rutson
Director - Office of Environmental Analysis
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

RE: *Norfolk Southern Railway Company – Abandonment Exemption – In Botetourt County, Virginia, STB Docket No. AB-290 (Sub-No. 351X)*

Dear Ms. Rutson:

I am writing on behalf of Titan America LLC and its wholly-owned subsidiary, Roanoke Cement Company LLC (“Roanoke Cement”), in response to a letter from the Commonwealth of Virginia Department of Historic Resources (“DHR”) to Norfolk Southern Railway Company (“NSR”) dated December 5, 2013, in which DHR responded to NSR’s request for feedback on the proposed abandonment of 0.71 miles of rail line in the vicinity of Roanoke Cement’s plant facilities under the above-referenced Surface Transportation Board (“STB”) docket. I understand that DHR’s December 5 letter was included with the environmental and historic materials that NSR submitted as part of its request for STB authority to abandon the subject rail line segment, and that you are aware of the thrust of that letter. As you may know, Roanoke Cement is the lone user of the subject rail line segment, and we support the proposed abandonment, as it would accommodate the expansion of Roanoke Cement’s quarry operations and related facilities (herein referred to as the “facilities expansion”) at Troutville, Virginia.

DHR’s December 5 letter posits that the STB must, in the context of the rail line abandonment proceeding, assess the potential impacts of both the proposed rail line abandonment and Roanoke Cement’s facilities expansion. Evidently, DHR may view Roanoke Cement’s facilities expansion as an “indirect effect” of the proposed rail line abandonment. If that were correct, then the Area of Potential Effects (“APE”) for STB purposes could encompass a review of Roanoke Cement’s industrial activities, which are not subject to STB regulation. NSR has advised us, however, that the STB typically limits the scope of the APE to the railroad right-of-way for the line segment proposed for abandonment, and that the STB would most likely do so here if DHR’s conclusion concerning the interrelationship of the proposed NSR abandonment and Roanoke Cement’s facilities expansion is incorrect, as we will show is the case.

Roanoke Cement’s planned facilities expansion activity is neither a direct nor an indirect effect of NSR’s proposed abandonment, and thus an expansive STB historic resources impact analysis is unwarranted. Roanoke Cement has engaged in recent discussions with NSR concerning our facilities

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Ms. Victoria Rutson
January 13, 2014
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expansion plans. Our discussion explored possible facilities expansion **with or without** the legal abandonment the subject NSR rail line segment. Although we agreed with NSR's proposal to abandon the subject line segment to accommodate our plans, Roanoke Cement could just have easily accomplished the planned facilities expansion without the need for any NSR rail line abandonment under alternative project approaches. Recently, NSR has confirmed that there are straightforward ways to accomplish Roanoke Cement's facilities expansion that would not require NSR to invoke the STB's abandonment procedures. As such, the proposed rail line abandonment is **not** a "but for" event upon which Roanoke Cement's facilities expansion depends. Moreover, our facilities expansion is not an action connected to the abandonment, and should not be viewed as a direct or indirect effect of the abandonment.

Because the proposed NSR abandonment and Roanoke Cement facilities expansion are not "connected actions" – indeed, our facilities expansion does not depend upon the subject abandonment – the STB should adhere to the customary APE for abandonments: the subject rail line right-of-way. The clarification offered here should be more than adequate basis for the STB to employ its customary APE designation and limit its impacts analysis accordingly. But it is also worth noting here that our planned facilities expansion has required Roanoke Cement to submit to the Army Corps of Engineers ("Army Corps") wetlands permitting processes prior to the commencement of certain construction activity. As part of the since-concluded Army Corps processes, Roanoke Cement, through its designated consultant, sought DHR's input. In turn, DHR concluded that no historic resources impacts mitigation would be required in connection with Roanoke Cement's facilities expansion. In light of that outcome, it may be that the DHR representative assigned to this rail line abandonment project was unaware of DHR's prior analysis of, and conclusions regarding, Roanoke Cement's facilities expansion plans.

It believe that the above information will enable the STB to find that the expansive historic impacts analysis DHR recommended in its December 5 letter is unwarranted and would be redundant of prior DHR examination of the historic resources impacts of Roanoke Cement's facilities expansion. As shown herein, our facilities expansion is neither a direct nor an indirect effect of the proposed NSR abandonment, and, accordingly, the STB should rely on its usual practice of designating the appropriate APE as the scope of the subject rail line right-of-way.

Sincerely,

A handwritten signature in blue ink, appearing to read "R.A. Fink".

Russell A. Fink
Vice President, General Counsel & Secretary

Cc: Robert A. Wimbish (on behalf of Norfolk Southern Railway Company)
Robert Sells, President, Roanoke Cement Company LLC
Joshua Wayland (Surface Transportation Board, Office of Environmental Analysis)



COMMONWEALTH of VIRGINIA

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August 6, 2012

Jeanne Richardson
U.S. Army Corps of Engineers, Norfolk District
West Central Field Office
P.O. Box 3160
Lynchburg, VA 24503-0160

RE: *Phase I Cultural Resources Survey of the Roanoke Cement Quarry Expansion and Stream Compensation Sites, Botetourt County, Virginia* (Corps Project No. NAO-2011-0118; DHR File No. 2011-3603)

Dear Ms. Richardson:

We have received for review the report referenced above prepared by Circa~Cultural Resource Management, LLC (Circa~) on behalf of the Roanoke Cement Company, LLC. Our comments are provided as assistance to the United States Army Corps of Engineers, Norfolk District in meeting its responsibilities under Section 106 of the National Historic Preservation Act. We are pleased to inform you that the survey and report meet the *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44716-42) and DHR's *Survey Guidelines* (rev. 2011).

The cultural resources investigations revisited one previously identified archaeological site, identified five new archaeological sites, two isolated finds, and three architectural resources. Isolated finds are, by definition, not eligible for listing in the National Register of Historic Places (NRHP) and no further investigations on these resources are warranted. With respect to the archaeological sites, Circa~ stated that each of the six recorded archaeological resources exhibited diminished research potential due to low artifact density, compromised stratigraphic deposits, and lack of intact subsurface cultural features. DHR concurs that each of these archaeological resources, summarized in the following table, are not eligible for the NRHP.

Site Number	Type	Association	NRHP Eligibility
44BO0197	Lithic Scatter	Prehistoric/Unknown	Not Eligible
44BO0603	Domestic	20 th Century	Not Eligible
44BO0604	Domestic	20 th Century	Not Eligible
44BO0605	Lithic Scatter	Prehistoric/Unknown	Not Eligible
44BO0606	Lithic Scatter	Prehistoric/Unknown	Not Eligible
44BO0607	Lithic Scatter	Middle Archaic	Not Eligible

With respect to the architectural resources, DHR concurs with the consultant's recommendation that the **Abandoned 20th Century Farmstead (DHR ID# 011-5479)** and **Collapsed Barn (DHR ID# 011-5480)** are not eligible for the NRHP.

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With respect to the Norfolk and Western Railroad (DHR ID# 011-5481), taken as a whole, the railroad corridor may be eligible for the NRHP due to its association with the ca. 1870s Atlantic, Mississippi & Ohio Railroad and William Mahone. In order to determine if the railroad as whole is eligible, a more comprehensive evaluation of the rail corridor is necessary. However, due to the nature of the proposed undertaking, even if this resource is determined eligible for the NRHP, it would not be adversely affected. Therefore, in an effort to move the Section 106 consultation process along, DHR recommends treating the **Norfolk and Western Railway (DHR ID# 011-5481)** as potentially eligible, but the effect on this resource would not be adverse.

Thank you for giving us the opportunity to comment on this project. If you have any questions concerning our comments, or if we may provide any further assistance, please do not hesitate to contact me at (804) 482-6452; brad.mcdonald@dhr.virginia.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad', with a stylized flourish at the end.

Brad McDonald, Archaeologist
Office of Review and Compliance

c. Curtis Hickman, Kerr Environmental Services Corp.
Carol Tyrer, Circa~