

SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS

#ED-2980

**SUPPLEMENTAL FINAL
ENVIRONMENTAL ASSESSMENT**

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 290 (SUB-NO. 386X)

December 5, 2017

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

RECOMMENDATION: Remove Conditions 1 and 3

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of 1.97 miles of rail line located between milepost SC 0.33 and milepost SC 2.3 in Charleston, South Carolina.

The decision in this proceeding, served September 6, 2016, imposed three conditions and concluded that the proposed action would not significantly impact the quality of the human environment. Condition 1 requires NSR to: (a) consult with the South Carolina Department of Health and Environmental Control, Bureau of Water Pollution Control, Office of Ocean and Coastal Resource Management (DHC-BWPA-OCCRM) to determine whether state coastal management consistency certification is required, pursuant to the Coastal Zone Management Act of 1986 (16 U.S.C. § 1451 et seq.); and (b) not file its consummation notice until it reports the results of these consultations in writing to the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) and the Board has removed this condition. Condition 2 requires NSR to: consult with and notify the National Geodetic Survey at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers. And condition 3 requires NSR to: (a) 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 that are eligible for listing or are listed in the National Register of Historic Places (National Register) until the Section 106 process of the National Historic Preservation Act (NHPA) has been completed; (b) report back to OEA regarding any consultations with the South Carolina Department of Archives and History (State Historic Preservation Office or SHPO) and the public; and (c) not file a consummation notice or 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 the condition.

OEA received two new comments, as detailed below, after issuance of the Final Environmental Assessment (EA) that respond to conditions 1 and 3.

New Comments On the Abandonment

Condition 1

In the attached letter dated September 14, 2016, DHC-BWPA-OCCRM commented that NSR plans to sell the underlying right-of-way to another entity for development of an urban park and intends to salvage the rail and related track material and smooth the roadbed to a level surface only; NSR would not disturb the existing drainage systems, ballast, or underlying soil, nor would it cause any kind of burying or digging. DHC-BWPA-OCCRM has concluded that the proposed abandonment and salvage operations would have no effects on coastal resources and that a Coastal Zone Consistency determination is not required. DHC-BWPA-OCCRM however notes that any further work beyond the scope of this abandonment proceeding, such as the development of a park, may trigger the need to obtain various state approvals and permits.¹

Accordingly, the Board has satisfied its responsibilities under the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*) and OEA is recommending that the Board remove the coastal zone consistency determination condition (condition 1).

Condition 3

In the attached letter dated December 1, 2017, the SHPO commented that, in addition to a site visit to the area on March 7, 2017, it has reviewed additional information that includes georeferenced material showing the location of the rail line, conceptual designs of the planned urban park, and photographs of the Area of Potential Effects (APE), and has concluded that the proposed abandonment would not adversely affect National Register of Historic Places (National Register) historic properties, including the National Historic Landmark William Aiken House and Associated Railroad Structures sites, located within the right-of-way or APE of the proposed abandonment.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.5(b), 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(e), consists of the railroad's historic report, all relevant correspondence, and the EA, Final EA, and this Supplemental 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.gov>.

¹ It is well settled that in conducting environmental reviews of abandonment cases, the Board's role is limited to the anticipated impacts of the proposal before the agency, e.g., the likely diversion of traffic to other rail lines or transportation modes and the likely disruptive consequences of removing the track and related structures. *Iowa Southern R. Co.—Exemption—Abandonment*, 5 I.C.C.2d 496, 501 (1989), *aff'd*, *Goos v. ICC*, 911 F.2d 1283 (8th Cir. 1990).

Accordingly, the Board has satisfied its responsibilities under Section 106 of the NHPA in this proceeding and OEA is recommending that the Board remove the Section 106 condition (condition 3).

OEA concludes that if the above conditions are removed, the proposed action would not significantly affect the quality of the human environment.

Attachments

OEA CONTACT: Diana Wood
 202-245-0302
 woodd@stb.dot.gov

Distribution: Office of Proceedings
 OEA Chron
 ECT



#E1-25379

September 14, 2016

Crystal Zorbaugh
Counsel for Norfolk Southern Railway Company
Baker & Miller PLLC
2401 Pennsylvania Ave., NW, Ste. 300
Washington, DC 20037

Re: Norfolk and Southern Railroad Company (NSR) proposed abandonment of 1.97 miles of rail line
Charleston, South Carolina.

Dear Ms. Zorbaugh:

This is in response to your email request dated August 25, 2016 to Mr. Dan Burger of our office. As required by conditions of the Surface and Transportation Board's Environmental Assessment, you requested comments from the Coastal Zone Management Program regarding Norfolk and Southern Railroad Company (NSR) proposed abandonment of 1.97 miles of rail line extending from milepost SC 0.33 to milepost SC 2.3 in Charleston, South Carolina. NSR plans to sell the underlying right of way to another entity for the development of an urban park.

The plans to abandon the line will result in salvaging the rail and related track material by removing the rail and track material from the existing roadbed. The contour of the existing roadbed will remain as is, and existing drainage systems will remain intact. When the rail and track material are removed, the contractor will smooth the roadbed to a level surface. No ballast will be removed, and no soil disturbance will occur in that no digging or burying of any kind is proposed.

Given the scope of work, CZC Staff has determined there will be no effects coastal resources by the proposed work. Accordingly a Coastal Zone Consistency determination is not required. However, any future construction activities related to the development of a park that result in soil exposure require coverage under South Carolina's NPDES Construction General Permit when within the typical thresholds for area of construction activity and distance to a coastal receiving water. This permit would then trigger a state Coastal Zone Consistency review at that time.

Please contact me should you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Joyner', is written over the word 'Sincerely'.

Curtis M. Joyner
Manager, Coastal Zone Consistency Section, SCDHEC OCRM
1362 McMillan Avenue, Suite 400
Charleston, S. C. 29405
843-953-0205; joynercm@dhec.sc.gov

Cc: Rheta DiNovo



#E1-26278

December 1, 2017

Howard D. McFadden
Senior General Attorney – Real Estate
Norfolk Southern Corporation
1200 Peachtree Street, NE 12th floor
Atlanta, GA 30309

Re: Proposed Rail Line Abandonment Petition, Milepost SC 0.33 – SC 2.3: Additional Information
Charleston, Charleston County, South Carolina
SHPO Project No. 16-JS0236
Docket No. AB-290

Dear Mr. McFadden:

Thank you for your emails of October 11 and November 8, 2017 regarding additional information submitted in support of the above referenced undertaking. The additional information, including georeferencing of the line location and crossings and proposed condition language, was submitted in response to our June 21, 2016 letter regarding this undertaking. We also received in hard copy on November 13, 2017 a letter (dated November 7) and existing vs. conceptual redesign images from the City of Charleston that clarifies the plans for development of a public park/trail along the abandoned rail line. We previously received from the City on April 2, 2017 our requested photodocumentation of the Area of Potential Effect (APE). Additionally, we met on site on March 7 with representatives from Norfolk Southern, the City of Charleston, and the Lowcountry Lowline. We appreciate everyone's efforts to provide the additional information, answer our questions and concerns, and to take into account the effect to historic properties in the APE.

The State Historic Preservation Office is providing comments to the Surface Transportation Board pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR 800. Consultation with the SHPO is not a substitution for consultation with Tribal Historic Preservation Offices, other Native American tribes, local governments, or the public.

The undertaking's APE includes the William Aiken House and Associated Railroad Structures, a property listed in the National Register of Historic Places and designated as a National Historic Landmark. Based on the information received to date, our office believes that no properties listed in or eligible for listing in the National Register of Historic Places will be adversely affected

by this undertaking. We do not recommend including the proposed "condition" language as an amendment to the Purchase and Sale Agreement.

If archaeological materials are encountered during construction, the procedures codified at 36 CFR 800.13(b) will apply. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials. The federal agency or the applicant receiving federal assistance should contact our office immediately.

Please refer to SHPO Project Number 16-JS0236 in any future correspondence regarding this project. If you have any questions, please contact me at (803) 896-6129 or jsylvest@scdah.sc.gov.

Sincerely,



John D. Sylvest
Project Review Coordinator
State Historic Preservation Office

cc: Diana Wood, Surface Transportation Board
Cynthia Walton, National Park Service
Sarah Stokely, Advisory Council on Historic Preservation
Josh Martin, City of Charleston
Winslow Hastie, Lowcountry Lowline