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OEA

SERVICE DATE – September 14, 2012

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB-290 (Sub No. 338X)

**Norfolk Southern Railway Company — Abandonment Exemption—
in Beaufort County, NC**

BACKGROUND

On August 22, 2012, the Norfolk Southern Railway Company (NS) filed with the Surface Transportation Board (Board) a notice under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately 0.76 miles of rail line between milepost WL 25.94 (where the rail line crosses State Road 1940/Highway 306) and milepost WL 26.70, in Aurora, Beaufort County, NC (Line). A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

According to NS, no rail traffic has moved over the Line in more than two years, including overhead or passenger rail traffic. NS also notes that it has not received any requests for service.

NS states that there is no alternative to abandonment. If the abandonment is approved, NS states that the Line would be salvaged and those materials that cannot be reused or sold as scrap would be disposed of in accordance with all applicable federal and state laws and regulations.

DESCRIPTION OF THE RAIL LINE

The Line itself is less than 50 years old and is located in a rural setting that is surrounded by industrial operations related to PCS Phosphate's (PCS) operations. The width of the right-of-way is 60 feet wide and traverses United States Postal Service Zip Code 27806.

NS states that it does not own the right-of-way nor does it contain any federally granted rights-of-way. According to NS, the right-of-way is owned by PCS which provided NS with rights to construct the Line and to provide rail service to shippers including PCS. Moreover, NS states that it has initiated the proposed abandonment at the request of PCS who would like to use the land for other purposes. Therefore, NS does not believe that the right-of-way is suited for alternative public uses and is also not willing to negotiate trails use.

As noted earlier, NS states that the Line itself is less than 50 years old. NS was granted authorization to construct and operate the Line as part of an order by the Interstate Commerce

Commission dated February 19, 1965.¹ The ICC's order provided for the construction of a line of railroad extending between Chocowinity and Lee Creek, NC, which would enable NS to provide direct service to the site of an extensive phosphate producing site. Pursuant to Southern Railway Company's acquisition of Norfolk Southern Railway Company on January 1, 1974, Seaboard Coast Line Railroad Company, predecessor of CSX Transportation, Inc. (CSX), was granted trackage rights to serve PCS and its predecessor's facilities.

ENVIRONMENTAL REVIEW

NS 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. NS 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.

Diversion of Traffic

The Line has been out of service for more than two years. 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.

Salvage Activities

If the abandonment is approved, NS states that salvage would occur as follows:

Salvage operations would consist of removing the track structure from the existing roadbed. The contours of the existing roadbed would remain intact and existing drainage systems would remain unchanged. Following removal of the track structure, the contractor would smooth the roadbed to a level surface and leaving all ballast in place. No digging or burying of any kind would be permitted. All track materials would be reused or sold as scrap. Those materials not reused or sold as scrap would be disposed of in accordance with applicable federal and state laws and regulations.

According to NS, it is unaware of any adverse effects that the proposed abandonment would have on local and existing land use plans.

¹ Norfolk S. Ry. Co. Construction and Operation, 324 ICC 371 (1965).

² The 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 290 (Sub No. 338X).

The U.S. Department of Agriculture, Natural Resources Conservation Service states that no farmland area would be affected or converted. Therefore, NS is not required to complete a Farmland Conversion Impact Rating form.

The North Carolina Department of Environment and Natural Resources (NC-DENR), Division of Coastal Management, states that based on the information provided that it does not appear that the proposed abandonment would have any reasonable foreseeable effect on any coastal use or coastal resource. Therefore, no further regulatory review is required.

NS states that there are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the Line. The NC-DENR, Underground Storage Tank, states that no reported releases have been documented.

If approved, NS states that safety would be enhanced with the elimination of the at-grade crossing located at State Road 1940/Highway 306.

OEA conducted a search the U.S. Fish and Wildlife Service's (USFWS) website³ to search for any species of concern in Beaufort County, NC. The USFWS website lists the following species as threatened, endangered or experimental:

- Red-cockaded woodpecker (*Picoides borealis*) – Endangered
- Sensitive joint-vetch (*Aeschynomene virginica*) – Threatened
- Rough-leaved loosestrife (*Lysimachia asperulaefolia*) – Endangered
- West Indian manatee (*Trichechus manatus*) – Endangered
- Red wolf (*Canis rufus*) – Experimental
- Hawksbill sea turtle (*Eretmochelys imbricate*) – Endangered
- Leatherback sea turtle (*Dermochelys coriacea*) – Endangered
- Kemp's ridley sea turtle (*Lepidochelys kempii*) – Endangered
- Green sea turtle (*Chelonia mydas*) - Threatened

Upon review of the list of endangered, threatened and experimental species identified in the Beaufort County, OEA does not believe that any salvage activities associated with the abandonment would result in any adverse impacts to these species. Nevertheless, OEA has provided a copy of this EA to the USFWS for review and comment.

The NC-DENR, states that it has no records of rare species, significant natural communities, significant natural heritage areas, and lands managed for conservation within one mile of the proposed abandonment. The NC-DENR also notes that rare aquatic and wetland species may be found within one mile of the proposed abandonment. However, OEA notes that NS does not

³ U.S. Fish and Wildlife Website, Find Endangered Species:
<http://www.fws.gov/endangered>.

intend to undertake any activities located within any aquatic or wetland resource areas. Nevertheless, OEA has provided a copy of this EA to the NC-DENR for review and comment.

In a separate comment, the NC-DENR, Washington Regional Office, also states that a permit would be required if open burning is associated with the proposed abandonment. OEA notes that open burning is not an action typically associated with railroad abandonments.

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.

The U.S. Army Corps of Engineers states that no impacts would occur to jurisdictional wetlands or waters of the U.S. by the abandonment, as proposed. Therefore, a Department of Army permit would not be required.

The U.S. Environmental Protection Agency (USEPA) submits the following comments:

1. The map does not depict the presence of Whitehurst Creek's confluence with a larger unnamed surface water body near milepost WL 26.7. Therefore, the USEPA is unable to determine if there is a potential for a Clean Water Action (CWA) under Section 402 of the Clean Water Act.
2. Although NS states that there would be no direct discharges into CWA-defined waters, a potential for stormwater related runoff may trigger a CWA Section 402 Storm Water Permit.
3. The USEPA notes that its CWA implementation has been delegated to the NC-DENR.
4. The USEPA also encourages NS to contact the appropriate Town of Aurora department responsible for implementing the Municipal Separate Storm Sewer Systems (MS4) program. The Town of Aurora is required to obtain a MS4 permit from the State.

The NC-DENR, Water Quality Division states that based on the information provided that there would be no impacts to jurisdictional resources and as such no permit is required. In response to the USEPA's comment regarding the MS4 program, OEA has provided a copy of this EA to the Town of Aurora for review and comment.

The U.S. Department of Commerce, National Geodetic Survey (NGS) has not completed its review of the proposed abandonment. Therefore, OEA has added NGS to the service list for this EA and specifically invites NGS's comments on this EA.

HISTORIC REVIEW

In its Historic Report, NS states that the Line itself is less than 50 years old or older. According to NS, the Interstate Commerce Commission authorized construction and operation of the Line in an order dated February 19, 1965.⁴ The ICC's order provided for the construction of a line of railroad extending between Chocowinity and Lee Creek, NC that would enable NS to provide direct service to the site of an extensive phosphate producing site. The mining was originated by North Carolina Phosphate Corporation and Texas Gulf Sulphur Company, predecessors to PCS. Pursuant to Southern Railway Company's acquisition of Norfolk Southern Railway Company on January 1, 1974, Seaboard Coast Line Railroad Company, predecessor of CSX Transportation, Inc. (CSX), was granted trackage rights to serve PCS's predecessors facilities.

The WL line beginning at milepost WL 26.94 was constructed on an easement granted by the predecessors of PCS to the old Norfolk Southern Railway Company. In 2006/2007, a new replacement track was constructed on a different alignment. This new alignment began at milepost WL 24.9 and was situated on a route more southerly than the previous alignment. NS and CSX began operations over this new alignment in 2007 and as a result approximately 5 miles of the old alignment was retired and removed beginning with a bridge over Whitehurst Creek at milepost WL 26.70. NS continued to operate over the resulting stub-end track between mileposts WL 24.9 and WL 26.70.

NS 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 North Carolina Department of Cultural Resources, State Historic Preservation Office (SHPO) pursuant to 49 C.F.R. § 1105.8(c).⁵ In a letter dated August 20, 2012, the SHPO states that it is aware of no historic resources that would be affected by the proposed abandonment.

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>.

⁴ Norfolk S. Ry. Co. Construction and Operation, 324 ICC 371 (1965).

⁵ 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>.

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.⁶ 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.

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).

⁶Native American Consultation Database, http://grants.cr.nps.gov/nacd/NACD_Search_Page_Query_Results.cfm (last visited September 9, 2012).

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 290 (Sub No. 338X) 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: September 14, 2012.

Comment due date: September 28, 2012.

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

Attachment