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SEA

SERVICE DATE – AUGUST 18, 2006

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-290 (Sub-No. 267X)

**Norfolk Southern Railway Company – Abandonment
Exemption – in Kanawha County, WV**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Kanawha County, West Virginia. The abandonment extends 12.22 miles between milepost TP 14.69 at Blue Creek to milepost TP 26.91 at Acup. The line traverses United States Postal Service ZIP Codes 25026 and 25045 and includes the former stations of Blue Creek, West Blue Creek, Oil Siding, Three Mile, Victor, Shrader, Coco, Pentacre, Quick, Sanderson, Morris Fork, and Acup. NSR indicates that 25 at-grade public and private road crossings would be closed as a result of the abandonment. The land use along the right-of-way consists of 60 percent undeveloped, 35 percent residential and 5 percent industrial/commercial. The right-of-way width is generally 66 feet. According to the railroad, portions of the line have already been abandoned. This includes milepost TP 0.51 to milepost TP 13.1, and milepost TP 26.91 to milepost TP 35.3. NSR does not have fee title to the entire right-of-way, therefore the proposed abandonment may not be suitable for other public uses, such as mass transit or as a recreational corridor.

DESCRIPTION OF THE LINE

NSR indicates that the rail line between milepost TP 0.0 and milepost TP 24.51 was built around 1903 by the Imboden & Odell Railroad Company. In 1914, the rail line was extended to milepost TP 35.30 (formerly WV 35.30) by the Kanawha and West Virginia Railroad (K&WV). In 1921, the line was leased to the New York Central Railroad Company, who operated the line in conjunction with the Toledo & Ohio Central Railway and the Kanawha & Michigan Railway (K&M). In 1936, the line was sold to K&M, and in 1938, K&WV and K&M merged with three other railroads to form the Toledo & Ohio Central Railway. In 1952, the Toledo & Ohio Central Railway merged into New York Central Railway, and in 1968, merged with the Pennsylvania Railroad to form the Penn Central Transportation Company. The railroad later became Consolidated Rail Corporation through a court order, and in 1997, was acquired by CSX Transportation and Norfolk Southern.

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 or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].¹ The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA).

Diversion of Traffic

According to NSR, no local traffic has moved over the line for at least two years and no overhead traffic would be rerouted as a result of the abandonment. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could cause significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. NSR indicates that approximately twenty percent of the line is missing rail as a result of vandalism and pilferage, thus rendering portions of it unsafe. If the notice becomes effective, NSR would be able to salvage the remaining track, ties, and other railroad appurtenances, and dispose of the right-of-way.

NSR indicates that the prolonged lack of service along the line indicates a low demand for rail-dependent activities in the area. As such, impacts to land uses from the proposed abandonment are anticipated to be negligible.

The Natural Resources Conservation Service (NRCS) commented that there is a longstanding flooding problem associated with the wooden trestles at the Blue Creek waterway crossing. NRCS states that during periodic flood events, the trestles catch large quantities of floatable debris, resulting in large debris jams that impede stream flow and cause significant flooding upstream of blocked areas. In a response letter to NRCS, NSR indicated that if abandonment authority is granted, it will remove all timber or steel bents and stone or concrete piers to a depth of two feet below the existing mud line. NRCS did not provide comments on

¹ The railroad's 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. 267X).

impacts to prime agricultural soils. Therefore SEA has since added NRCS to the service list to ensure they receive a copy of the EA for review and comment.

NSR contacted the US Fish and Wildlife Service and the West Virginia Department of Environmental Protection regarding adverse impacts on any Federally listed endangered or threatened species. NSR also conducted a records search and, in the absence of agency responses, found that twenty threatened or endangered species may exist statewide. Although NSR is not aware of any critical habitat that would be destroyed or modified as a result of the proposed abandonment, both agencies have not indicated whether the provisions of the Fish and Wildlife Coordination Act, the Migratory Bird Treaty Act, and Section 7 of the Endangered Species Act have been fulfilled. Therefore, SEA has since added both agencies to the service list to ensure they receive a copy of the EA for review and comment.

NSR contacted the National Park Service (NPS) to determine if the proposed abandonment would pass through any state parks or forests, national parks or forests, or wildlife sanctuaries, but to date, has not received comments. It is believed that the proposed abandonment would not impact any of the resources; however, SEA has since added the NPS to the service list to ensure they receive a copy of the EA for review and comment.

NSR contacted the U.S. Army Corps of Engineers (ACOE) and the West Virginia Department of Environmental Protection regarding the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, but to date, has not received any written responses. The rail line proposed for abandonment crosses Blue Creek, Upper Three Mile Creek, White Oak Creek, Elk Lick Branch, Slack Branch Creek, Salt Pier Branch, Sand Lick Creek, Shirkey Branch, Morris Fork, one unnamed tributary, and intersects the 100-year floodplain and wetlands associated with three of the waterways. NSR states that through oral conversations with the ACOE and the West Virginia Department of Environmental Protection, it was determined that program permits would not be required as long as salvage activities do not involve any dredging and filling or new construction. However, since NSR has indicated that the trestles in the waterways would be removed, SEA is recommending a condition that NSR further consult with the ACOE and the West Virginia Department of Environmental Protection prior to commencement of salvage activities.

NSR contacted the US Environmental Protection Agency (USEPA) to determine if the proposed abandonment would likely result in impacts to water quality under Section 402 of the Clean Water Act, but did not include any responses in the report. Although NSR believes that a Section 402 permit would not be required, SEA is recommending a condition requiring NSR to consult with the USEPA and/or the West Virginia Department of Environmental Protection prior to commencement of salvage activities for possible impacts to waterways during the removal of bridges.

Kanawha County does not lie within a designated coastal zone, therefore coastal zone consistency is not required.

SEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

HISTORIC REVIEW

NSR submitted a historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the West Virginia Division of Culture and History (SHPO), pursuant to 49 CFR 1105.8(c). In addition, NSR submitted a Memorandum of Agreement (MOA), currently under review by the SHPO, for adherence to 1999 requirements stemming from the acquisition of Conrail. Among other things, the MOA requires NSR to document bridges and trestles slated for demolition; tunnels for closure; and exterior facades. In addition, NSR must write a brief history of the line, provide track charts and locations of historic images, and determine a method for resolving disputes. The MOA covers the entire area of the proposed abandonment, from milepost TP 14.69 at Blue Creek to milepost TP 26.91 at Acup. Based on the information provided by NSR, the proposed abandonment would have an adverse effect upon the rail line, which is considered eligible for listing in the National Register of Historic Places (National Register). Since the SHPO has not completed its evaluation of the potential impact of this project on historic resources, NSR shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470 (f). The Applicants shall report to SEA the results of any consultations with the SHPO prior to commencement of any salvage activities.

In the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during the NSR's salvage activities, NSR shall immediately cease all work and notify SEA, interested Federally recognized tribes, and the SHPO. SEA shall then consult with the SHPO, interested Federally recognized tribes, and NSR to determine whether any mitigation measures are necessary.

SEA conducted a search of the National Park Service's Native American Consultation Database at <http://www.cast.uark.edu/other/nps/nacd/> to identify Federally recognized tribes that may have an interest in the project. The data base indicated that there were no tribes that may have an interest in the proposed abandonment, therefore no tribal consultation will be necessary.

CONDITIONS

We recommend that the following conditions be placed on any decision granting abandonment authority:

1. Prior to commencement of any salvage activities, the Norfolk Southern Railway Company (NSR) shall consult with the US Army Corps of Engineers and the West Virginia Department of Environmental Protection regarding bridge removal at water bodies in accordance with the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.
2. To ensure appropriate consideration of the National Pollutant Discharge Elimination System (NPDES) requirements, NSR shall consult with the US Environmental Protection Agency and/or the West Virginia Department of Environmental Protection prior to the commencement of any salvage activities.
3. The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) has not completed its consideration of the effect of the proposed abandonment on historic properties as required pursuant to the regulations (36 CFR 800) implementing Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 (f). Accordingly, NSR shall retain its interest in and take no further steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process has been completed. NSR shall report back to SEA regarding any consultations with the West Virginia Division of Culture and History (State Historic Preservation Officer or SHPO) and any other consulting parties. Once SEA has completed the Section 106 process and the Board has removed this condition, NSR may file its consummation notice with the Board and initiate salvage activities.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, 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), and discontinuance of service without abandonment. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment of the rail line, 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.

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 CFR 1152.29).

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 Diana Wood, 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. 267X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 565-1552, fax at (202) 565-9000, or e-mail at woodd@stb.dot.gov

Date made available to the public: August 18, 2006.

Comment due date: **September 5, 2006.**

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

Vernon A. Williams
Secretary

Attachment