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OEA

SERVICE DATE – NOVEMBER 27, 2020

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

**Docket No. AB 1307X
York Railway Company – Discontinuance Exemption –
In York County, Pa.**

**Docket No. AB 1308X
Yorkrail, LLC – Abandonment Exemption –
In York County, Pa.**

BACKGROUND

In this proceeding, York Railway Company (YRC) and Yorkrail, LLC (Yorkrail) (jointly, Applicants) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 for Yorkrail to abandon, and YRC to discontinue service over, approximately 8.59 miles of rail line located on two segments in York County, Pennsylvania (the Line). The first segment proposed for abandonment extends approximately 3.23 miles from at or near milepost 20.07, in the Village of Bair in West Manchester Township, to at or near milepost 23.30 in the Borough of Spring Grove. The second segment proposed for abandonment extends approximately 5.36 miles from at or near milepost 24.10, near Spring Grove in Jackson Township, to at or near milepost 29.46, near Hanover, in Heidelberg Township. A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If the notice becomes effective, Applicants will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

YRC was created in 1999 through a consolidation of Yorkrail, Inc. and the Maryland and Pennsylvania Railroad, both owned at the time by the Emons Railroad Group. Applicants state that YRC owns all of the common carrier operating rights with respect to the Line, while Yorkrail is a carrier by virtue of its ownership of the underlying rail assets.

The Line is located in a primarily rural area, with some portions of the Line abutting industrial, commercial retail, and residential areas. Commodities that have historically moved on the Line have been agricultural products, minerals and stone, and pulp and paper. The right-of-way is generally 50 feet wide and crosses 12 local roadways. There are no stations located on the Line, and the Line does not contain federally granted rights-of-way. Applicants indicate that there is no overhead freight service on the Line, and the last date of local service was in 2004.

ENVIRONMENTAL REVIEW

Applicants submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly as a result of the proposed abandonment of the Line, including salvage. Applicants served the E&H Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)]¹ implementing the National Environmental Policy Act. The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

Applicants state that there is no overhead traffic on the Line, and local service has not moved over the Line since 2004. Therefore, the proposed abandonment would not result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. Nor would the proposed abandonment adversely impact the development, use and transportation of energy resources or recyclable commodities or the transportation of ozone-depleting materials.

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. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

The right-of-way may be suitable for trail use or other public purposes. Applicants state that they intend to sell the Line to the York County Rail Trail Authority for trail use and do not currently plan any salvage work. Applicants do not intend to disturb any subgrade or subgrade structures. Rail, crossties, ballast, and all other rail related structures such as bridges and culverts would remain in place. Applicants indicate that if they were to conduct salvage activities, those activities would take place within the right of way, would be surface work only, and would not disturb subsurface resources.

Applicants are unaware of any regional or local land use patterns with which the proposed abandonment would be inconsistent. The U.S. Natural Resources Conservation Service (NRCS) in Harrisburg requested shape files of the Line to map against the NRCS easements database. Based on its review of the shape files, NRCS determined that the Line does

¹ The E&H Report is available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records," selecting "Filings" in the "Search for" dropdown menu; entering "AB" "1308" "0" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on November 2, 2020.

not intersect any NRCS held easement properties and concluded that the proposed abandonment would have no impact on NRCS properties. Applicants do not believe that the proposed abandonment would have any adverse effect on any prime agricultural land.

The National Geodetic Survey (NGS) has indicated that five geodetic survey markers are present in the right-of-way and could be disturbed by the proposed abandonment. Accordingly, OEA recommends a condition requiring Applicants to notify NGS at least 90 days prior to beginning any abandonment-related salvage activities to allow time for the geodetic survey markers to be preserved.

Applicants state that the Pennsylvania Coastal Resources Management Program has confirmed that the Line is not in a coastal zone, and accordingly, consistency review with any coastal zone plans is inapplicable.

Applicants indicate that any salvage activities would be handled in a manner that is consistent with the applicable local, state and federal water quality standards. The U.S. Army Corps of Engineers (USACE) State College Field Office states that Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act require authorization for the discharge of dredged and/or fill material into waters of the United States, including jurisdictional wetlands. Applicants do not intend to remove or alter the contour of the roadbed underlying the Line and have no plans to undertake in-stream work or dredge and/or fill any materials in connection with the proposed abandonment. Applicants therefore do not believe that any USACE permits would be required.

Applicants requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species under the Endangered Species Act (16 U.S.C. § 1531 *et seq.*). To date, USFWS has not provided comments. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.² Four species were identified as federally endangered or threatened species that may potentially be present in the project area: Indiana Bat, Northern Long-eared Bat, Bog Turtle, and Northeastern Bulrush. The report indicates that there are no designated critical habitats associated with these species within the project area. As discussed above, Applicants intend to leave rail, crossties, ballast, and all other rail related structures such as bridges and culverts in place. Applicants state that if they were to conduct any salvage activities, those activities would take place within the right-of-way. Due to the limited scope of any salvage activities, OEA believes that impacts to the species of concern would be unlikely to occur as a result of the proposed abandonment. Therefore, OEA has determined that the proposed abandonment would have no impact on federally listed threatened and endangered species. OEA is providing USFWS – Pennsylvania Ecological Services Field Office a copy of this Draft EA for review.

² U.S. Fish and Wildlife Service, Information for Planning and Consultation (IPaC), <https://ecos.fws.gov/ipac/location/index> (last accessed November 13, 2020).

The Pennsylvania Game Commission (PGC) has determined, based on its review of the information provided and the Pennsylvania Natural Diversity Inventory (PNDI) data, that a species of special state concern is located in the vicinity of the proposed abandonment. If abandonment-related salvage activities are conducted, those activities could have potential impacts on the nesting great blue heron. Therefore, PGC recommends that any abandonment-related salvage activities associated with the section of the Line where it crosses Codorus Creek southeast of Spring Grove and extends south along the Line for approximately 1500 feet should be conducted outside great blue heron nesting season. Great blue heron nesting season is from February 15th through August 15th. PGC further recommends that all abandonment-related salvage activities in the above identified railroad section should therefore occur between August 16th and February 14th. No seasonal restrictions related to the great blue heron are suggested on any other sections of the Line proposed for abandonment. Accordingly, OEA recommends a condition requiring Applicants to comply with seasonal restrictions on any abandonment-related salvage activities to address PGC's concerns.

OEA believes that any air emissions associated with abandonment activities would be temporary and would not have a significant impact on air quality. Similarly, any noise related to abandonment activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to the following agencies for review and comment: USFWS, PGC, and NGS.

HISTORIC REVIEW

Applicants served the E&H Report on the Pennsylvania State Historic Preservation Office (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).³ SHPO requested that Applicants submit a project review form to initiate SHPO consultation. Based on its review of the materials submitted by Applicants, the SHPO has indicated that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment.

³ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act. Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. § 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found at a link on the bottom of the Board's website overseeing historic preservation at <https://prod.stb.gov/resources/environmental/historic-preservation-overview>.

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, OEA has 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 Draft EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <https://prod.stb.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool (TDAT) to identify federally recognized Tribes that may have ancestral connections to the project area.⁴ The database did not indicate that any federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the APE of the proposed abandonment.

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority:⁵

1. Yorkrail, LLC, shall notify the National Geodetic Survey at NGS.Infocenter@noaa.gov at least 90 days prior to beginning abandonment-related salvage activities.
2. To address the Pennsylvania Game Commission's concerns about potential impacts on the nesting great blue heron, Yorkrail, LLC, shall conduct any abandonment-related salvage activities on the section of rail line between where it crosses Codorus Creek and extends south for approximately 1500 feet between August 16th and February 14th.

CONCLUSIONS

Based on the information provided from all sources to date, OEA 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), discontinuance of service without abandonment, and continued operation by

⁴ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed November 13, 2020).

⁵ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with these conditions is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

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 four-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 Board's Federal Register notice of the proposed abandonment. The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁶

TRAIL 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). The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁷

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

As of March 17, 2020, all filings and other submissions should be submitted electronically through the Board's website at <https://prod.stb.gov>. To submit a comment on the Draft EA, select "File an Environmental Comment" under "Need Assistance?" on the Board's home page. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat or other file formats. If you have any

⁶ Board decisions are available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "1308" "0" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁷ Id.

questions, please contact Kenneth Blodgett by email at Kenneth.Blodgett@stb.gov or by phone at 202-245-0305.

Date made available to the public: November 27, 2020.

Comment due date: December 11, 2020.

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

Attachment

