

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 1306X

**Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption –
in Henderson and Transylvania Counties, N.C.**

BACKGROUND

In this proceeding, Blue Ridge Southern Railroad, L.L.C. (BRSR) 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 in connection with the abandonment of a line of railroad in Henderson and Transylvania Counties, North Carolina. The rail line proposed for abandonment extends approximately 19.1 miles from milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, to milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County (the Line). 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, the railroad will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

Should the Board authorize the proposed abandonment, BRSR indicates that it intends to arrange to preserve the right of way for public recreational use under an interim trails use arrangement with a third-party sponsor. BRSR states that there are 15 railroad bridges on the line, and the spans all appear to have been constructed more than 50 years ago. Outside of the city of Hendersonville, the route crosses through and adjacent to suburban developments along Brevard Road (SR 64), with several small sidings to access various individual commercial and light industrial properties. BRSR intends to leave all of the bridges intact, and, upon completion of an anticipated interim trails use (post-abandonment authorization), plans to transfer them to the trail sponsor for use as part of a public pathway for pedestrians along the subject railroad corridor. The line is primarily single track with wooden ties and stone ballast and has been inactive to local traffic for at least two years.

Norfolk Southern Railway Company (NS) was the immediate predecessor and operator of the Line. NS obtained the Line by virtue of its acquisition of the Southern Railway and its

Transylvania Railroad Company. Prior to its merger into NS, the Southern Railway-Carolina Division operated the Line in accordance with its lease from the Transylvania Railroad Company (TRC), dating to 1906. The TRC obtained the Line in 1899 out of foreclosure on the assets of the insolvent Hendersonville and Brevard Railway, Telegraph, and Telephone Company, which had been chartered by the State of North Carolina in 1891.

ENVIRONMENTAL REVIEW

BRSR 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. BRSR 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

According to BRSR, no local traffic has moved over the Line for the last two years, and there is no overhead traffic to be rerouted over other lines. 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. Should the Board authorize the proposed abandonment, BRSR intends to convey the right-of-way to a third party with the Line's bridges, rail, and track materials. Therefore, BRSR does not plan to conduct any salvage activities.

BRSR 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

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" "1306" "X" sequentially in the boxes for "Docket Number," then selecting "Search." The E&H Report was filed on April 7, 2021.

threatened and endangered species. 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 Conservation (IPaC) system.² Twelve protected threatened or endangered species are located in the area of the proposed abandonment: Carolina Northern Flying Squirrel (*Glaucomys sabrinus coloratus*), Gray Bat (*Myotis grisescens*), Northern Long-Eared Bat (*Myotis septentrionalis*), Bog Turtle (*Clemmys muhlenbergii*), Appalachian Elktoe (*Alasmodonta raveneliana*), Bunched Arrowhead (*Sagittaria fasciculata*), Mountain Sweet Pitcherplant (*Sarracenia rubra* ssp. *jonesii*), Small Whorled Pogonia (*Isotria medeoloides*), Swamp Pink (*Helonias bullata*), Virginia Spiraea (*Spiraea virginiana*), White Irisette (*Sisyrinchium dichotomum*), and the Rock Gnome Lichen (*Gymnoderma lineare*). According to the IPaC report, there is no critical habitat for these species in the project area. OEA has determined that these federally listed threatened or endangered species would not be affected because of the abandonment's limited scope (no salvage) and the fact that all of the bridges would remain intact. OEA is providing USFWS (Asheville Ecological Services Field Office) a copy of this EA for its review.

BRSR requested comments from the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) regarding potential impacts to prime farmland and prime farmland soils. Although NRCS has not responded to date, OEA does not expect the loss of any prime farmland or soils because there will be no salvage activities as part of the proposed abandonment.

The North Carolina Department of Agriculture and Consumer Services, Division of Soil & Water Conservation submitted a letter on March 15, 2021 stating that it had no comment on the proposed abandonment.

The proposed abandonment is not located within a Coastal Zone. Therefore, no further consultation is required.

The E&H Report was submitted to the U.S. Environmental Protection Agency, Region 4 (USEPA) and the U.S. Army Corps of Engineers, Wilmington District (USACE) for comments on potential permitting requirements under Sections 402 and 404 of the Clean Water Act (CWA) (33 U.S.C. §§ 1342 and 1344), respectively. USACE responded on February 8, 2021, indicating that any salvage that might result in discharge would require further examination. To date, OEA has not received a response from USEPA. OEA does not anticipate the need for permits under the CWA because BRSR does not intend to salvage the Line, disturb any roadbed underlying the Line, or do any work in waters of the U.S. OEA is providing a copy of this Draft EA to USACE for review.

² USFWS Information for Planning and Conservation (IPaC) search conducted on April 26, 2021 (<https://ecos.fws.gov/ipac/>).

BRSR requested comments from the North Carolina Department of Environmental Quality (NCDEQ) to determine whether the proposed abandonment would have any impacts on state and local water quality standards. The NCDEQ Superfund Section responded on March 11, 2021 identifying 28 contamination sites within a one-mile radius of the Line and recommended that precautions be taken for construction activities. The NCDEQ Solid Waste Section responded on March 4, 2021 that the abandonment would have no adverse impacts on the surrounding community. The NCDEQ Underground Storage Tank (UST) Section responded on February 16, 2021 that it did not identify any petroleum incidents within the proposed project area. OEA has determined that since there would be no salvage or construction activities associated with the proposed abandonment and no excavation or other ground-disturbing activities, there would be no impacts to water quality along the route.

The Department of Public Safety, Division of Emergency Management commented on March 16, 2021 that development activities may require local floodplain permits as the project encroaches into multiple Special Flood Hazard Areas and Floodways. However, because BRSR does not intend to conduct any salvage, OEA believes that local floodplain permits would not be required.

The North Carolina Department of Transportation submitted a letter on April 22, 2021 stating that they had no comment on the proposed abandonment.

By emails dated February 3, 2021, the Land of Sky Rural Planning Organization and the French Broad River Metropolitan Planning Organization stated that they support the proposed abandonment as it would allow for the development of a planned rail-trail on the corridor.

Because BRSR does not intend to conduct any salvage activities, OEA concludes that there would be no air, water, or noise emission impacts associated with 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 agency for review and comment: USFWS (Asheville Ecological Services Field Office).

HISTORIC REVIEW

BRSR submitted an 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 Natural and Cultural Resources (State Historic Preservation Office or SHPO) pursuant to 49 C.F.R. § 1105.8(c). Based on available information, the SHPO responded on March 15, 2021 that it had no comment on the proposed abandonment. By email on April 28, 2021, SHPO confirmed that

there is no need for any further compliance work with their office. Guidance regarding the Board's historic preservation review process is available on the Board's website 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 of Historic Places. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the BRSR'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.³ The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: the Catawba Indian Nation and the Eastern Band of Cherokee Indians. Accordingly, OEA is sending a copy of this Draft EA to these Tribes for review and comment.

CONDITIONS

OEA recommends that no 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, 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.

³ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed April 27, 2021).

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.⁴

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.⁵

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 questions, please contact Alan Tabachnick by email at alan.tabachnick@stb.gov or by phone at 202-245-0347.

⁴ 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" "1306" "X" sequentially in the boxes for "Docket Number," then selecting "Search."

⁵ Id.

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Date made available to the public: May 3, 2021.

Comment due date: May 18, 2021.

By the Board, Danielle Gosselin, Acting Director, Office of Environmental Analysis.

Attachment



 Docket No. AB 1306X Blue Ridge Southern Railroad, L.L.C. Abandonment Exemption in Henderson and Transylvania Counties, NC	Legend — the Line	Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.	 North Carolina
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