

SERVICE DATE – NOVEMBER 21, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 312 (Sub-No. 5X)

SOUTH CAROLINA CENTRAL RAILROAD COMPANY, LLC—ABANDONMENT  
EXEMPTION—IN DARLINGTON, COUNTY, S.C.

Digest:<sup>1</sup> This decision permits the abandonment of approximately two miles of rail line over six railroad tracks in Hartsville, Darlington County, S.C., subject to environmental and standard employee protective conditions.

Decided: November 19, 2022

On August 8, 2022, South Carolina Central Railroad Company, LLC (SCRF), a Class III rail carrier, filed a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately two miles of rail line over six railroad tracks that most recently served the Sonoco Products Company (Sonoco) paper mill in Hartsville, Darlington County, S.C. The rail line consists of the following: (1) Track 1 between Sonoco Lead mileposts 312.7 and 313.24, and its associated leads, Tracks 1a and 1b; (2) Tracks 2 and 2a, which do not have mileposts; and (3) Track 3 between Hartsville mileposts 312.85 and 313.56 (collectively, the Line). Notice of the petition was served and published in the Federal Register on August 26, 2022 (87 Fed. Reg. 52,608). As discussed below, the Board will grant the exemption from § 10903 for the Line, subject to environmental and standard employee protective conditions.

BACKGROUND

SCRF states that the Line, which it acquired in 1987,<sup>2</sup> consists of a set of six stub-ended tracks, totaling approximately two miles, terminating at the Sonoco facility. (Pet. 2.) According to SCRF, it last provided rail service to Sonoco—the sole shipper on the Line—in December 2021, and Sonoco is retooling its facility for a different commodity and will no longer require rail service. (Id.) Thus, following abandonment, SCRF intends to transfer its interest in the Line to Sonoco to facilitate Sonoco’s development of its property. (Id.)

---

<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

<sup>2</sup> See S.C. Cent. R.R.—Acquis. & Operation Exemption—Florence, S.C. Rail Lines, FD 31146 (ICC decided Nov. 4, 1987).

## DISCUSSION AND CONCLUSIONS

Exemption from 49 U.S.C. § 10903. Pursuant to 49 U.S.C. § 10903, a rail line may not be abandoned without the Board's prior approval. Under 49 U.S.C. § 10502, however, the Board must exempt a transaction or service from regulation when it finds that (1) continued regulation is not necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. § 10101, and (2) either (a) the transaction or service is of limited scope or (b) regulation is not needed to protect shippers from the abuse of market power.

Detailed scrutiny of the proposed abandonment under 49 U.S.C. § 10903 is not necessary to carry out the RTP in this case. The record indicates that Sonoco, the sole shipper served by the Line, stopped receiving rail service prior to December 2021 and indicated to SCRF that it no longer has a need for rail service because it intends to retool its facility for a different commodity. (Pet. 2.) Under these circumstances, granting an exemption would expedite regulatory decisions, foster sound economic conditions in transportation, reduce regulatory barriers to exit, and provide for the expeditious handling of this proceeding. See 49 U.S.C. § 10101(2), (5), (7), (15). Other aspects of the RTP would not be adversely affected by use of the exemption process.

Regulation of the proposed abandonment is also not needed to protect shippers from the abuse of market power. As discussed above, Sonoco, the sole shipper on the Line, no longer requires rail service and supports the abandonment. (See Pet. 2-3 & Ex. D.)<sup>3</sup>

Employee Protection. Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a carrier of its statutory obligation to protect the interests of its employees. Accordingly, as a condition to granting this exemption, the Board will impose upon SCRF the employee protective conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

Offers of Financial Assistance, Public Use, and Interim Trail Use/Rail Banking. The Board will not consider offers of financial assistance (OFA) in this case because no formal expressions of intent to file an OFA were filed by the September 6, 2022 deadline. See 49 C.F.R. § 1152.27(c)(1)(i). Additionally, no requests to negotiate for public use under 49 U.S.C. § 10905 or interim trail use/railbanking under 16 U.S.C. § 1247(d) were filed by the September 15, 2022 deadline. See 49 C.F.R. §§ 1152.28(a)(3), 1152.29(b)(2).

Environmental and Historic Review. SCRF submitted a combined environmental and historic report with its petition and has notified the appropriate federal, state, and local agencies of the opportunity to submit information concerning the environmental impacts of the proposed abandonment. See 49 C.F.R. §§ 1105.7, 1105.8, 1105.11. The Board's Office of Environmental

---

<sup>3</sup> Because regulation of the proposed abandonment is not needed to protect shippers from the abuse of market power, the Board need not determine whether the proposed abandonment is limited in scope. See 49 U.S.C. § 10502(a)(2).

Analysis (OEA) has examined the report, verified the data it contains, and analyzed the potential effects of the proposed action on the quality of the human environment.

In a Draft Environmental Assessment (Draft EA), served on October 6, 2022, OEA recommended that the Board impose four conditions on any decision granting abandonment authority. First, OEA noted that the National Geodetic Survey (NGS) commented that there may be geodetic survey markers in the right-of-way that could be disturbed by the proposed abandonment. Accordingly, OEA recommended a condition requiring SCRF to notify NGS at least 90 days prior to beginning abandonment-related salvage activities to allow time for any geodetic survey markers that may be present in the right-of-way to be preserved.

Second, OEA explained that the U.S. Army Corps of Engineers (Corps) commented that information about the proposed abandonment was forwarded to a team lead, but no additional comments were submitted. OEA stated that, because the Line crosses a waterway and OEA is unable to determine whether a Corps permit under Section 404 of the Clean Water Act, 33 U.S.C. § 1344, is required, OEA recommended that the Board impose a condition requiring SCRF to consult with the Corps prior to commencement of salvage activities and comply with the reasonable requirements of the Corps to protect waters of the United States.

Third, the Draft EA notes that the South Carolina Department of Natural Resources (SCDNR) responded that it “offers no objection to the proposed project provided that all rail and ties are removed from the site and that the area is restored to pre-construction contours.” SCDNR also recommended that “disturbed areas be permanently stabilized with vegetative cover consisting of native species appropriate for the ecoregion.” Based upon SCDNR’s comments, OEA, therefore, recommended that the Board impose a condition requiring SCRF to consult with SCDNR prior to commencement of salvage activities and comply with SCDNR’s reasonable requirements.

Finally, OEA stated that SCRF served its environmental and historic report on the South Carolina Department of Archives and History (State Historic Preservation Office, or SHPO), pursuant to 49 C.F.R. § 1105.8(c). According to OEA, the SHPO reported no knowledge of documented historic properties that are listed or eligible for listing in the National Register of Historic Places (National Register) pursuant to Section 106 of the National Historic Preservation Act, 54 U.S.C. § 306108, in the proposed Area of Potential Effect (APE). OEA stated, however, that the SHPO noted that the APE had not been surveyed previously for cultural resources/historic properties, and that based on the map provided by SCRF, the East Home Avenue Historic District (a property listed in the National Register) appeared to lie to the south of the Line. Thus, OEA stated that the SHPO requested additional consultation regarding the proposed abandonment (SHPO Project Number 22-JS0236). Accordingly, OEA recommended a condition requiring the railroad to 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 (the APE) listed or eligible for listing in the National Register until completion of the Section 106 process.

Comments on the Draft EA were due by November 7, 2022. OEA issued its Final EA on November 10, 2022, noting that several comments were received in response to the Draft EA.

According to OEA, NGS submitted comments stating that no survey markers would be impacted in the area of the proposed abandonment. Accordingly, OEA no longer recommends that a condition requiring SCRF to consult with NGS be imposed upon any decision granting abandonment authority.

In the Final EA, OEA also asserts that the Corps submitted additional comments stating that jurisdictional Waters of the United States, including wetlands, streams, or other waters subject to its regulatory authority under Section 404 of the Clean Water Act, may be present in the area of the proposed abandonment. The Corps recommended that SCRF perform a detailed delineation of the streams and/or wetlands present within the project corridor to assist with determining permitting requirements. Therefore, OEA continues to recommend that a condition requiring SCRF to consult with the Corps be imposed upon any decision granting abandonment authority.

OEA also states that SCDNR submitted additional comments clarifying its prior request for SCRF to restore the rail lines to pre-construction contours. According to OEA, SCDNR states that its request applies primarily to the more naturalized/grassed segment of Track 3 that lies to the west of N. 3rd Street and south of Sonoco Road. Accordingly, OEA continues to recommend that a condition requiring SCRF to consult with SCDNR be imposed upon any decision granting abandonment authority.

Lastly, OEA states that, on November 1, 2022, SCRF submitted correspondence from the SHPO stating that, based on available project information—including the description of the undertaking's APE and the identification of historical properties within the APE—the SHPO believes that no properties listed or eligible for listing in the National Register would be affected by the proposed abandonment. Based on the SHPO's correspondence, as well as previous consultations with the SHPO and SCRF, OEA states that it has determined that the proposed abandonment would not affect historic properties listed or eligible for listing in the National Register. Accordingly, OEA no longer recommends that a Section 106 condition be imposed upon any decision granting abandonment authority. The Board agrees with OEA's analysis and recommendations and will, therefore, impose certain conditions as discussed above.

This action, as conditioned, will not significantly impact the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. § 10502, the Board exempts from the prior approval requirements of 49 U.S.C. § 10903 SCRF's abandonment of the Line, subject to the employee protective conditions set forth in Oregon Short Line and the conditions that SCRF, prior to commencement of any abandonment-related salvage activities: (1) consult with the Corps and comply with its reasonable requirements and (2) consult with the SCDNR and comply with its reasonable requirements.<sup>4</sup>

---

<sup>4</sup> 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 the conditions set forth in the

2. The exemption will be effective on December 21, 2022.

3. Petitions to reopen and petitions to stay must be filed by December 6, 2022.

4. Pursuant to 49 C.F.R. § 1152.29(e)(2), SCRF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by SCRF's filing of a notice of consummation by November 21, 2023, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If a legal or regulatory barrier to consummation exists at the end of the one-year period, the notice of consummation must be filed no later than 60 days after the satisfaction, expiration, or removal of the legal or regulatory barrier.

By the Board, Board Members, Fuchs, Hedlund, Oberman, Primus, and Schultz.

---

Final EA is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.