

FINAL ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN DOCKET NO. AB 1097X

October 22, 2012

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

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The Office of Environmental Analysis (OEA) served an Environmental Assessment (EA) for this proceeding on October 2, 2012 for public review and comment. In the EA, OEA recommended one environmental condition and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

During the EA comment period, OEA received comments from Upstate Forever, a local non-profit group, filed on behalf of Upstate Forever, Pickens YMCA, and the Greater Easley Chamber of Commerce, in support of the conversion of the Line into a recreational trail under the National Trails System Act (Trails Act)¹ as proposed by the Cities of Pickens and Easley. Upstate Forever states that the conversion of the Line into a trail would result in economic, health, and quality of life benefits for residents of Easley, Pickens, and Pickens County.

OEA also received comments from Mr. Junius Smith, a private citizen, filed on behalf of 115 property owners who live in the vicinity of the Line. Mr. Smith states that the conversion of the Line into a trail would have a detrimental impact on the quality of life of adjacent property owners, who have reversionary property rights.² In particular, Mr. Smith states that the conversion to a trail would harm the “tranquility and welfare” of the property owners by subjecting them to noise and inconvenience resulting from trail use.

OEA notes that the Trails Act gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad rights-of-way that otherwise would be abandoned. The Board’s role under the Trails Act is ministerial.³ The Board has no involvement in the negotiations between the railroad and the potential trail sponsor and does not approve or set the terms of trail use/railbanking agreements.⁴ Further, the Board does not

¹ 16 U.S.C. § 1247(d).

² We note that, if a line is railbanked and designated in the interim period for trail use, any reversionary interests that adjoining landowners might have under State law upon abandonment of the line are postponed. *Preseault*, 494 U.S. at 8; *Birt*, 90 F.3d at 583.

³ *Goos v. ICC*, 911 F.2d 1283, 1295 (8th Cir. 1990).

⁴ *Georgia Great S. Div.—Aban. & Discontinuance Exemption—Between Albany & Dawson, in Terrell, Lee & Dougherty Counties, Ga.*, 6 S.T.B. 902, 907 (2003).

conduct an environmental review of a potential conversion to interim trail use and railbanking because this does not exercise sufficient federal control so as to qualify as a “major Federal action” under the National Environmental Policy Act.⁵

Mr. Smith furthers states that Pickens Railway Company (PICK) did not properly inform property owners of the proposed abandonment and the proposed conversion to interim trails use. However, a notice of the proposed abandonment was published in the Greenville News, and we believe that this notice fulfilled the requirements of our regulations at 49 C.F.R. § 1105.12. Additionally, Mr. Smith expressed concern that the abandonment would result in a number of road closures. We want to clarify that the proposed abandonment should not result in any road closures. Rather, if abandonment authority is granted in the proceeding, the abandonment would result in the closure of 16 public and 11 private road crossings, and the closure of road crossings is generally considered a safety benefit for communities.

Mr. Smith also raised concerns about possible chemical contamination along the right-of-way due to leakage and spills of lubricants and fuels during past rail operations and from the application of herbicides within the maintenance zone. In its review, OEA has been unable to independently verify any instances of chemical contamination in the area. But, as noted in the EA, the South Carolina Department of Health and Environmental Control (DHEC) requested that PICK and its contractors implement appropriate controls and procedures during salvage operations to minimize impacts to adjacent properties. Accordingly, and in recognition of public concern regarding possible chemical contamination, OEA is recommending a new condition requiring PICK to consult with DHEC regarding the implementation of salvage activities.

Conclusions

The EA comment period has ended. Accordingly, OEA recommends that the condition recommended in the EA, as well as the additional condition recommended in this document, be imposed upon any decision granting abandonment authority. The combined conditions are:

- 1. Pickens Railway Company shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers located in the project area.**
- 2. Prior to the commencement of salvage activities, Pickens Railway Company shall consult with the South Carolina Department of Health and Environmental Control regarding salvage and abandonment procedures and comply with all reasonable requirements to ensure minimal adverse environmental impact to adjacent properties.**

If the above conditions are imposed, OEA believes that the proposed action will not significantly affect the quality of the human environment.

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⁵ 40 C.F.R. § 1508.18.