

**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

SUPPLEMENTAL FINAL ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB-290 (SUB-NO. 326X)

September 10, 2013

RECOMMENDATION: Remove Section 106 Condition and Add New Condition

In this proceeding, Norfolk Southern Railway Company (NSR) filed notice of exemption in connection with the abandonment of approximately 0.88 miles of non-consecutive rail line segments in Henry County, Indiana (the Lines). Because the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f (NHPA), had not been completed at the time the Board's August 29, 2013 decision, the Board imposed a condition requiring NSR to: (a) 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 that are eligible for listing or are listed in the National Register of Historic Places (National Register) until the Section 106 process of the NHPA has been completed; (b) report back to the Board's Office of Environmental Analysis (OEA) regarding any consultations with the Division of Historic Preservation and Archaeology of the Indiana Department of Natural Resources (the State Historic Preservation Office or SHPO), and the public; and (c) not file a consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed the condition.

New Comments on the Abandonment

Section 106 Condition

On September 5, 2013, OEA received a copy of a letter from the SHPO dated July 2, 2012 and addressed to NSR. OEA has no record of having received this letter prior to the filing of the notice of exemption, during the preparation of the EA, or during the public comment period. NSR was similarly unaware of the letter prior to the issuance of the EA and the Final EA in this proceeding. NSR states that it is possible the letter was never delivered to its intended recipients at NSR and OEA.

In its comments, the SHPO states that there are no known historic buildings, structures, districts, or objects listed in or eligible for listing in the National Register

within the project area. The SHPO also states that no known archaeological resources eligible for inclusion in the National Register would be affected by the abandonment of the Lines.

OEA has reviewed the available information and concurs with the SHPO's comments. Accordingly, pursuant to the Section 106 regulations of NHPA, and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not adversely affect historic properties or archaeological resources listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of the railroad's Historic Report, all relevant correspondence, the EA, and this document, which have been provided to the SHPO and made available to the public on the Board's website at <http://www.stb.dot.gov>. Accordingly, the Board has satisfied its responsibilities under Section 106 of the NHPA in this proceeding, and OEA is recommending that the Board remove the Section 106 condition.

New Condition To Address Unanticipated Discoveries Of Archaeological Resources

In its July 2, 2012 letter, the SHPO states that, should any archaeological artifacts or human remains be discovered during abandonment activities, operations should cease and NSR should immediately notify the SHPO. In response to the SHPO's concerns regarding unanticipated discoveries of archaeological resources, OEA is recommending that the Board impose the following new condition:

In the event that any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices are discovered, Norfolk Southern Railway Company (NSR) shall immediately cease all work and notify the Board's Office of Environmental Analysis (OEA) and the Division of Historic Preservation and Archaeology of the Indiana Department of Natural Resources (the State Historic Preservation Office or SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, NSR, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

Conclusions

For the reasons stated above, OEA recommends that the Board: (1) remove the Section 106 condition that was imposed in the August 29, 2013 decision and (2) impose a new condition to address the SHPO's concerns regarding unanticipated discoveries of archaeological resources. Condition 1, which requires NSR to consult with the National Geodetic Survey, remains unchanged. Accordingly, the conditions are as follows:

1. Norfolk Southern Railway Company (NSR) shall consult with the National Geodetic Survey (NGS) prior to beginning salvage activities. If NGS identifies geodetic station markers that may be affected by the proposed abandonment, NSR

shall notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS.

2. In the event that any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices are discovered, Norfolk Southern Railway Company (NSR) shall immediately cease all work and notify the Board's Office of Environmental Analysis (OEA) and the Division of Historic Preservation and Archaeology of the Indiana Department of Natural Resources (the State Historic Preservation Office or SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, NSR, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

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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