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SEA

SERVICE DATE – DECEMBER 21, 2007

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-290 (Sub-No. 271X)

**Norfolk Southern Railway Company – Abandonment Exemption –
in Wyoming and Genesee Counties, NY**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Wyoming and Genesee Counties, New York. The rail line proposed for abandonment, known as the Groveland Industrial Track, extends 4.5 miles from milepost UG 360.20 in the City of Alexander to milepost UG 364.70 in the Village of Attica. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (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

According to NSR, the segment of railroad proposed for abandonment dates back to 1832 when the Erie Railroad was chartered by the State of New York as the New York and Erie Railroad Company. Plans for the railroad extended from Piermont to Dunkirk, NY. Construction began in 1836 and the line finally reached Dunkirk in 1851. Following a series of sales and consolidations, the line came into the ownership of the Erie Lackawanna Railroad in 1960, which filed for Chapter 7 bankruptcy in 1972. The line came under the operation of Consolidated Rail Corporation (Conrail) in 1976 as a result of the Railroad Revitalization and Regulatory Reform Act of 1976. In 2003, the Board approved a petition establishing direct ownership and control by NSR of certain Conrail subsidiaries that NSR had been managing and operating since 1999, which included the line proposed for abandonment.

According to NSR, no traffic has originated, terminated or moved overhead on this line for more than two years. The line segment between milepost UG 361.90 and milepost UG 364.70 was in operation by NSR until the end of October, 2005, when it was taken out of service due to track conditions. Extensive rehabilitation would be required to restore the segment to service. Track materials on the line segment between milepost UG 360.20 and milepost UG 361.90 were removed by Conrail several years prior to NSR's ownership and control of the line. NSR is not able to document the receipt and exercise of abandonment authority by Conrail over this 1.70 mile segment, and therefore it is being included with this

abandonment filing. No further salvage or disturbance of the right-of-way would be required on this segment.

NSR has been unable to verify that it has fee title to some parcels comprising the right-of-way underlying the lien proposed for abandonment. NSR may not have a contiguous corridor available for public use and would need to verify its title to a few remaining parcels in order for any public use condition to become effective.

ENVIRONMENTAL REVIEW

NSR submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to NSR, no local traffic has moved over the line for at least two years and all overhead traffic has been rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

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.

NSR does not intend to remove or alter the contour of the roadbed underlying the rail line to be abandoned. There are no plans to undertake in-stream work or dredge and/or use any fill materials in connection with the proposed abandonment. The line proposed for abandonment is adjacent to wet, swampy areas of land. Because there are no planned alterations to the roadbed, the Environmental Protection Agency has determined that a Section 404 permit required for regulation of wetlands and other waters is not needed. Likewise, the U.S. Department of the Army, Corps of Engineers (Corps) Buffalo District Office has identified several Waters of the United States bodies of water within the project area, but determined that no Section 404 permit is required. The Corps' decision was based on the project as outlined that indicates that the proposed work will not involve a discharge of dredged or fill material into any of these waters.

The New York State Department of Environmental Conservation, Division of Water (NYDEC) in Albany has indicated that the rail line abandonment project may be subject to a General Permit for Stormwater Discharges. NYDEC was not able to make a determination based on their limited knowledge of the project. NSR has reviewed the criteria for NYDEC stormwater discharge permits and determined that no permit would be required as NSR does not plan to alter the contour of the roadbed and will not take part in the listed activities.

The National Geodetic Survey (NGS) has advised SEA that three geodetic station markers have been identified that may be affected by the proposed abandonment. Accordingly, we will recommend a condition requiring that NSR consult with the National Geodetic Survey and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

Genesee County has indicated that the abandonment of this property and its conversion to a recreational trail would be consistent with Genesee County's comprehensive land use plan. The County Manager states that the county has no plans to purchase property were it to become available.

The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) in Batavia has indicated that minor amounts of prime farmland exist along the right-of-way which is subject to flooding, including Eel and Genesee loam. Most of the remaining soils in the area are classified as farmland of statewide importance. The line is within the Alexander Agricultural District (AG-10) with no proposed uses after abandonment. The District Conservationist does not see any potential impacts resulting from the proposed activity.

NSR indicates that the line does not pass through any State Parks or Forests, National Parks or Forests, or wildlife sanctuaries. No adverse effects on wildlife sanctuaries, National Parks or Forest, or State Parks or Forests are anticipated. The line is not located in a coastal zone. NSR has no knowledge of hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way or in adjacent areas.

The U.S. Fish and Wildlife Service, New York Field Office (USFWS) in Cortland has indicated that, except for occasional transient individuals, no Federally-listed or proposed endangered or threatened species under USFWS jurisdiction are known to exist within the project impact area. USFWS has also indicated that no habitat in the project impact area is currently designated or proposed "critical habitat" in accordance with provisions of the Endangered Species Act (ESA). No further ESA coordination or consultation with USFWS is required.

The U.S. Environmental Protection Agency website lists Genesee County as a non-attainment area for 8-hour ozone, but no other criteria pollutants exceed National Ambient Air Quality Standards. Wyoming County is in attainment status for all designated pollutants. SEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage 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, SEA does not believe that salvage activities would cause significant environmental impacts.

HISTORIC REVIEW

NSR served the historic report on the New York State Historic Preservation Office (SHPO), pursuant to 49 CFR 1105.8(c). SEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, we are recommending 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 Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

SEA conducted a search of the Native American Consultation Database at www.cast.uark.edu/other/nps/nacd/ to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the Seneca Nation of New York and the Tonawanda Band of Seneca Indians of New York may have an interest in the proposed abandonment. Accordingly, SEA is sending a copy of this EA to these tribes for their review and comment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Norfolk Southern 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.
2. Norfolk Southern Railway Company (NSR) shall 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 Area of Potential Effect) that are eligible for listing or listed in the National Register of

Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. NSR shall report back to the Section of Environmental Analysis (SEA) regarding any consultations with the State Historic Preservation Office, any other Section 106 consulting parties that have been identified and the public. NSR may not file its 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 this condition.

CONCLUSIONS

Based on the information provided from all sources to date, SEA 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 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 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS 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 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 245-0230, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Kenneth Blodgett, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 271X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Kenneth Blodgett, the environmental contact for this case, by phone at (202) 245-0305, fax at (202) 245-0454, or e-mail at blodgettk@stb.dot.gov.

Date made available to the public: December 21, 2007.

Comment due date: January 4, 2008.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment