

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 390X)

**Norfolk Southern Railway Company – Abandonment Exemption –
in Montgomery County, Ohio**

BACKGROUND

In this proceeding, the Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Montgomery County, Ohio. The rail line proposed for abandonment extends approximately 6.5 miles from approximately milepost ZX 12.1 to milepost ZX 15.4 and from milepost ZQ 0.0 to milepost ZQ 3.2 in southeastern Dayton, Ohio (the Line). 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.

ENVIRONMENTAL REVIEW

NSR submitted an Environmental Report that concludes that the quality of the human environment would not be affected significantly by the proposed abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the Environmental Report on 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 The Board's Office of Environmental Analysis (OEA) 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 was rerouted years ago. 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

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 290 (Sub-No. 390X).

to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

If abandonment authority is granted in this proceeding, according to NSR, salvage would consist of removing the rail and track material from the existing roadbed, smoothing the roadbed to a level surface, and leaving the roadbed, ballast, and drainage structures in place. NSR stated that it would remove at-grade crossings present within the Line, as well as associated rail materials and equipment. NSR would also leave the existing seven bridges on the Line in place in keeping with anticipated future use of the corridor. Comments on the Environmental Report were submitted by several federal and state agencies regarding salvage activities, and are discussed in the sections below.

Land Use

According to NSR, the Line is in the southeast portion of Dayton, Ohio, and adjoining land is used for residential, recreational, commercial, and industrial purposes. The City of Dayton stated its support of the proposed abandonment in its reply to NSR, and finds that the proposed abandonment is consistent with both local and regional planning efforts. Specifically, the City of Dayton noted that removal of at-grade crossings on Dutoit St., 4th St., Terry St., June St., Ringgold St., 5th St., Boltin St., St. Jude Ave., Smithville Rd., Linden Ave., and Woodbine Ave. should be included in NSR's plans, as should preservation of bridge crossings over McDonough St., Keowee St., Linden Ave., and Livingston Ave. in keeping with the corridor's planned future use as a recreational trail. Accordingly, OEA is recommending that any decision granting abandonment authority include a condition that NSR consult with the City of Dayton prior to conducting any salvage procedures regarding removal of at-grade crossings.

The United States Department of Agriculture's Natural Resource Conservation Service states in its reply that it finds no impact to agricultural lands for the proposed abandonment. The National Geodetic Survey (NGS) states that two geodetic survey marks may be near the Line (i.e., mark numbers AH3433 and AH3436), but upon further review of NGS mapping resources by OEA, it was determined that the mark is outside of the right-of-way and would not be affected by proposed salvage activities.

Coastal Zone Compliance

The Ohio Department of Natural Resources, Office of Coastal Management confirmed in its reply that the Line is not located within Ohio's designated coastal zone or the Lake Erie watershed, and that, unless NSR or the Board determine that the project will have reasonably foreseeable effects on any use or resource of Ohio's coastal zone, a Federal Consistency review under the Coastal Zone Management Act of 1972 is not required. Neither NSR nor OEA believe that the proposed abandonment would have such effects if authorized.

Water Resources

NSR states that the Line crosses a waterway at milepost ZQ 0.32 with a steel beam bridge 12 feet in length and three feet high, and that this bridge, like the six others crossing roadways, will remain in place if the proposed abandonment were approved. NSR plans to conduct salvage activities by using the existing right-of-way for access, along with existing public and private road crossings, and no new access roads are contemplated. According to NSR, salvage activities would not cause sedimentation or erosion of the soil, and NSR does not anticipate any dredging or use of fill when removing the track material. NSR states that debris would not be discarded along the right-of-way and any work along the right-of-way would be subject to appropriate measures to prevent or control spills from fuels, lubricants or any other pollutant materials.

Ohio Environmental Protection Agency states that the proposed abandonment would not require a permit under Section 402 of the Clean Water Act (33 U.S.C. § 1342) because the project would not result in one or more acres of barren soil.

The U.S. Army Corps of Engineers (Corps) concluded that the proposed abandonment would not involve the discharge of fill material in waters of the United States. Therefore, a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not be required.

Hazardous Materials

NSR states that it is not aware of any releases of hazardous substances in or near the Line. OEA's review has confirmed that there are no federally listed remediation sites near the Line. Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

Biological Resources

The U.S. Fish and Wildlife Service (USFWS) stated that it does not anticipate adverse effects to federally endangered, threatened, proposed, or candidate species if the proposed abandonment were approved. Additionally, USFWS confirmed that there are no Federal wilderness areas, wildlife refuges, or designated critical habitat within the vicinity of the project area, and that the proposed abandonment would not affect federal trust resources under its jurisdiction and currently protected by the Endangered Species Act.

Air Quality

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality.

Noise

Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Summary

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to the City of Dayton for review and comment.

HISTORIC REVIEW

NSR served the historic report on the Ohio State Historic Preservation Officer (SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would not affect any known archaeological sites or historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). OEA has reviewed the report and the information provided by the SHPO, and we concur with the SHPO's comments. Accordingly, 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, we have determined that no known historic properties listed in or eligible for inclusion in the National Register within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment would be affected by the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at www.stb.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database and the U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool to identify federally recognized tribes that may have ancestral connections to the project area.² The database indicated that the following federally recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the APE of the proposed abandonment: Delaware Nation, Oklahoma; Miami Tribe of Oklahoma; and Peoria Tribe of Indians of Oklahoma. Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

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

² U.S. National NAGPRA Program (<https://grantsdev.cr.nps.gov/Nagpra/NACD>); U.S. Department of Housing and Urban Development (<https://egis.hud.gov/tadat/Tribal.aspx>), last visited April 5, 2016.

- **The Norfolk Southern Railway Company shall consult with the City of Dayton, Ohio, prior to beginning any salvage activities regarding the removal of at-grade crossings within the Line.**

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the Line would 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 C.F.R. § 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 C.F.R. § 1152.29).

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

If you wish to file comments regarding this Environmental Assessment, comments may be mailed to the Surface Transportation Board, Washington, DC 20423, to the attention of Adam Assenza, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.gov, by clicking on the "E-FILING" link.

Please refer to Docket No. AB 290 (Sub-No. 390X) in all correspondence, including e-filings, addressed to the Board. If you have any questions regarding this Environmental Assessment, please contact Adam Assenza, the environmental contact for this case, by phone at (202) 245-0301, fax at (800) 245-5199, or e-mail at adam.assenza@stb.gov.

Date made available to the public: April 7, 2016.

Comment due date: April 24, 2016.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment