



Fw: Norfolk Southern Railway - Anniston Abandonment - AB-290 (Sub-No. 334X)
RWimbish to: Joshua.Wayland

05/08/2013 09:48 AM

[Show Details](#)

History:

This message has been replied to.

▼ 1 attachment



XXX XXX 015 05-07-2013 PREV JLK NORFOLK SOUTHERN CORP - NORFOLK SOUTHERN RAILROAD LINE ABANDONMENT.pdf

Josh -

I am writing to you in connection with the above-referenced Norfolk Southern Railway Company ("NSR") rail line abandonment in Anniston, Alabama. As I recall, this matter was assigned to you.

As you may know, on March 20, 2013, the STB issued a Director's Order in this abandonment proceeding in which, in Ordering Paragraph 2, the STB imposed upon the proposed abandonment a lone precondition to the commencement of salvage activities as follows:

(1)(a) prior to commencement of any salvage activities, NSR shall consult with ADEM [Alabama Department of Environmental Management] regarding the implementation of appropriate and effective BMPs [Best Management Practices] for the control of pollutants in storm water run-off and shall comply with all reasonable BMP requirements, and (b) NSR shall report the results of these consultations in writing to OEA prior to the onset of salvage operations . . .

By this message, I wish to advise the Office of Environmental Analysis that NSR has consulted with ADEM as directed above, and that ADEM has supplied NSR with guidance as to the state's best management practices as pertinent to this undertaking. A copy of all NSR-ADEM correspondence providing evidence of the required consultation on the matter is attached for your records. This message is therefore intended to fulfill NSR's obligation under the second part of the condition to "report the results of these consultations in writing to OEA prior to the onset of salvage operations."

It is my understanding that neither OEA nor the STB generally needs to take any additional formal action in connection with NSR's satisfaction of the salvage precondition, and that, NSR may now proceed with salvage activities as conditionally approved by the agency without having to await any further STB action.

I would appreciate it, however, if you would confirm receipt of this message and the attachment, and let me know if there is anything else that OEA believes must be done in connection with the ADEM consultation precondition before NSR may commence with track salvage activity. Also, please let me know if electronic written notification to OEA is insufficient for purposes of the required OEA reporting, and if I must instead supply you with a signed letter. It is my understanding that OEA does not necessarily require such formality, and that email notification is generally sufficient.

- Rob

Robert A. ("Rob") Wimbish
Attorney at Law
Baker & Miller PLLC
Suite 300
2401 Pennsylvania Ave., NW
Washington, D.C. 20037
202.663.7824 (direct) / 202.663.7849 (fax)

LANCE R. LEFLEUR
DIRECTOR



ROBERT J. BENTLEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

May 7, 2013

Phillip G. Hodges Jr.
Norfolk Southern Corporation
Design & Construction Department
1200 Peachtree Street NE
Atlanta, GA, 30309

RE: Norfolk Southern Railway Line Abandonment
Calhoun, County (015)

Dear Mr. Hodges:

The Department's Water Division (WD) has reviewed the information you sent us regarding the above-referenced project. You had requested that we review this information and provide comments.

Attached, please find a copy of WD's proposed project/activity review information.

I hope this information is useful. If you have any questions or need additional information, please contact Jennifer Klepac Passineau by phone at (334) 394-4313.

Sincerely,

A handwritten signature in black ink, appearing to read "JKP", is written over the typed name and title of Jennifer Klepac Passineau.

Jennifer Klepac Passineau
Chief, Construction Permits Section
Stormwater Management Branch
Water Division

JKP File:PREV

Enclosure: Proposed Project/Activity Review Information
Copy of Review Request Letter

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S. W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (FAX)

ADEM CONSTRUCTION STORMWATER

PROPOSED PROJECT/ACTIVITY REVIEW INFORMATION

The Department has received and evaluated the information you sent us regarding the above-referenced project. You had requested that we review this information and provide comments.

Please note that State law and ADEM regulations require that appropriate, effective Best Management Practices (BMPs) for the control of pollutants in stormwater run-off be fully implemented and maintained as needed for all construction and land disturbance activities regardless of permit status or size of the disturbance to prevent/minimize discharges of sediment and other pollutants to waters of the State of Alabama.

A "water of the state" is broadly defined as [§ 22-22-1(b)(2), Code of Alabama 1975, as amended] "All waters of any river, stream, watercourse, pond, lake, coastal, ground, or surface water, wholly or partially within the state, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership, or corporation unless such waters are used in interstate commerce." Discharges of pollutants resulting from failure to implement and maintain effective BMPs are considered unpermitted discharges to state waters.

Please be advised that pursuant to EPA rules and ADEM Construction General Permit (CGP) ALR100000, the operator or owner is required to apply for and maintain valid National Pollutant Discharge Elimination System (NPDES) coverage for stormwater discharges prior to beginning construction or regulated land disturbance that will equal or exceed one (1) acre in size. The regulations also require NPDES registration for disturbance activities less than one (1) acre that are part of, adjacent to, or associated with a larger common plan of development or sale, that may eventually equal or exceed one (1) acre, or if less than one (1) acre in size if stormwater discharges have reasonable potential to be a significant contributor of pollutants to a water of the State or have reasonable potential to cause or contribute to a violation of applicable Alabama water quality standards as determined by the Department. In addition, a Construction Best Management Practices Plan (CBMPP) is required to be submitted for priority construction sites as defined in the CGP. The regulated construction disturbance also includes, but is not limited to, associated areas utilized for support activities such as vehicle parking, equipment or supply storage areas, material stockpiles, temporary office areas, and access roads, and pre-construction activities performed in advance or in support of construction such as logging, clearing, and dewatering. Please be advised that an operator or owner must retain NPDES permit coverage until all disturbance activity, including phased construction, is complete.

Additional ADEM air, land, and/or water permits for discharges and regulated impacts resulting from the operation of the completed facility may be required.

Effective Best Management Practices (BMPs), as provided in the *Alabama Handbook For Erosion Control, Sediment Control, And Stormwater Management On Construction Sites And Urban Areas*, as amended, Alabama Soil and Water Conservation Committee (ASWCC), for prevention and control of nonpoint sources of pollutants must be implemented prior to, during, and after project implementation. Immediately after completion of the project, effective measures to ensure permanent revegetation, cover, and/or effective stormwater quality remediation must be implemented and maintained. The CGP requires that a CBMPP to reduce pollutant discharges to the maximum extent practicable be prepared by a qualified credentialed professional (QCP) as defined in the CGP, and retained onsite. Information regarding construction activities forms, and other helpful information is available on the ADEM WebPage at <http://www.adem.state.al.us/programs/water/constructionstormwater.cnt>

Tennessee River Watershed - In order to determine whether this project should be covered under an existing CWA Section 404, Nationwide, or General Permit, or Letter of Permission, you should contact the U. S. Army Corps of Engineers, Nashville District by mail at PO Box 1070, Nashville, TN 37202-1070 or by phone at (615) 736-5181. Facilities covered under a U.S. Army Corps of Engineers Individual 404 Permit, Nationwide or General Permit, or Letter of Permission must apply for NPDES stormwater coverage from ADEM, if construction or land disturbance above the Ordinary High Water Mark, or any non-dredge/fill operations below the Ordinary High Water Mark and associated upland dredge disposal sites that will equal or exceed one (1) acre or that are part of a larger common plan of development or sale in which disturbed acreage will eventually equal or exceed (1) acre.

All Other Alabama Watersheds - In order to determine whether this project should be covered under an existing CWA Section 404, Nationwide, or General Permit, or Letter of Permission, you should contact the U.S. Army Corps of Engineers, Mobile District by mail at PO Box 2288, Mobile, AL 36628-0001 or by phone at (251) 690-2658. Facilities covered under a U.S. Army Corps of Engineers Individual 404 Permit, Nationwide or General Permit, or Letter of Permission must apply for NPDES stormwater coverage from ADEM, if construction or land disturbance above the Ordinary High Water Mark, or any non-dredge/fill operations below the Ordinary High Water Mark and associated upland dredge disposal sites that will equal or exceed one (1) acre or that are part of a larger common plan of development or sale in which disturbed acreage will eventually equal or exceed (1) acre.

ADEM's Coastal Program manages uses and activities having the potential to significantly impact the coastal portions of Alabama and/or its resources. The Coastal Area is comprised of only a portion of Mobile and Baldwin counties and is defined as the lands and waters seaward of the continuous ten-foot contour. ADEM issues Coastal Programs Non-Regulated Use Permits for commercial and residential developments greater than 5 acres in size, construction on Gulf-fronting properties intersected by the Construction Control Line, and groundwater wells that exceed 50 gallons per minute of water withdrawal. ADEM also must certify that permits issued by federal and state agencies, and projects conducted by those agencies, are consistent with the Coastal Program. ADEM accomplishes this by reviewing applications for permits submitted to other agencies. Therefore, it is recommended that applicants having development plans, or even considering development in the Coastal Area, consult with ADEM Coastal Program staff as soon as possible in the project development stage so that the applicant can learn of applicable requirements. Questions involving projects in the coastal area should be directed to the ADEM Coastal Office in Mobile.

You may also wish to contact: (1) the U.S. Fish & Wildlife Service and the Alabama Department of Conservation & Natural Resources. These are the Federal and State agencies, respectively, that have primacy and statutory authority to address potential impacts to endangered or threatened species, (2) the Office Of Water Resources, Alabama Department of Economic and Community Affairs, which is the State agency with primacy and statutory authority to address potential water quantity concerns or issues, (3) the State Fire Marshall and the Alabama Department of Industrial Relations which are the State agencies with primacy and statutory authority to address potential safety considerations regarding blasting, (4) the Alabama Department of Industrial Relations which requires permit coverage and reclamation bonding for most non-coal mining sites, (5) the Alabama Historical Commission which is the State agency with primacy and statutory authority to address preservation or potential impacts to surrounding or onsite historical or archaeological sites, (6) your local county health department for issues related to onsite sewage management, and (7) your local municipal or county government, or local zoning and planning agency, if applicable, for additional approvals that may apply to your project.

In recognition that projects are site specific in nature and conditions can change during project implementation, the Department reserves the right to require the submission of additional information or require additional management measures to be implemented, as necessary on a case-by-case basis, in order to ensure the protection of water quality. Responsibility for compliance with ADEM rules and permit requirements are not delegable by contract or otherwise. The operator or owner must ensure compliance. Any violations resulting from the actions of such person may subject the operator/owner to enforcement action.

ADEM permitting decisions are predicated on current regulatory requirements, established engineering standards and technical considerations, best management practices information, and formal administrative procedures in conformance with Departmental regulations and applicable Alabama law. Issuance of permit coverage by ADEM neither precludes nor negates an operator/owner's responsibility or liability to apply for, obtain, or comply with other ADEM, federal, state, or local government permits, certifications, licenses, or other approvals. ADEM permit coverage does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations.

If you have any questions or need additional information regarding construction stormwater permitting, please contact the Water Division in Montgomery at (334) 271-7700 or cswmail@adem.state.al.us.



Norfolk Southern Corporation
Design & Construction Department
1200 Peachtree Street, NE
Atlanta, Georgia 30309
Email: phillip.hodges@nscorp.com

Phillip G. Hodges, Jr.
Engineering Systems Designer
Engineering Systems
404/529-1434
404/529-1369 FAX

SUBJECT: Norfolk Southern Railway line abandonment

Atlanta – May 7, 2013

Mrs. Jennifer Passineau
Alabama Department of Environmental Management

Norfolk Southern has received STB authority under Docket No. AB-290(334X) to abandon approximately 1.81 miles of rail line in Anniston, Calhoun County, AL between railroad milepost LAM 508.08 (near the intersection of W. 10th and Pipe Streets) and milepost LAM509.89 (east of the eastern end of W. 30th Street). A condition of this authority requires Norfolk Southern to consult with the Alabama Department of Environmental Management regarding the implementation of appropriate and effective BMPs for the control of pollutants in storm water run-off and comply with all reasonable BMP requirements.

Salvage operations will consist of removing the track structure from the existing roadbed. The contours of the existing roadbed will remain intact and existing drainage systems will remain unchanged. Following removal of the track structure, the contractor will smooth the roadbed to a level surface and leave all ballast in place without disturbing the original ground surface. No digging or burying of any kind will be permitted. Track materials not reused or sold as scrap will be disposed of in accordance with applicable federal and state laws and regulations. Norfolk Southern will take appropriate measures to minimize airborne dust and to keep any ingress/egress routes clean.

Norfolk Southern currently anticipates beginning salvage operations in the third quarter of 2013. If after further review you determine that a permit will be required, please contact me as soon as possible and I will make arrangements for further handling.

Phillip G. Hodges, Jr.