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SERVICE DATE – JULY 28, 2008

SURFACE TRANSPORTATION BOARD

DECISION

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

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
LUCAS COUNTY, OH

Decided: July 25, 2008

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 2.82-mile line of railroad between milepost TW 0.00 and milepost TW 2.82 in Toledo, Lucas County, OH.¹ On June 27, 2008, notice of the exemption was served and published in the Federal Register (73 FR 36585-86). The exemption is scheduled to become effective on July 29, 2008.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on July 3, 2008. In the EA, SEA recommends three conditions. First, SEA notes that the Ohio Environmental Protection Agency (Ohio EPA) has indicated that National Pollutant Discharge Elimination System permits are required for projects that disturb one acre of land or more and for any point source discharge of pollutants. Accordingly, SEA recommends that, prior to commencement of any salvage activities, NSR consult with Ohio EPA and obtain any necessary permits.

Second, SEA states that the National Geodetic Survey (NGS) has indicated that five geodetic station markers have been identified that may be affected by the proposed abandonment. Accordingly, SEA recommends a condition requiring that NSR contact NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers so that NGS may plan for their possible relocation.

Finally, SEA states that NSR served its historic report on the Ohio State Historic Preservation Office (SHPO) as required by 49 CFR 1105.8. SEA also states that the SHPO has not yet submitted comments in response to the historic report. Because the SHPO has not

¹ In Docket No. AB-290 (Sub-No. 39X), Norfolk and Western Railway Company—Discontinuance Exemption—Operations between Toledo and Walbridge Junction, OH, the Interstate Commerce Commission granted authority for Norfolk and Western Railway Company (NW) to discontinue its service over the line. In its notice here, NSR, as successor to NW by merger, indicates that the portion of the line between milepost TW 2.69 and milepost TW 2.82 shares the right-of-way and a bridge with an active rail line, and NSR states that no salvage or other track removal activities will occur on that segment and that the bridge will be unaffected.

commented, SEA recommends that NSR 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 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 National Historic Preservation Act, 16 U.S.C. 470(f), has been completed. SEA also recommends that NSR be required to report back to SEA regarding any consultations with the SHPO or any other section 106 consulting parties and that NSR be prohibited from filing its consummation notice or initiating any salvage activities related to the proposed abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition.

Comments to the EA were due on July 18, 2008. SEA received one comment from the SHPO, stating that the bridge located at milepost TW 0.62 is eligible for listing in the National Register and that two additional bridges on the line may be eligible for listing and that, because NSR intends to demolish these bridges, an adverse impact would occur. According to SEA, the SHPO also indicated that salvage would most likely affect other historical properties on the line. Therefore, SEA recommends that the section 106 condition previously recommended in the EA be imposed. Accordingly, the conditions recommended by SEA in the EA will be imposed.

Based on SEA's recommendations, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the rail line described above, and covered by the notice served and published in the Federal Register on June 27, 2008, is subject to the conditions that, prior to commencement of any salvage activities, NSR shall: (1) consult with Ohio EPA and obtain the necessary permits should the proposed abandonment disturb one acre of land or more or cause discharge of pollutants; (2) consult with NGS and notify NGS 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers; and (3) (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 proposed abandonment's right-of-way that are eligible for listing or are listed in the National Register, until the section 106 process has been completed, (b) report back to SEA regarding any consultations with the SHPO or other section 106 consulting parties in this matter, and (c) be prohibited from filing a consummation notice or initiating any salvage activities until the section 106 process has been completed and the Board has removed this condition.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary