

SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS

EO-389
CD

POST ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN STB DOCKET NO. AB-290 (Sub-No. 284X)

January 9, 2007

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

Notice of Exemption Petition for Exemption Regulated Abandonment

NO NEW COMMENTS WERE RECEIVED

NEW COMMENTS WERE RECEIVED

SEA served an Environmental Assessment (EA) for this proceeding on November 17, 2006, for public review and comment. In the EA, SEA recommended two environmental conditions and concluded that the proposed action would not significantly impact the quality of the human environment. In the Post Environmental Assessment dated December 4, 2006, SEA modified its recommendations to include three environmental conditions. Two comments were received after the close of the comment period. Those comments are addressed below.

Comments on the EA

National Wild and Scenic Rivers Act

As noted in the EA, the proposed abandonment would involve the removal of the rail bridge over the Kalamazoo River. The National Park Service (NPS) has submitted a letter stating that this segment of the Kalamazoo River is listed on the Nationwide Rivers Inventory, which is a register of rivers that may be eligible for inclusion in the National Wild and Scenic River System. Under the National Wild and Scenic Rivers Act, it is the policy of the United States to preserve selected rivers, or sections thereof, in their free-flowing condition to protect the water quality of such rivers and to fulfill other national conservation purposes. See Wild and Scenic Rivers Act, 16 U.S.C. 1271.

NPS stated that it does not believe that the bridge removal has the potential to adversely affect the free-flowing or natural condition of the Kalamazoo River. However, it requests additional information on how the bridge would be removed in order to address potential impacts to the riverbed. Accordingly, prior to commencement of any salvage activities, we recommend that Norfolk Southern Railway Company (NSR) consult with Ms. Sue Jennings at the Midwest Region of NPS in order to identify appropriate mitigation measures. Furthermore, we ask that NS report the results of these consultations to SEA.

Historic Preservation

One condition imposed in the Board's December 11, 2006 decision required the railroad to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way 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.

The SHPO has submitted a letter stating its opinion that no historic properties are affected within the area of potential effects of the undertaking. Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the National Historic Preservation Act at 36 CFR 800, the Section of Environmental Analysis has reviewed the proposed project and, in consultation with the SHPO, has determined that the abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. Therefore, in accordance with 36 CFR 800.4(d), the Board's responsibilities under Section 106 are fulfilled. Accordingly, we recommend that the Section 106 condition be removed.

SEA recommends the following modifications to its prior recommendations:

- SEA recommends that the following environmental condition be added to the decision granting abandonment authority:

Prior to commencement of any salvage activities, Norfolk Southern Railway Company (NSR) shall consult with Ms. Sue Jennings at the Midwest Region of the National Park Service (NPS) in order to identify appropriate mitigation measures regarding the removal of the bridge over the Kalamazoo River, and NSR shall comply with the reasonable requirements of NPS. Furthermore, NS shall report the results of these consultations to the Board's Section of Environmental Analysis prior to commencement of any salvage activities.

- SEA recommends that the 106 condition be removed.

SEA CONTACT: Christa Dean 565-1606

CD

Attachments



United States Department of the Interior

National Park Service

Midwest Region
601 Riverfront Drive
Omaha, Nebraska 68102-4226



EI-2632

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L6015(MWR/PCL-PC)

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, NW.
Washington, D.C. 20006

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Dear Mr. Williams:

The National Park Service (NPS) has reviewed a submission from James R. Paschall, Senior General Attorney for Norfolk Southern Corporation, dated October 20 requesting an exemption for the abandonment in Kalamazoo, Michigan (STB Docket No. AB-290[Sub. No. 284X]). We note the proposed abandonment would involve the removal of the rail bridge over the Kalamazoo River in Kalamazoo County, Michigan.

This particular segment of the Kalamazoo River is listed on the Nationwide Rivers Inventory (NRI). The NRI is a register of rivers that may be eligible for inclusion in the National Wild and Scenic River System. These rivers were included on the NRI based on the degree to which they are free-flowing, the degree to which the rivers and their corridors are undeveloped, and the outstanding natural and cultural characteristics of the rivers and their immediate environments. Section 5(d) of the National Wild and Scenic Rivers Act requires that:

In all planning for the use and development of water and related land resources, consideration shall be given by all Federal Agencies involved to potential national wild, scenic and recreational river areas.

In partial fulfillment of the section 5(d) requirements, the NPS compiles and maintains the NRI Web site at <http://www.nps.gov/nrcr/programs/rtca/nri/index.html>. The intent of the NRI is to provide information to assist Agencies in making balanced decisions regarding the use of the nation's river resources. A Presidential executive order and subsequent guidance issued by the Council on Environmental Quality (CEQ) require that each Federal Agency, as part of its normal planning and environmental review processes, take care to avoid or mitigate adverse effects on rivers identified in the NRI. Further, all Agencies are required to consult with the NPS prior to taking actions that could effectively foreclose wild, scenic, or recreational status for rivers on the inventory. The CEQ guidance for interagency consultation may be found at the CEQ Web site <http://www.eh.doe.gov/nepa/tools/guidance/Guidance-PDFs/iii-3-3.pdf>.

Two portions of the Kalamazoo River are listed on the NRI; the Lower Kalamazoo portion all in Allegan County is listed both on the NRI and as a State Natural River by the State of Michigan. The upper portion of the Kalamazoo River, a 112 mile-long stretch from the Allegan dam to Marshall, including the area of the abandonment, was nominated to the NRI in 1982. It was nominated based on its outstandingly remarkable recreational values. A long southern Michigan stream with several dams and portages, the Kalamazoo flows through heavily farmed and hardwood forest areas, though the banks are generally

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IN AMERICA

wooded. This portion is a good all around recreational stream receiving considerable floating and fishing use. Also found along its banks are several city and county parks because it flows through the city of Battle Creek and Kalamazoo. Though not currently listed, the upper portion of the river was under study by the State for the State Natural Rivers System.

At this time, we do not believe the proposal for removing the rail bridge across the river in Kalamazoo has the obvious potential to adversely affect the free-flowing or natural condition of the Kalamazoo River. However, the descriptions of the preliminary alternatives do not describe how the bridge will be removed or address the potential impacts to the riverbed. We are interested in knowing how the existing bed and banks of the river will be restored.

The NPS has a continuing interest in working with the Surface Transportation Board to ensure that impacts to resources of concern to the NPS are adequately addressed. If you have questions or issues concerning the NRI and rivers in general, please contact Wild and Scenic Rivers Coordinator Sue Jennings, National Park Service, Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102, telephone 402-661-1848.

Sincerely,


Ernest Quintana
Regional Director

cc:

Mr. James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191



E1-2631
CD

JENNIFER GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF HISTORY, ARTS AND LIBRARIES
LANSING

DR. WILLIAM ANDERSON
DIRECTOR

December 1, 2006

CHRISTA DEAN
SURFACE TRANSPORTATION BOARD
1925 K STREET NW
WASHINGTON DC 20423-0001

RE: ER07-93 AB-290 (Sub-N0. 284X) Norfolk Southern Railway Abandonment, Section 35, T1S, R11W,
Sections 2 & 3, T2S, R11W, Parchment, Kalamazoo County (STB)

Dear Ms. Dean:

Under the authority of Section 106 of the National Historic Preservation Act of 1966, as amended, we have reviewed the above-cited undertakings at the locations noted above. Based on the information provided for our review, it is the opinion of the State Historic Preservation Officer (SHPO) that **no historic properties are affected** within the area of potential effects of these undertakings.

The views of the public are essential to informed decision making in the Section 106 process. Federal Agency Officials or their delegated authorities must plan to involve the public in a manner that reflects the nature and complexity of the undertaking, its effects on historic properties and other provisions per 36 CFR § 800.2(d). We remind you that Federal Agency Officials or their delegated authorities are required to consult with the appropriate Indian tribe and/or Tribal Historic Preservation Officer (THPO) when the undertaking may occur on or affect any historic properties on tribal lands. **In all cases**, whether the project occurs on tribal lands or not, Federal Agency Officials or their delegated authorities are also required to make a reasonable and good faith effort to identify any Indian tribes or Native Hawaiian organizations that might attach religious and cultural significance to historic properties in the area of potential effects and invite them to be consulting parties per 36 CFR § 800.2(c-f).

This letter evidences the Surface Transportation Board's compliance with 36 CFR § 800.4 "Identification of historic properties", and the fulfillment of the Surface Transportation Board's responsibility to notify the SHPO, as a consulting party in the Section 106 process, under 36 CFR § 800.4(d)(1) "No historic properties affected".

The State Historic Preservation Office is not the office of record for these undertaking. You are therefore asked to maintain a copy of this letter with your environmental review record for these undertakings. If the scope of work changes in any way, or if artifacts or bones are discovered, please notify this office immediately.

If you have any questions, please contact Brian Grennell, Environmental Review Specialist, at (517) 335-2721 or by email at ER@michigan.gov. **Please reference our project number in all communication with this office regarding these undertakings.** Thank you for this opportunity to review and comment, and for your cooperation.

Sincerely,

Martha MacFarlane Faes
Environmental Review Coordinator

for Brian D. Conway
State Historic Preservation Officer

MMF:JRH:ROC:cc