

Wednesday, October 30, 2002, 5:30 p.m.–7:30 p.m., Kissimmee Courthouse, Board of County Commissioners Boardroom, 1 Courthouse Square, Suite 4700, Kissimmee, Florida 34741.

Wednesday, November 6, 2002, 5:30 p.m.–7:30 p.m., Eastmonte Civic Center, 830 Magnolia Drive, Altamonte Springs, FL 32701.

Thursday, November 7, 2002, 5:30 p.m.–7:30 p.m., DeBary Public Library, 200 North Charles R. Beall Blvd., DeBary, Florida 32713.

An Interagency Scoping Meeting has been scheduled for:

Tuesday, November 12, 2002, 9 a.m.–11 a.m., Lynx (Educational Leadership Center Building), 3rd Floor Board Media Room, 445 W. Amelia St., Suite 800, Orlando, FL 32801.

All meeting locations are accessible to persons with disabilities. In accordance with the Americans with Disabilities Act of 1990, persons needing a special accommodation at these meetings because of a disability or physical impairment should contact Mr. Ron Jones at LYNX, (407) 841–2279, at least 48 hours before the meeting. If hearing impaired, contact LYNX at (407) 423–0787 (TDD).

FOR FURTHER INFORMATION CONTACT: LaChant Barnett, Project Manager, LYNX, 445 West Amelia Street, Suite 800, Orlando, Florida, 32801. You may also contact Derek R. Scott, Community Planner, FTA, 61 Forsyth Street, SW, Suite 17T50, Atlanta, GA 30303, (404) 562–3500.

SUPPLEMENTARY INFORMATION:

1. Notice of Intent

This Notice of Intent to prepare an Alternatives Analysis leading to an Environmental Impact Statement is being published at this time to advise interested parties of the study and to invite their comments. FTA regulations and guidance in accordance with NEPA will be used in the analysis and preparation of the Central Florida North/South Commuter Corridor Study.

2. Scoping

The FTA, LYNX, METROPLAN ORLANDO, Volusia County MPO and FDOT invite comments both at the public meetings listed above and in writing for a period of 45 days following the last public meeting. Comments should focus on identifying specific social, economic or environmental impacts to be evaluated. Comments should focus on the scope of the alternatives and impacts to be considered.

Persons wishing to be placed on a mailing list to receive further information as the study progresses, Contact Ms. LaChant Barnett at LYNX, 445 West Amelia Street, Suite 800, Orlando, Florida 32801.

3. Study Area and Project Need

The study area is an approximately 55-mile corridor extending from the City of DeLand in Volusia County to the City of Kissimmee in Osceola County passing through Seminole and Orange Counties including the City of Orlando. A potential fixed guideway transit project would operate in the existing CSXT railroad corridor, as an alternative north-south travel mode to Interstate 4.

4. Alternatives

The alternatives proposed for evaluation include:

(1) A Baseline Alternative based on existing LYNX operations, the most recent LYNX Transportation Development Plan for the corridor including but not limited to transit preferential treatments and/or Bus Rapid Transit (BRT), and other relevant studies. This alternative or a variation exhibiting “the best that can be done” will serve as a proposal to FTA for a New Starts Baseline.

(2) A Commuter Rail Alternative with Light Rail Transit (LRT), consistent with the METROPLAN ORLANDO 2020 Cost Feasible Plan; and, without LRT for informational purposes. This alternative will address the potential commuter rail service as well as other associated bus feeder and public transit circulator services. The alternative will also address the joint operations of CSXT mainline freight and passenger services and local freight services that operate in the existing CSXT corridor. The physical features of the alternative will also be defined.

(3) A No Action Alternative without LRT for the opening year 2005 and with LRT for the target years 2015 and 2025, based on the existing LYNX transit system plus improvements envisioned for two planning horizons as indicated in the Volusia County MPO and METROPLAN ORLANDO 2020 Cost Feasible Plans and proposed changes for 2025 plans. The No Action Alternative is to specifically include the 20 miles of LRT from just north of SR 436, south to SR 528 and any bus service improvements during the appropriate target years. Impacts to the regional transportation system resulting from the No Action Alternative will be identified.

5. Probable Effects

Should the study proceed from the Alternatives Analysis to an

Environmental Impact Statement, preliminary steps will be taken to allow the FTA, LYNX, METROPLAN ORLANDO, Volusia County MPO and FDOT to evaluate the project's potential for significant adverse impacts during construction and operation and to identify feasible mitigation measures for those impacts. The specific analyses that would take place at that point are land use, neighborhood character, social conditions, economic conditions and displacement, visual and aesthetic considerations, historic resources, archaeological resources, transit (ridership, operations and maintenance), traffic, parking. Air quality, noise and vibration, energy, hazardous materials, water quality, natural resources (vegetation and wildlife), construction and construction impacts, cumulative impacts and environmental justice (disproportionate adverse impacts on minority and low-income populations).

This study is being completed concurrent with an SDEIS for the north-south LRT project. This project will utilize information from the SDEIS, as appropriate. Information on the LRT SDEIS may be obtained from Jennifer Stults, LYNX Project Manager, 445 West Amelia Street, Suite 800, Orlando, FL 32801, (407) 841–2279, jstults@golynx.com.

Issued on: October 18, 2002.

Jerry Franklin,

FTA Regional Administrator.

[FR Doc. 02–27095 Filed 10–23–02; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB–167 (Sub–No. 1095X)]

Consolidated Rail Corporation—Abandonment Exemption—Lancaster and Chester Counties, PA

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice of reinitiation of the National Historic Preservation Act section 106 process and request for comments.

SUMMARY: This notice to the parties discusses the background of the abandonment exemption proceeding, describes the Surface Transportation Board's reinitiation of the National Historic Preservation Act section 106 process, and requests comments on several specific issues.

DATES: Comments are due by December 9, 2002.

ADDRESS: If you wish to file comments regarding this Notice, you should send an original and two copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady. Please refer to Docket No. AB-167 (Sub-No. 1095X) in all correspondence addressed to the Board.

FOR FURTHER INFORMATION CONTACT: Troy Brady, the environmental contact for this case, by phone at (202) 565-1643 or by fax at (202) 565-9000. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: In *Friends of the Atglen-Susquehanna Trail, Inc. v. Surface Transportation Bd.*, 252 F.3d 246 (3rd Cir. 2001) (FAST), the United States Court of Appeals for the Third Circuit vacated and remanded to the Surface Transportation Board (Board) a case involving the agency's historic review of a proposal to abandon 66.5 miles of track called the Enola Branch in Lancaster and Chester Counties, PA. The Board's decision to allow abandonment of rail service on the Enola Branch is unaffected by the court's remand. However, the court ruled that the Board failed to comply fully with the procedural requirements of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA), when in 1997 and 1999 the Board denied the requests of the Friends of the Atglen-Susquehanna Trail, Inc. (FAST) to reopen and broaden the historic preservation condition imposed by the Board's predecessor, the Interstate Commerce Commission (ICC),¹ in a 1990 decision permitting Consolidated Rail Corporation (Conrail) to fully abandon the Enola Branch except for the bridges.

The Board's Section of Environmental Analysis (SEA) has reinitiated the section 106 historic review process pursuant to the court's remand. Since the court's decision, SEA has been working to bring the diverse parties with different interests together so that the Board can move the historic review process to completion in accordance with the law and the court's decision, as described further below.

SEA consulted with the Advisory Council on Historic Preservation (AHP) and the Pennsylvania State Historic Preservation Officer (SHPO) while preparing this Notice to the Parties (Notice), and provided them

with the opportunity to review and comment on the Notice prior to issuance. The Notice incorporates the comments of AHP and SHPO received to date. The intent of this Notice is threefold: (1) To bring all consulting parties up to date on the background of the case; (2) to describe the Board's reinitiation of the NHPA process and proposed next steps; and (3) to solicit comments on the five issues delineated at the end of this Notice.

I. Background

A. The NHPA

Before authorizing a rail line abandonment, the Board must comply with section 106 of the NHPA, which requires Federal agencies to consider the effects of their decisions on historic properties. AHP has issued regulations implementing the NHPA. See 36 CFR part 800. These regulations were revised in December 2000, and SEA is following the current AHP regulations in the reinitiation of the NHPA process for this case.

The requirements of the NHPA are procedural in nature and do not require a particular result. See FAST, 252 F.3d at 263. NHPA establishes a three-step process under which the agency must consult with the appropriate SHPO and other consulting parties to determine: (1) Which, if any, historic resources could be affected by the agency's action (Identification Phase); (2) whether those properties would be adversely affected by the agency's action (Assessment Phase); and, if so, (3) what conditions, if any, should be imposed to avoid, minimize or mitigate those adverse effects (Mitigation Phase). See 36 CFR 800.1(a).

During the Identification Phase, the agency must determine which properties that could be affected by the project are listed on or eligible for listing on the National Register of Historic Places (National Register). If the agency and the SHPO do not agree on this threshold eligibility question, or at AHP's request, the agency must obtain an eligibility determination from an official in the Department of the Interior known as the Keeper of the National Register (Keeper).

During the Assessment Phase, the agency must determine whether the properties identified as historic will be adversely affected by the proposed abandonment. The general practice of the Board has been to assume that the abandonment of a rail line will negatively impact any properties involved that are identified as historic.

Finally, during the Mitigation Phase, the agency must develop appropriate

mitigation measures to avoid, minimize or mitigate adverse effects on the historic properties so identified. Those measures must be crafted in consultation with the SHPO, AHP, the railroad, and other consulting parties, with input from the public. The agency's mitigation plan is then formulated into a proposed Memorandum of Agreement (MOA), which, if agreed upon, is signed by the consulting parties. If no agreement on mitigation is reached, the consultation may be terminated, and the agency must request and take into account AHP's formal comments prior to issuing a final decision.

B. This Case

The Enola Branch extends across Lancaster County, PA, from approximately milepost 27 (1 mile east of Safe Harbor, at the confluence of Conestoga Creek with the Susquehanna River) easterly to the Chester County, PA, line at milepost 4.03. A short portion of the Enola Branch (between mileposts 4.03 and 0.0) lies in Chester County. The Enola Branch passes through the Townships of West Sadsbury, Sadsbury, Bart, Eden, Providence, Martic and Conestoga, and the Borough of Quarryville.

In 1989 Conrail sought authority from the ICC to abandon the Enola Branch pursuant to 49 U.S.C. 10903 and ICC regulations codified at 49 CFR 1152.50. The ICC issued a decision in 1990 allowing the abandonment subject to a condition, developed as a result of consultation with the SHPO, that Conrail retain its interest in, and take no steps to alter the historic integrity of, 83 bridges—the only properties on the line that had been identified as historic—until completion of the historic review process. The purpose of the condition was to allow the ICC to work with consulting parties to develop a plan to avoid, minimize, or mitigate any adverse effects of the abandonment on the bridges. The development of a mitigation plan was held in abeyance, however, pending negotiations to transfer the line for interim trail use/rail banking under 16 U.S.C. 1247(d) or other public use under former 49 U.S.C. 10906 (now 49 U.S.C. 10905). When those negotiations proved unsuccessful, the NHPA process was resumed.

Following extensive negotiations and consultations with Conrail and the Pennsylvania SHPO, SEA developed proposed historic preservation mitigation measures for the bridges. At the suggestion of the SHPO, Conrail would be required to document (to the level of Pennsylvania state standards) certain bridges prior to their removal,

¹ The ICC Termination Act of 1995, Pub. L. 104-88, abolished the ICC and transferred certain rail functions, including the rail line abandonment functions at issue in this case, to the Board, effective January 1, 1996.

and to fund and furnish materials for a display relating to the Enola Branch in a transportation museum administered by the SHPO.

While this process was moving forward, FAST filed a petition with the Board to reopen the proceeding and broaden the NHPA condition so that it would apply to the entire line, rather than only the bridges on the line. The Board denied FAST's request in a decision issued in 1997. In that decision, the Board also narrowed the properties determined to be historic to 32 of the 83 bridges, in light of subsequent statements by the SHPO, and clarified that its condition embraced certain archeological sites.

FAST sought Board reconsideration of the 1997 decision. FAST also sought the involvement of ACHP. In a March 1998 letter, ACHP advised the Board of ACHP's determination that the Board had not fully complied with NHPA requirements for the first two stages of the historic review process for the Enola Branch. In the meantime, SEA, which believed that only the Mitigation Phase of the NHPA process for the bridges remained open, had consulted with the SHPO and Conrail on appropriate mitigation for the identified bridges. SEA drafted a proposed MOA reflecting that consultation,² which was sent to the SHPO, ACHP and Conrail for their signatures later in 1998.

The SHPO declined to sign the MOA until the Board consulted with ACHP. ACHP, in turn, explained that it believed that its consideration of the draft MOA was untimely, as the draft MOA could be properly considered only after the issue of whether the entire line should be subject to an historic review was resolved. ACHP then formally referred the eligibility matter to the Keeper, who concluded that the entire Enola Branch was eligible for inclusion in the National Register.³ Nevertheless, in 1999 the Board denied FAST's petition for reconsideration of the 1997 decision. The Board set out its view that the Identification Phase of the NHPA process had been completed in 1990 for the non-bridge parts of the line and that only the Mitigation Phase remained open and only as to the bridges. Given the impasse with ACHP, which had declined to comment on bridge mitigation, the Board decided to terminate its consultation with ACHP

² The MOA would have provided for photographic documentation of all of the historic bridges and the development of a public, interpretative display, in the form of a 6-8 minute video, outlining the history of the Enola Branch.

³ The SHPO also had written a letter to the Pennsylvania Department of Transportation to the same effect.

and to impose a section 106 condition consisting of the provisions of the unexecuted MOA as its bridge mitigation measures. FAST then sought judicial review.

C. The Court's FAST Decision

The court's concern that resulted in the remand was "less with the substantive results reached by the [Board] on the historic eligibility of the Enola Branch than with the procedures and reasoning the [Board] followed in reaching those results." The NHPA is a "stop, look, and listen" provision, and the court concluded that the Board had not "touched all the procedural bases." *FAST*, 252 F.3d at 263.

With respect to the Board's actions in the Identification Phase, the court found that the identification process under the ACHP regulations is a "fluid and ongoing one" in which changing perceptions of historical significance are considered. *Id.* Therefore, the court determined that, once ACHP brought the Keeper into the process, the Keeper's conclusions had to be considered. *Id.* at 264. The court was not persuaded that the Board had given the Keeper's determinations sufficient consideration. *Id.* The court also faulted the Board for not adequately involving ACHP in the process or considering evidence submitted by other parties (specifically Lancaster County) regarding the historic significance of the Enola Branch. *Id.* at 265-66. Finally, the court found that the Board had not followed the proper procedures for terminating consultation with ACHP, *id.* at 266-67, and directed that, on remand, the Board follow the procedures of the NHPA regulations in concluding the case, *id.* at 267.

II. Reinitiation of the NHPA Section 106 Process

In accordance with the court's remand, SEA is conducting the NHPA process anew in this case. Below, SEA sets forth the steps it has taken to date and outlines its plans to complete this proceeding.

A. Identification of Potential Consulting Parties

SEA has undertaken consultations with ACHP, the SHPO, and other consulting parties, including the Commonwealth of Pennsylvania and the Lancaster County Planning Commission, to obtain information both on how to conclude the NHPA process here and on potential consulting parties. In addition to ACHP and the SHPO, SEA has identified 54 potential consulting

parties.⁴ SEA is serving a copy of this Notice on each of these parties, and will publish this Notice in the **Federal Register** to alert any additional consulting parties to the opportunity to take part in the ongoing NHPA process.

B. Identification Phase

As stated above, the identification of historic properties is the first phase of the section 106 process. As noted, in this case the Keeper has determined that the entire line is historic,⁵ rather than only selected bridges and archeological sites.⁶ Therefore, SEA will treat the entire line as historic in accordance with the Keeper's determination and the ACHP regulations.

C. Assessment Phase

As stated above, the Board generally assumes that abandonment of a rail line would adversely impact any properties

⁴ These potential consulting parties include: parties previously involved in the case (Norfolk Southern Corporation, FAST, and the Keeper); members of Congress (Honorable Arlen Specter, United States Senate; Honorable Rick Santorum, United States Senate; and Honorable Joseph R. Pitts, United States House of Representatives); state leaders and agencies (Honorable Mark Schweiker, Governor; Pennsylvania Department of Transportation; Pennsylvania Public Utility Commission; Pennsylvania Bureau of State Parks; and Pennsylvania Department of Conservation and Natural Resources); tribes (Absentee-Shawnee Tribe of Oklahoma; Cayuga Nation; Delaware Nation, Oklahoma; Delaware Tribe of Indians, Oklahoma; Eastern Shawnee Tribe of Oklahoma; Oneida Indian Nation; Oneida Tribe of Indians of Wisconsin; Onondaga Indian Nation; Seneca Nation of Indians; Seneca-Cayuga Tribe of Oklahoma; St. Regis Mohawk Tribe; Stockbridge-Munsee Community of Wisconsin; Tonawanda Band of Seneca Indians; and Tuscarora Nation); local agencies and organizations (Atglen Borough, Chester County Planning Commission, Chester County Parks and Recreation Department, Delaware Valley Regional Planning Commission, Lancaster County Planning Commission, Lancaster County Department of Parks and Recreation, Bart Township Supervisors, Bart Township Planning Commission, Conestoga Township Supervisors, Conestoga Township Planning Commission, Eden Township Supervisors, Eden Township Planning Commission, Martic Township Supervisors, Martic Township Planning Commission, Parkesburg Borough, Providence Township Supervisors, Providence Township Planning Commission, Quarryville Borough Council, Quarryville Borough Planning Commission, Sadsbury Township Supervisors, Sadsbury Township Planning Commission, West Sadsbury Township Supervisors, and West Sadsbury Township Planning Commission); historic preservation organizations (Chester County Historic Preservation Network, Preservation Pennsylvania, Historic Preservation Trust of Lancaster County, and Central Pennsylvania Conservancy); Amtrak; and the Law Firm of Malatesta Hawke & McKeon LLP.

⁵ Evidently, little if any track remains on the Enola Branch. However, in this case, "the historical eligibility of the line as a whole does not require the presence of the tracks and other railroad equipment." *See FAST*, 252 F.3d at 262.

⁶ As explained above, the historic preservation condition imposed in the Board's 1997 decision covered only certain bridges and archeological sites on the Enola Branch.

involved that are identified as historic, unless it obtains evidence that there would be no adverse effect, and both ACHP and the SHPO agree with the Board that abandonment of the Enola Branch would adversely affect historic sites and structures.

D. Mitigation Phase

In order to develop appropriate mitigation, SEA requests additional information from all consulting parties regarding the physical condition of the Enola Branch. After the court issued its decision in *FAST*, SEA requested a description of the current condition of the rail line from Norfolk Southern Corporation (NS), which acquired the Enola Branch from Conrail in 1998.⁷ NS submitted a letter stating that the road bed and embankments of the rail line are still intact, though there is substantial overgrowth in the area. While NS indicated that the Enola Branch has been subject to periodic inspections for right-of-way clean up and Amtrak's maintenance of certain power lines, NS stated that there has been no comprehensive inspection of the rail line and associated structures in the last 10 years.

The Enola Branch originally included 83 bridges, prior to Conrail's application for abandonment. In its letter, NS stated that approximately 65 grade-separated structures on the line remain in place and are in different states of usability. According to NS, the Pennsylvania Public Utility Commission has served orders for removal, conveyance to local municipalities, or assumption of maintenance responsibilities by the Commonwealth of Pennsylvania, regarding bridge structures on the rail line.

As the ICC explained in its decision adopting the rules that continue to govern the Board's implementation of the NHPA,⁸ the agency's ability to protect historic properties is very limited. The Board cannot deny authority for a railroad to take an action that would otherwise meet the relevant statutory criteria solely on the ground that it would adversely affect historic resources. Moreover, with respect to rail line abandonments, the Board can

impose historic preservation conditions only to the extent that the particular property is owned by the railroad seeking abandonment (either full ownership in fee or a long-term interest in the property) and the property has a sufficient nexus to the proposal under review. When the Board imposes historical preservation conditions on particular property, the Board cannot force the applicant to sell or donate its property, or impose a restrictive covenant upon the deed. Essentially, documentation of the historic resources (taking photographs or preparing a history) before they are altered or removed is the only form of nonconsensual mitigation the Board can require. Although the Board has limited authority to protect historic properties, if the consulting parties agree to undertake additional mitigation beyond what the Board may require (such as preservation of a resource), such consensual mitigation can be incorporated in the MOA.

As stated above, in the 1990's a proposed MOA was developed for the Enola Branch that would have provided for photographic documentation of all of the historic bridges to Pennsylvania's state standards, and the development of a public, interpretative display, in the form of a 6–8 minute video, outlining the history of the Enola Branch. SEA specifically requests comments on whether the provisions of this previously developed MOA proposal would constitute appropriate mitigation at this time and, if not, suggestions for additional or alternative mitigation measures.

E. Formulation of an MOA

Based on public comment in response to this Notice and other input that SEA receives from the SHPO, ACHP, the railroad and others, SEA expects over the next several months to develop, in conjunction with the consulting parties, appropriate measures to avoid, minimize, or mitigate adverse effects on the historic properties identified in this case. After such mitigation measures have been determined, SEA will incorporate the proposed mitigation into an MOA and then circulate, and—as required under the law—seek public comment on the MOA. SEA requests comments on how it can best publicize the proposed MOA. Once an MOA is signed, the NHPA review in this case will be complete in accordance with the NHPA and the court's decision, and the section 106 condition imposed in this case can be removed.⁹

⁷ On June 23, 1997, NS and CSX Transportation Inc. sought permission from the Board to acquire Conrail and to divide its assets between them. On July 23, 1998, the Board approved the Conrail Acquisition. *CSX Corp., et al. & Norfolk Southern Corp., et al.—Control and Operation Leases/Agreements—Conrail Inc., et al.*, STB Finance Docket No. 33388 (decision No. 89) (STB served July 23, 1998). The Pennsylvania Rail Lines LLC, a subsidiary of Conrail, now owns the Enola Branch and leases it to NS.

⁸ See *Implementation of Environmental Laws*, 7 I.C.C.2d 807, 828–29 (1991).

III. Comments

SEA specifically invites comments from consulting parties and members of the public on the following:

1. Identification of additional consulting parties;
2. Any need for further assessment of adverse effects on the line;
3. Appropriate mitigation measures (including comments on the measures specified in the earlier MOA and suggestions for additional or alternative measures, as well as information regarding the current condition of the rail line);
4. Methods or outlets for publicizing a proposed MOA; and
5. Any other pertinent issues relevant to this proceeding.

Decided: October 15, 2002.

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

Vernon A. Williams,
Secretary.

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BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Minority Bank Deposit Program Certification Form for Admission

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning form FMS 3144 "Minority Bank Deposit Certification Form for Admission."

DATES: Written comments should be received on or before December 23, 2002.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Records and Information Management Staff, Room 135, Hyattsville, Maryland 20782.

multiple steps simultaneously where appropriate, as long as the consulting parties and the public have an adequate opportunity to express their views and the SHPO (and Tribal Historic Preservation Officer(s), when involved) agree that it is appropriate. See *FAST*, 252 F.3d at 252; 36 CFR 800.3(g).

⁹ Agency officials and consulting parties can expedite the section 106 process by addressing