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SEA

**SERVICE DATE – OCTOBER 3, 2006**

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-6 (Sub-No. 444X)**

**BNSF Railway Company – Abandonment Exemption – in Flathead County, MT**

### **BACKGROUND**

In this proceeding, BNSF Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for BNSF to abandon approximately 0.42 miles of rail line located between Engineering Station 189+36 and Engineering Station 167+00, near Kalispell, in Flathead County, Montana. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, BNSF will be able to salvage track, ties, and other railroad appurtenances and dispose of the right-of-way.

### **DESCRIPTION OF THE LINE**

According to BNSF, the right-of-way was acquired by the Great Northern Railway (GN) in 1891. The GN was merged into The Burlington Northern Railroad (BN) in 1970. BN and The Atchison Topeka & Santa Fe Railway merged in 1995 to become The Burlington Northern & Santa Fe Railway Company, which changed its name to BNSF Railway Company in 2005.

Based on information in BNSF's possession, the line proposed for abandonment does not contain Federally granted right-of-way. The right-of-way is 100 feet in width. The land in the area of the line is generally flat and rural in nature. Much of the surrounding area is forested. BNSF indicates that there are no railroad structures on the property that are 50 years old or older.

BNSF states that no local traffic has moved over the line for at least two years and there is no overhead traffic on the line to be rerouted. Thus, no rail traffic will be diverted to truck traffic as a result of the proposed abandonment. Therefore, the Board's thresholds for conducting more detailed air quality and noise analysis (an increase of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment) will not be exceeded.

### **ENVIRONMENTAL REVIEW**

BNSF submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BNSF served the

environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board's) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

BNSF indicates that there are no public or private crossings on the line. During salvage operations, BNSF states that precautions would be taken to ensure public safety, and contractors would be required to satisfy all applicable health and safety laws and regulations. BNSF is not aware of any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way.

The United States National Park Service reviewed the proposed project and determined that no National parks would be affected. The United States Bureau of Land Management, Missoula Field Office (BLM), has indicated that BLM does not have surface jurisdiction in the proposed project area. The National Geodetic Survey (NGS) has advised SEA that no geodetic station markers have been identified that may be affected by the proposed abandonment.

The City of Kalispell (City) has indicated that there is an existing bike trail within an easement on the right-of-way which provides a connection between existing and future bike trails planned within the City and areas to the west and outside the City. The City requests to obtain the land from BNSF for the continued use of the existing bike trail.

The United States Department of Agriculture, Natural Resources Conservation Service in Bozeman, Montana, has indicated that the proposed abandonment would have no impact on important farmland since the land is considered to be previously converted farmland and the roadbed would be left intact following abandonment.

The United States Fish and Wildlife Service (USFWS) in Kalispell, Montana, has determined that there are no endangered species issues associated with the proposed project area and that the proposal would have no effect upon such resources. Of the endangered and threatened species known to occur in the state of Montana, there are no known occurrences in the project location. Likewise, there is no designated or proposed critical habitat, and there are no wildlife refuges or similar sanctuaries under USFWS jurisdiction.

The Montana Department of Fish, Wildlife and Parks - Region One (MTFWP) has indicated that there should not be any significant negative biological or recreational effects associated with the proposed abandonment. MTFWP supports the efforts by the City of Kalispell and others in their pursuit of rail banking or acquisition of the right-of-way for a bike/pedestrian trail.

The United States Department of the Army, Corps of Engineers, Helena Regulatory Office (Corps) has indicated by telephone to BNSF that the abandonment and subsequent removal of rails, crossties, etc. would not require a Department of the Army Section 404 permit because the project does not require the placement of dredged or fill material into waters of the United States.

The Corps further indicated that, based on National Wetlands Inventory maps, it does not appear that any wetlands exist within the project area. Therefore, Corps authorization is not required for the project under Section 404 of the Clean Water Act.

The Flathead County Planning and Zoning Office provided BNSF with a flood insurance map for the area of the proposed abandonment. Based on the map provided, it does not appear that the proposed abandonment would affect any 100-year flood plains.

The Montana Department of Environmental Quality, Water Protection Bureau (MDEQ) has indicated that, based on the information provided, MDEQ is unable to determine what, if any, permits are necessary for the proposed abandonment. In general, the Montana Water Quality Act prohibits the discharge of sewage, industrial or other wastes, including sediment, to state waters without a current permit from MDEQ. The definition of state waters includes any body of water on the surface or underground (ground water) and includes irrigation systems, ephemeral and intermittent drainage systems, lakes, ponds or other waterways. Discharge of wastes to state surface water is regulated under the Montana Pollutant Discharge Elimination System program. Discharges, or potential discharges, to state ground water are regulated under the Montana Ground Water Pollution Control System. Accordingly, we will recommend a condition requiring that BNSF contact MDEQ prior to beginning salvage regarding MDEQ's requirements under the Montana Water Quality Act.

## **HISTORIC REVIEW**

BNSF submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Montana Historical Society (State Historic Preservation Office or SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would have no adverse effect on historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

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 800.5(c) and 36 CFR 800.8, we have determined that the proposed abandonment will not adversely affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(e), 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.

SEA conducted a search of the Native American Consultation Database at [www.cast.uark.edu/other/nps/nacd/](http://www.cast.uark.edu/other/nps/nacd/) to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana, the Confederated Salish & Kootenai Tribes of the Flathead Reservation, and the Fort Belknap Indian Community of the Fort Belknap Reservation

may have an interest in the proposed abandonment. Accordingly, SEA is sending a copy of this EA to these tribes for their review and comment.

## **CONDITIONS**

SEA recommends that the following environmental condition be placed on any decision granting abandonment authority:

BNSF Railway Company (BNSF) shall consult with the Montana Department of Environmental Quality, Water Protection Bureau (MDEQ) prior to commencement of any salvage activities to address MDEQ's requirements under the Montana Water Quality Act.

## **CONCLUSIONS**

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will 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 CFR 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 the class 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 CFR 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or

mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Kenneth Blodgett, the environmental contact for this case. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub-No. 444X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Kenneth Blodgett by phone at (202) 565-1554, fax at (202) 565-9000, or e-mail at [blodgettk@stb.dot.gov](mailto:blodgettk@stb.dot.gov).

Date made available to the public: October 3, 2006.

**Comment due date: October 18, 2006.**

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

Vernon A. Williams  
Secretary

Attachment