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SEA

SERVICE DATE – AUGUST 31, 2007

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-6 (Sub-No. 456X)

**BNSF Railway Company – Abandonment Exemption –
in Riverside County, CA**

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Riverside County, California. The rail line proposed for abandonment extends 0.50 miles from ES 0 + 00 to ES 26 + 35 (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

BNSF states that the right-of-way is less than 1/2 mile in length, 2635 feet, and just 20 feet in width. It is located in an urban, light industrial area in Riverside, California, the county seat of Riverside County. Riverside's estimated population in 2003 was 281,514 residents. The surrounding elevation is fairly even at approximately 827 feet above sea level. After the proposed abandonment, BNSF states that the right-of-way will be sold to the City of Riverside for a fire department training facility.

BNSF also indicates that the trackage once served a stone quarry and several citrus packing houses. It was originally laid by Southern California Railway Company (SCR) in 1896-1898. SCR's property was sold to The Atchison, Topeka and Santa Fe Railway Company (ATSF) in January 1906. ATSF merged with Burlington Northern Railroad Company in 1996 to become The Burlington Northern Santa Fe Railway Company, which later changed its name to BNSF Railway Company in January 2005.

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) environmental rules [49 CFR 1105.7(b)].¹ The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to BNSF, no local traffic has moved over the Line for at least two years, and there is no overhead traffic to be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

BNSF indicates that there is one public crossing and no private crossings on the Line. During salvage operations, BNSF states that precautions would be taken to ensure public safety, and any contractors hired by BNSF to salvage the Line 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.

In response to BNSF's initial letter, the U.S. Fish and Wildlife Service (USFWS) provided a list of threatened and endangered species that may occur in Riverside County. SEA has reviewed the list, which is set forth below:

- Munz's Onion
- San Diego Ambrosia
- Thread-Leaved Brodiaea
- Slender Horned Spineflower
- Santa Ana River Woolly-Star
- Southwestern Willow Flycatcher
- Least Bell's Vireo
- Stevens' Kangaroo Rat
- Delhi Sands Flower-Loving Fly

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-6 (Sub-No. 456X).

Because of the historically urban and industrial nature of the Line and immediate vicinity, and the limited scope of activities that would occur with salvaging 0.50 miles of rail line, SEA does not expect the proposed abandonment to impact critical habitat or the use of the project area by the listed species. Therefore, SEA believes the proposed abandonment would not likely disturb the listed species' habitats, or affect food stocks, prey species and foraging areas for the listed species.

USFWS has not offered its conclusions regarding impacts to Federally listed species. Pending a USFWS response, SEA recommends a condition that prohibits BNSF from conducting any salvage activities and consummating abandonment until completion of the Section 7 consultation process of the Endangered Species Act (16 U.S.C. 1535). A copy of this EA has also been provided to USFWS.

The Bureau of Land Management (BLM) stated that there is no federal land or interest in land in the area of the proposed abandonment and that the proposed action would have no effect on the BLM.

The U.S. Army Corps of Engineers indicated that the proposed abandonment would not discharge dredged or fill material into a water of the United States or an adjacent wetland. Therefore, a permit under Section 404 of the Clean Water Act is not required.

In the environmental report, BNSF indicates that it has had discussions with the California Regional Water Quality Control Board (CRWQCB) and that CRWQCB indicated that if the total area of land to be disturbed in the proposed abandonment exceeded one acre, then a National Pollutant Discharge Elimination System (NPDES) permit under Section 402 of the Clean Water Act (33 U.S.C. 1342) would be necessary. BNSF states that an NPDES permit would be required because the area of the proposed abandonment is approximately 52,700 square feet, which is greater than one acre. Accordingly, we recommend that a condition be imposed requiring BNSF to consult with CRWQCB prior to salvage operations in order to ensure that the reasonable requirements under the Clean Water Act are met.

The California Public Utilities Commission (PUC) submitted comments requesting that the Board require, as a condition for the exemption, that the rail and ties be removed along the right-of-way and at all highway-rail crossings along the lines within two years of granting the abandonment exemption. PUC also requests that a "tracks out of service" sign be posted at crossings until the tracks are removed from the roadways, and that warning devices also be removed along with the tracks within two years of granting the abandonment exemption. According to PUC, tracks left in the roadway and not maintained cause traffic and pedestrian safety hazards. These hazards include: causing feet, bicycle wheels, and wheelchairs to get caught in the flangeway, which causes damage or injury to the equipment and person; broken rails and ties creating a protruding sharp obstacle above the roadway grade; rotten railroad ties and foul ballast causing depressions and potholes in the roadway areas; and vehicles, such as buses and those carrying hazardous materials, stopping unnecessarily at grade crossings, as required by California law, which causes the potential for vehicular collisions.

PUC also states that it believes that local agencies should not be left financially accountable for removal or maintenance of the crossings. According to PUC, considerable funding appears to be available for acquisition of rail right-of-way, rerouting of the track, and construction of grade separation structures in the area. PUC believes that funding must also be given to cleaning up the abandoned rail right-of-way and crossings. PUC cites the Federal Highway Administration's Manual on Uniform Traffic Control Devices as stating that elimination of a highway-rail grade crossing should include track being removed or paved over. In order to address PUC's concerns, we recommend that a condition be imposed requiring BNSF to consult with PUC prior to consummation of the abandonment. We further recommend that BNSF shall report the results of this consultation to SEA in writing.

The U.S. Environmental Protection Agency's Region 9 Office (USEPA) has not submitted comments regarding this proposed abandonment. Accordingly, SEA will provide a copy of this EA to USEPA for its review and comment.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, SEA is providing a copy of this EA to USEPA, USFWS, CRWQCB and PUC for their review and comment.

HISTORIC REVIEW

BNSF served the historic report on the California State Historic Preservation Officer (SHPO), pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that two cultural resource studies have been conducted involving a portion of the project area, but that no cultural resource properties are recorded within the boundaries of the project area. However, the SHPO indicates that cultural resources may be present within the project area based on the information reviewed and recommends further study. The SHPO requests that the project area be surveyed systematically by a qualified archeologist to identify all cultural resources and to provide recommendations regarding their significance and management prior to any development of the property.

We have reviewed the report and the information provided by the SHPO. However, we believe that an archeological survey is not necessary because of the length and the urban and industrial nature of the Line and because salvage would not be conducted below ground level. The SHPO is welcome to review this information further and provide SEA with additional comments justifying its request for an archeological survey.

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(d), 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 <http://www.nps.gov/nacd/> to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the following tribes may have an interest in the proposed abandonment: Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California; Cabazon Band of Mission Indians, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort McDowell Yavapai Nation, Arizona; Ione Band of Miwok Indians of California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Ramona Band or Village of Cahuilla Mission Indians of California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; Soboba Band of Luiseno Indians, California; Torres Martinez Desert Cahuilla Indians, California; and Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona. Accordingly, SEA is sending a copy of this EA to these tribes for their review and comment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. BNSF Railway Company (BNSF) shall be prohibited from performing any salvage activities and consummating abandonment until completion of the Section 7 consultation process of the Endangered Species Act (16 U.S.C. 1535) with the U.S. Fish and Wildlife Service (USFWS). BNSF shall consult with Board's Section of Environmental Analysis (SEA) and USFWS to develop appropriate mitigation measures if necessary. BNSF shall report the results of any consultation with USFWS in writing to SEA.
2. To ensure appropriate consideration of the National Pollutant Discharge Elimination System (NPDES) requirements, BNSF Railway Company (BNSF) shall consult with the California Regional Water Quality Control Board prior to commencement of any salvage activities and shall comply with the reasonable NPDES requirements.
3. Prior to consummation of the abandonment, BNSF Railway Company (BNSF) shall consult with the California Public Utilities Commission (PUC) regarding PUC's concerns that abandoned track could cause safety hazards on roadways. BNSF shall report the results of this consultation to the Section of Environmental Analysis in writing.

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 would 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 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) 245-0230, 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 Danielle Gosselin, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub-No. 456X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Danielle Gosselin, the environmental

contact for this case, by phone at (202) 245-0300, fax at (202) 245-0454, or e-mail at danielle.gosselin@stb.dot.gov.

Date made available to the public: August 31, 2007.

Comment due date: September 14, 2007.

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

Vernon A. Williams
Secretary

Attachment