

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-988 (Sub-No. 1X)**

**Nebkota Railway, Inc. - Abandonment Exemption - in Dawes and Sheridan Counties, NE**

**BACKGROUND**

In this proceeding, Nebkota Railway, Inc. (NRI) filed a petition under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10903. NRI seeks to abandon an approximately 30.3-mile rail line between milepost 404.3 near Chardon and the end of the line at milepost 374 at Rushville, in Dawes and Sheridan Counties, Nebraska (“the Line”). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA). If the petition becomes effective, NRI would be able to salvage track, ties, and other railroad appurtenances and dispose of the right-of-way.

**DESCRIPTION OF THE LINE**

The Line proposed for abandonment is located in a rural agrarian section of Nebraska and has been used primarily to serve grain elevators in Hay Springs and Rushville. The majority of the Line was originally owned and operated by the Chicago and North Western Transportation Company, a predecessor to the Union Pacific Railway Company. NRI acquired the Line between Chadron and Merriman in 1994 and gained trackage rights between Chadron and Crawford at the same time. The section of NRI-owned rail line, between Rushville and Merriman, had previously been abandoned by NRI in 2006 due to a decline in traffic and sustained economic losses.<sup>1</sup> Based on information in NRI’s possession, the Line proposed for abandonment does not contain Federally granted right-of-way.

**ENVIRONMENTAL REVIEW**

NRI 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. NRI served the environmental and historic reports 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)]. The Board’s Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

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<sup>1</sup> This abandonment was approved pursuant to the Board’s Decision in STB Docket No. AB-988X, Nebkota Railway, Inc. - Abandonment Exemption - Sheridan and Cherry Counties, NE, served March 21, 2006.

## **Traffic**

According to NRI, only two shippers have been situated on the Line over the last three years. The two shippers consist of the Farmers Co-op Elevator Company of Hay Springs and West Plains Grain, Inc.<sup>2</sup> NRI states that neither shipper opposes the proposed abandonment and that no new rail-oriented customers are likely to locate along the Line. NRI indicates that it must abandon the Line as it is no longer economically viable due to the small amount of traffic on the Line. Between 2004 and 2006 neither shipper consigned a single inbound shipment and the combined outbound shipments have only averaged 336 carloads per year. Moreover, U.S. Highway 20 parallels the Line and thus provides an existing trucking alternative to the Line. In addition, the two existing shippers would be able to continue to receive railroad service at Chadron and between Chadron and Crawford.

NRI has indicated that the two businesses noted above shipped 487 carloads on the Line during 2006 (this includes 28 outbound cars from Hay Springs and 459 outbound cars from Rushville). Based on the traffic data from this same year, the proposed abandonment could thus result in an addition of 487 railcars to truck traffic per year. Using a conversion factor of 4 trucks per railcar,<sup>3</sup> SEA calculated that if all the rail traffic is diverted to truck traffic, about 2890 loaded trucks per year or 5780 total trucks (assuming an empty backhaul) could be added to area roadways during a 240 workday year.<sup>4</sup> This equates to an estimated 24 trucks per day being added to area roads per day. This increase in truck traffic would not exceed the Board's threshold of an increase of more than 10 percent of the average daily traffic or 50 vehicles on any affected road segment. See 49 CFR 1105.7 (e). Therefore, SEA concludes that the proposed abandonment would have no significant effect on air quality, noise or energy consumption.

## **Salvage Activities**

Rail line salvage and disposal activities 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.

To stem some of its economic losses, NRI states that it intends to remove rail and crossties following abandonment of the Line but would leave the ballast in place as NRI

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<sup>2</sup> West Plains Grain, Inc. owns NRI, and operates elevators at Chadron and Rushville and a transloading facility in Rushville.

<sup>3</sup> The conversion factor is an estimate used to calculate the rail to truck conversion of varied commodities.

<sup>4</sup> 240 workdays result when weekends and holidays are subtracted from a 365 day year.

anticipates future use of the right-of-way by the Nebraska Game and Parks Commission for trails use.

According to NRI, the proposed abandonment would not affect pending land use plans for Dawes or Sheridan Counties.

The U.S. Department of Agriculture, Natural Resources Conservation Service office located in Lincoln, Nebraska, has provided written notice to NRI that the area of the proposed abandonment does not contain prime farmlands.

In a March 2, 2007 letter to NRI, the U.S. Fish and Wildlife Service (FWS) in Grand Island, Nebraska stated that no significant adverse impacts to Federally listed threatened or endangered species protected under Section 7 of the Endangered Species Act are anticipated from the proposed abandonment. However, FWS noted that in the case that NRI must dispose of waste or spoil material outside the project's current scope, further Section 7 consultation may be required to assure that no adverse impacts occur to Federal trust fish and wildlife resources, including Federally listed species and Federally designated critical habitats.

FWS further indicated that the proposed abandonment is not likely to affect the bald or golden eagles protected under the Bald and Golden Eagle Protection Act. However, FWS noted that migratory birds, provided consideration under the Migratory Bird Treaty Act, could be impacted by the proposed abandonment if salvage activities are conducted during the following migratory bird nesting seasons: April 1 to July 15; February 1 through July 15; and July 15 through September 10. FWS recommends that field surveys for nesting birds be conducted if salvage activities are planned during these periods. FWS further requests that equal consideration be given regarding potential impacts to wetlands or streams and that compensation or restoration of wetlands may be required if significant impacts to these resources are anticipated. In order to address its combined concerns, SEA is recommending a condition requiring NRI to consult with FWS prior to initiating any salvage activities along the Line.

The Environmental Coordinator for the Midwest Regional Office of the National Park Service has indicated to NRI that it has no comment regarding the proposed abandonment.

NRI received a response from the U.S. Army Corps of Engineers (Corps), in Kearney, Nebraska regarding the proposed abandonment. The Corps indicated that in the event NRI proposes filling activities in Waters of the United States, the railway must apply for and receive a Core permit for any such work. Although NRI states that it does not intend to complete any such activities following abandonment of the proposed railroad, SEA will nevertheless ensure that Corps receives a copy of this EA for its review and comment.

The U.S. Environmental Protection Agency, Region 7, and the Nebraska Department of Environmental Quality both provided written notice to NRI indicating no concerns regarding the proposed abandonment.

The National Geodetic Survey identified forty-four (44) geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA is recommending a condition for NRI to provide 90 days written notice to NGS prior to the initiation of salvage activities.

## **HISTORIC REVIEW**

NRI submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Nebraska State Historical Society, the State Historic Preservation Officer (SHPO), pursuant to 49 CFR 1105.8(c). The SHPO stated in a February 20, 2007 letter to NRI that **no historic properties would be affected** within the area of potential effects of the proposed abandonment. However, the SHPO requests that in the event that previously unidentified archaeological sites are identified during salvage operations that NRI contact the SHPO immediately to assess any newly identified resources.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 CFR 800.4(d)(1), SEA has determined, with input from the SHPO, that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of NRI's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's web site at <http://www.stb.dot.gov>.

SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify Federally recognized tribes that may have ancestral connections to the project area. The database identified 12 tribes: the Pawnee Nation of Oklahoma; the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; the Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; the Standing Rock Sioux Tribe of North and South Dakota; the Santee Sioux Nation, Nebraska; the Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; the Lower Brule Sioux Tribe of the Brule Reservation, South Dakota; the Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; the Arapaho Tribe of the Wind River Reservation, Wyoming; and the Cheyenne-Arapaho Tribes of Oklahoma. A copy of this EA has been provided to the above tribes for review and comment.

## **CONDITIONS**

In order to mitigate the potential environmental impacts from the proposed abandonment, SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. Nebkota Railway, Inc. shall notify the National Geodetic Survey (NGS) at least 90 days prior to beginning any salvage activities in order to plan for the possible relocation of geodetic station markers by NGS.

2. Nebkota Railway, Inc. shall consult with U.S. Fish and Wildlife Service in Grand Island, Nebraska, prior to the initiation of salvage activities on the line proposed for abandonment.

## **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 and no salvage activities) and continued operation by another operator. In either 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 the time specified in the Federal Register notice. 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 EA, please send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Catherine Glidden, who prepared this EA. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link.

**Please refer to Docket No. AB-988 (Sub-No. 1X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Catherine Glidden the environmental contact for this case, by phone at 202-245-0293, fax at 202-245-0454, or e-mail at [gliddenc@stb.dot.gov](mailto:gliddenc@stb.dot.gov).

Date made available to the public: July 3, 2007.

**Comment due date: August 2, 2007.**

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

Vernon A. Williams  
Secretary

Attachment