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SEA

SERVICE DATE – JANUARY 13, 2009

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-1026X

**Bellingham International Railroad, LLC – Abandonment Exemption –
in Whatcom County, WA**

BACKGROUND

In this proceeding, Bellingham International Railroad (BIR) 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 Whatcom County, Washington. The rail line proposed for abandonment extends 2 miles from milepost 2.98 to milepost 4.98 in Bellingham (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.

ENVIRONMENTAL REVIEW

BIR submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BIR 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)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to BIR, no local traffic has moved over the Line for four years and no maintenance has been performed on any portion of the Line during this time. In addition, the Line is stub-ended and cannot handle overhead traffic. 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.

BIR states that, following abandonment, the Line may be suitable as a recreational trail and the City of Bellingham has already expressed an interest in using the right-of-way for this purpose. However, BIR indicates that the Line would not be needed as a road or highway as it is located in urbanized area and is already well served by a mature network of roads. According to the BIR, the land underlying the Line is actually owned by the BNSF Railway Company (BNSF) and BIR is obligated to transfer ownership of the Line including tracks, ties, and crossties to BNSF following abandonment of the rail service easement. BIR states that, to the best of its knowledge, BNSF intends to remove these railroad appurtenances following transfer of the property but has no plans to remove two bridges located along the Line or to disturb the underlying roadbed or conduct dredging or use fill as part of its salvage activities. According to BIR, BNSF plans to conduct salvage activities by using the existing right-of-way for access, along with existing public and private road crossings, and no new access roads are contemplated.

The Line is within a designated coastal county and crosses the Squalicum Creek at one location. The Washington State Department of Ecology (WADEQ) indicated by letter that consistency with its Coastal Management Program is required. Thus, we recommend that a condition be imposed on any decision granting abandonment authority requiring BIR to consult with WADEQ (Jessica Moore at (360) 407-7421 or jemo461@ecy.wa.gov) prior to beginning any salvage activities to determine whether state coastal management consistency certification is required. If consistency certification is required, the railroad shall be prohibited from performing any salvage activities until it obtains consistency certification and shall then notify SEA, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.* and the Board's environmental regulations at 49 CFR 1105.9.

In addition to the above, WADEQ recommends that BIR contact Jerry Shervey, (425) 649-7215, gsh461@ecy.wa.gov, at its Northwest Regional Office regarding potential requirements that may need to be met under Section 402 of the Clean Water Act. Rebekah Pladgett, (425) 649-7129, rp461@ecy.wa.gov, should be contacted regarding applicable requirements under Section 401 of the Clean Water Act. We are recommending conditions for the railroad to consult with WADEQ and the individuals noted above regarding compliance with these sections of the Clean Water Act.

In its letter, WADEQ also stated that BIR should be aware of approvals that may be required by the Army Corps of Engineers (Corps) under the Rivers and Harbors Act Section 10 and/or Clean Water Act Section 404 in the event any salvage activities associated with the proposed abandonment would impact waters of the United States. WADEQ also recommends that BIR use Best Management Practices when working near waters and wetlands.

The Corps has provided comments to BIR indicating that the area of the proposed abandonment may contain wetlands and recommends that BIR hire a qualified biologist if there is some question regarding the presence of wetlands. The Corps also requested additional information regarding the project area to include: a more detailed explanation of the proposed salvage work and further details regarding the disposition of the two bridges located along the Line. The Corps requires this information to determine whether Section 404 authorization is needed for the proposed abandonment. Therefore, SEA recommends a condition for BIR to consult with the Corps regarding its concerns.

The Natural Resources Conservation Service has indicated to BIR that the proposed abandonment would have no impact on prime agricultural or other important farmlands.

The U.S. Fish and Wildlife Service (FWS) has not submitted comments regarding the location of Federal trust resources under its jurisdiction and currently protected by the Endangered Species Act within the area of the proposed abandonment and/or potential impacts to such resources from any salvage activities.

According to BIR, there are no wildlife sanctuaries or refuges, National or State parks or forests along the Line that would be adversely affected by the proposed abandonment.

To date, no response has been received from the U.S. Environmental Protection Agency (EPA) regarding the proposed abandonment. SEA will ensure that EPA receives a copy of this EA for its comment.

SEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

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 the following agencies for review and comment: FWS; Corps; EPA; and WADEQ.

HISTORIC REVIEW

BIR served the historic report on the Washington State Department of Archaeology and Historic Preservation (SHPO), pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would not affect any known archaeological sites or 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(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 www.cast.uark.edu/other/nps/nacd/ to identify Federally recognized tribes that may have ancestral connections to the project area and identified as potentially having an interest in the proposed abandonment: the Lummi Tribe of the Lummi Reservation; the Nooksack Indian Tribe of Washington and the Upper Skagit Tribe of Washington. Copies of this EA will be sent to these tribes for their review and comment.

CONDITIONS

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

1. The Bellingham International Railroad, LLC. shall consult with the Washington Department of Environmental Quality (Jessica Moore, 360-407-7421, jemo461@ecy.wa.gov), prior to beginning salvage activities to determine whether state coastal management consistency certification is required. If consistency certification is required, the railroad shall be prohibited from performing any salvage activities until it obtains consistency certification and shall then notify the Board's Section of Environmental Analysis, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.* and the Board's environmental regulations at 49 CFR 1105.9.
2. The Bellingham International Railroad, LLC. shall consult with the Washington Department of Environmental Quality (Jerry Shervey 425-649-7215, ghshe461@ecy.wa.gov) prior to beginning salvage operations regarding any reasonable requirements it may have to comply with Section 402 of the Clean Water Act.
3. The Bellingham International Railroad, LLC. shall consult with the Washington Department of Environmental Quality (Rebekah Padgett 425-649-7219, rpad461@ecy.wa.gov) prior to beginning salvage operations regarding any reasonable requirements it may have to comply with Section 401 of the Clean Water Act.
4. The Bellingham International Railroad, LLC. shall consult with the Army Corps of Engineers (Corps) Prior to commencement of any salvage activities, regarding

potential impacts to waters of the United States, including wetlands, and shall comply with the reasonable requirements of the Corps.

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 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 Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, 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 Catherine Glidden, who prepared this EA. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING"

link. **Please refer to Docket No. AB-1026 (Sub-No. 0X) 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.

Date made available to the public: January 13, 2009.

Comment due date: January 28, 2009.

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

Anne K. Quinlan
Acting Secretary

Attachment