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SEA

SERVICE DATE – OCTOBER 18, 2005

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-6 (Sub-No. 430X)

BNSF Railway Company – Abandonment Exemption – in Oklahoma County, OK

STB Docket No. AB-1040X

**Stillwater Central Railroad, Inc. – Discontinuance of Service Exemption –
in Oklahoma County, OK**

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) and the Stillwater Central Railroad, Inc. (SLWC), (jointly Applicants) 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 and SLWC to discontinue service over a line of railroad in Oklahoma City, Oklahoma County, Oklahoma. The rail line proposed for abandonment extends approximately 2.95 miles from milepost 539.96 to milepost 542.91. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, BNSF will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to the Applicants, no local traffic has moved over the line for at least two years and the overhead traffic on the line can be rerouted. The line passes through an urban, generally flat area in Oklahoma City. According to the Applicants, Oklahoma City had a population of 506,132 in 2000. The right-of-way of the rail line is generally 100 to 200 feet wide and is in an east-west direction. A portion of the line crosses the North Canadian River.

The Applicants state that there are four bridges and two underpasses that would be affected by the abandonment. The two underpasses are the Robinson Street Underpass at milepost 540.45 and the Walker Street Underpass at milepost 540.67. These underpasses were determined eligible for listing in the National Register of Historic Places.

The City of Oklahoma City has submitted comments stating that the right-of-way proposed for abandonment is being evaluated by the city for use as a future rail link between the central business district and the regional airport and Federal Aviation Administration Center.

ENVIRONMENTAL REVIEW

The Applicants submitted an environmental and historic 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. The Applicants served the environmental and historic 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.

As stated above, no local traffic has moved on the line segment for at least two years, and overhead traffic could be rerouted over other lines. 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.

The Applicants state that the proposed abandonment may include removal of all rails, ties, bridges and structures on the line. According to the Applicants, the Oklahoma Department of Transportation has requested that BNSF abandon the eastern half of the line to accommodate the relocation of Interstate 40 through downtown Oklahoma City. The Applicants state that the abandonment of the western portion of the line would lead to the elimination of a diamond crossing and several street crossings. During salvage operations, if any may be required, Applicants indicate that precautions would be taken to ensure public safety, and contractors would be required to satisfy all applicable health and safety laws and regulations. Accordingly, we will recommend a condition requiring BNSF to conduct salvage operations in the manner it has proposed.

The Natural Resources Conservation Service (NRCS) submitted comments stating that no prime farmland or wetlands on agricultural land would be affected by the proposed abandonment. However, NRCS recommended that proper erosion and sediment control structures be implemented and maintained during salvage activities. Accordingly, we will recommend a condition requiring BNSF to consult with NRCS prior to beginning salvage activities regarding its recommendations.

The U.S. Fish and Wildlife Service submitted comments stating that it does not object to implementation of the proposed abandonment. Based on information provided by the Oklahoma Department of Wildlife Conservation, it also appears that no state listed threatened or endangered species occur in the area.

The Oklahoma Tourism and Recreation Department (OTRD) submitted comments requesting that Applicants avoid adversely affecting the Wheeler Park Softball Stadium, which is located near the right-of-way of the proposed abandonment. Accordingly, we will recommend

that a condition be imposed requiring BNSF to consult with OTRD prior to beginning salvage activities to address OTRD's concerns.

The U.S. Environmental Protection Agency (EPA) provided comments stating that, based on the information provided by the Applicants, it believes that a stormwater permit would not be required for the proposed abandonment. However, EPA states that the Oklahoma Department of Environmental Quality (ODEQ) has received authorization from EPA to implement the National Pollutant Discharge Elimination System program. Thus, EPA recommends that BNSF should consult with ODEQ to determine stormwater permitting requirements. ODEQ submitted comments stating that if the proposed abandonment would disturb more than one acre of land, a Storm Water Discharge General Permit would be required. Accordingly, we will recommend a condition requiring BNSF to consult with ODEQ prior to beginning salvage activities and to comply with the reasonable requirements of ODEQ.

The U.S. Army Corps of Engineers (Corps) submitted comments indicating that based on the information provided by the Applicants, it appears that a Corps permit would not be required. However, if salvage activities would require discharge into the North Canadian River or its tributaries, the Corps requests the opportunity to reexamine the project to determine whether a Corps permit would be required. Accordingly, we will recommend a condition requiring BNSF to submit final salvage plans to the Corps and to comply with the reasonable requirements of the Corps.

HISTORIC REVIEW

Applicants served the environmental and historic report on the Oklahoma Historical Society (State Historic Preservation Officer or SHPO), pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the four bridges on the line are not eligible for listing on the National Register of Historic Places (National Register). The two underpasses were determined eligible for listing in the National Register on October 18, 1999, during the assessment of the Interstate 40 project, and the adverse effects to these structures were mitigated through a Memorandum of Agreement developed between the SHPO and the Federal Highway Administration. Thus, the SHPO states that no further evaluation of the underpasses is necessary. 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 Applicants' historic report, all relevant correspondence, and this Environmental Assessment (EA), which have been provided to the SHPO and made available to the public.

SEA is required to consult with tribes pursuant to 36 CFR 800.3(f)(2) to seek their input regarding any National Register eligible properties of traditional religious and cultural

significance that may be affected by the proposed abandonment. The SHPO informed SEA that the following tribes may have an interest in receiving information about the proposed abandonment: Muscogee Creek Nation; Seminole Nation; Osage Nation; Wichita & Affiliated Tribes; and Caddo Nation. SEA has added the tribes to the service list for this proceeding to ensure that they receive a copy of this EA for their comment.

CONDITIONS

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

1. **As agreed to by BNSF Railway Company (BNSF), BNSF shall take precautions during salvage operations to ensure public safety, and shall ensure that salvage contractors satisfy all applicable health and safety laws and regulations.**
2. **BNSF Railway Company shall consult with the Natural Resources Conservation Service (NRCS) prior to beginning salvage activities regarding NRCS' recommendations for the use of erosion and sediment control structures.**
3. **BNSF Railway Company shall consult with the Oklahoma Tourism and Recreation Department (OTRD) prior to beginning salvage activities to address OTRD's concerns regarding the Wheeler Park Softball Stadium.**
4. **BNSF Railway Company shall consult with the Oklahoma Department of Environmental Quality (ODEQ) prior to beginning salvage activities and shall comply with the reasonable requirements of ODEQ.**
5. **BNSF Railway Company shall submit final salvage plans to the U.S. Army Corps of Engineers (Corps) 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 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) 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 Rini Ghosh, 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. 430X) and/or AB-1040X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Rini Ghosh, the environmental contact for this case, by phone at (202) 565-1539, fax at (202) 565-9000, or e-mail at ghoshr@stb.dot.gov.

Date made available to the public: October 18, 2005.

Comment due date: November 2, 2005.

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

Vernon A. Williams
Secretary

Attachment