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SEA

SERVICE DATE – DECEMBER 20, 2005

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (Sub-No. 434X)

BNSF Railway Company – Abandonment Exemption – in Fergus 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. BNSF seeks to abandon 21.25 miles of track and railroad right-of-way in Fergus County, Montana. The subject line extends between MP 9.50 near Moore to MP 28.35 near Lewiston, and includes the 1.30 mile Berg Lumber Spur (MP 0.00 to MP 1.30) and the 1.10 mile Heath Spur (MP 0.00 to MP 1.10). A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA). If the petition becomes effective, the railroad 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 two railroads between 1903 and 1917. The Great Northern Railway (GN) acquired part of the right-of-way. The balance of the right-of-way was acquired by the Montana Railroad Company, a predecessor of the Chicago Milwaukee St. Paul and Pacific Railway (CMSTP&P). CMSTP&P went bankrupt and the former Burlington Northern Railroad (BN) acquired the CMSTP&P trackage around 1980. GN merged in March 1970 to become part of BN. In September 1995, BN and the Atchison Topeka and Santa Fe Railway merged to become the Burlington Northern and Santa Fe Railway, which changed names in January 2005, to BNSF Railway Company.

BNSF indicates that the right-of-way varies in width from 100 to 200 feet. Most of the right-of-way is rural in nature, but part of the right-of-way goes through Lewistown, a city with a 2000 population of 5,813 residents. Fergus County had a 2000 population of 11,893. The adjoining real estate is agricultural and flat to hilly. Wheat is a primary crop grown in the area. Abandonment of the line would result in the elimination of 39 public and 15 private crossings. There are two railroad stations along the line, Glengarry and Lewistown, with a depot in Lewistown. There are five bridges that are 50 years old or older on the line which may be eligible for listing in the National Register of Historic Places as part of the proposed action. Four bridges between Moore and Lewistown built between 1950 and 1955 vary in length between 64 and 80 feet. One bridge located on the Heath Spur was built in 1955 and is 49 feet in length.

No local traffic has moved over the line for at least two years and there is no overhead traffic to be rerouted. No rail traffic will be diverted to truck traffic as a result of the proposed abandonment. Therefore, the Board's thresholds of 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. The right-of-way may be suitable for use for other public purposes such as a trail. The City of Lewistown and Fergus County are both interested in possibly pursuing railbanking to preserve the corridor for future transportation and utility uses as well as some recreational trails. The Board of Commissioners of Fergus County filed an objection to BNSF's notice of exemption on December 1, 2005. They have concerns about the potential of hazardous materials on the roadbed, and have requested that the Board facilitate the donation of the line to Fergus County. On part of the properties involved, title considerations may affect the conveyance of the land for use other than railroad purposes. Based on information in BNSF's possession, the line does contain federally granted rights-of-way.

During any salvage operations on the line, precautions would be taken by BNSF to ensure public safety. Contractors would be required to satisfy all applicable health and safety laws and regulations. In addition, BNSF would require its private contractors to comply with all federal, state and local laws and regulations pertaining to the environment, including, but not limited to noise, air quality, water quality, and items of potential archaeological significance.

ENVIRONMENTAL REVIEW

BNSF 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. 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 has indicated that there are known hazardous waste sites where there have been hazardous material spills on the right-of-way. On February 9, 1995, there was a release of RP Mercaptan 5 (odor agent for propane) at the Pacific Hide and Fur Depot (leased property). The former Montana Power Company was responsible for the release of the RP Mercaptan 5 odor agent and they handled the cleanup of the site. On October 16, 1996, 100 gallons of diesel fuel was spilled near the Lewistown depot. A BNSF contractor handled the cleanup of the site. A tarry substance was recently discovered on the Berg Lumber Spur in Lewistown. Approximately 500 feet of track has been removed and the right-of-way excavated to a depth of approximately twelve inches as part of the Berg Lumber Spur clean-up. BNSF is currently awaiting sample results from a lab to ensure that all contamination has been removed. This material has been removed from the site. BNSF is working with the State of Montana Department of Environmental Quality (MT DEQ) to ensure that cleanup work at the site has been completed. Accordingly, we recommend a condition requiring that BNSF continue consultation with the MT DEQ to ensure that cleanup of the tarry substance discovered on the Berg Lumber Spur site in Lewistown is completed

appropriately.

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) in Lewistown, Montana, has indicated that the line does cross farmlands that would be Prime Farmland irrigated. NCRS states in their letter of June 9, 2005, that because the abandonment entails only the proposed removal of the tracks and railroad ties, the impact on these lands is not a significant action that would prohibit use of these lands for future agricultural production.

The United States Department of the Interior, Bureau of Land Management in Lewistown, Montana, has indicated that there are no wildlife sanctuaries or refuges, National or State parks or forests in the proposed project area.

The National Park Service, Intermountain Region in Denver, Colorado, has reviewed the project and determined that no parks would be affected and therefore they have no comments.

The United States Department of the Army, Corps of Engineers, Omaha District, Helena Regulatory Office has indicated that based on the information provided, no fill material would be placed either temporarily or permanently in a water of the United States, and no Department of the Army permit would be required for this abandonment.

The Montana Department of Environmental Quality (MT DEQ) Water Protection Bureau in Helena is unable, based on the information submitted at this time, to determine what water quality related permits would be necessary for the proposed project. Accordingly, we will recommend a condition requiring that BNSF consult with MT DEQ Water Protection Bureau regarding Montana Water Quality Act requirements prior to commencement of salvage activities.

The United States Department of the Interior, Fish and Wildlife Service, Montana Field Office (US FWS) in Helena, Montana has determined that three federally listed species may be present in the action area: Pallid Sturgeon (*Scaphirhynchus albus*), Bald Eagle (*Haliaeetus leucocephalus*), and the Black-footed Ferret (*Mustela nigripes*). US FWS suggests the avoidance and minimization of impacts to any wetland areas, stream channels and surrounding vegetation to the greatest extent possible. We will recommend a condition requiring that BNSF consult with US FWS prior to commencement of salvage activities to determine possible impacts to species of federal concern.

The Montana Department of Fish, Wildlife & Parks (MT FW&P) has indicated that it owns and operates many sites in the Lewistown vicinity due to its proximity to Big Spring Creek, which is considered to be one of the most valuable fisheries resources in Montana. Public access to this stream is very important to the local economy and to visiting anglers and recreationists. MT FW&P encourages BNSF to continue to provide for future public access along the proposed abandoned right-of-way wherever possible. MT FW&P states that it intends to submit additional comments regarding the proposed abandonment and its effects from local staff more

knowledgeable about possible impacts. Accordingly, we will recommend a condition requiring that BNSF consult with MT FW&P prior to commencement of salvage activities to determine possible effects on MT FW&P owned sites in the Lewistown vicinity.

HISTORIC REVIEW

BNSF submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)]. BNSF served the report on the Montana Historical Society (SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that some sites in the area may be eligible for listing on the National Register of Historic Places. The SHPO feels that this project has the potential to impact cultural properties, and therefore recommends that a cultural resource inventory be conducted in order to determine whether or not sites exist and if they will be impacted. We, therefore, recommend a condition to address this concern.

The National Park Service National Center for Cultural Resources Native American Consultation Database (NACD) was queried for Fergus County, Montana to identify consultation contacts for federally recognized Indian Tribes which might have an interest in the proposed BNSF abandonment. The query resulted in identification of two tribes. SEA has added the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana and the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana (Gros Ventre & Assiniboine Tribes) to the service list for this proceeding to ensure that they receive a copy of this EA for their comment.

CONDITIONS

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

1. BNSF Railway Company shall continue consultation with the State of Montana Department of Environmental Quality to ensure that cleanup of the tarry substance discovered on the Berg Lumber Spur site in Lewistown is completed appropriately.
2. To address the concerns of the Montana Department of Environmental Quality, Water Protection Bureau (MT DEQ), prior to commencement of any salvage activities, BNSF Railway Company shall consult with MT DEQ concerning Montana Water Quality Act requirements.
3. To address the concerns of the United States Department of the Interior, Fish and Wildlife Service (US FWS), Montana Field Office, prior to commencement of any salvage activities, BNSF Railway Company shall consult with US FWS concerning possible impacts to species of federal concern.
4. To address the concerns of the Montana Department of Fish, Wildlife & Parks (MT FW&P), prior to commencement of any salvage activities, BNSF Railway Company shall consult with MT FW&P concerning possible effects on MT FW&P owned sites in the

Lewistown vicinity.

5. BNSF Railway Company shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation 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, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub-No. 434X) 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.

Date made available to the public: December 20, 2005.

Comment due date: January 4, 2006 (15 days).

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

Vernon A. Williams
Secretary

Attachment