

On August 28, 2008, the Port of Moses Lake (Port) filed a petition with the Surface Transportation Board (STB) seeking an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901¹ for the construction and acquisition of approximately 11.5 miles of new and existing rail line in Grant County, Washington.² Columbia Basin Railroad Company, Inc. (CBRW) intends to file a verified notice of exemption to operate over the rail lines that are the subject of the Port's Petition for Exemption. The proposed rail project (also known as the Build Alternative) is the action that is evaluated in this Preliminary Environmental Assessment (EA).

The STB, pursuant to 49 U.S.C. 10901, is the agency responsible for granting authority for the construction and operation of new rail line facilities. The Washington State Department of Transportation (WSDOT) is responsible for operating and improving the state's transportation systems. The STB, through its Section of Environmental Analysis (SEA), and WSDOT are co-lead agencies responsible for the preparation of this EA.³

Why did the STB and WSDOT prepare an Environmental Assessment?

Under the National Environmental Policy Act (NEPA),⁴ the STB must take into account in its decision-making the environmental impacts of its actions, including direct, indirect and cumulative impacts. The STB must consider these impacts before making its final decision in a case. SEA assists the STB in meeting this responsibility by conducting an independent environmental review of cases filed with the agency and preparing any necessary EA or Environmental Impact Statement (EIS).

An EA is a public disclosure document required by NEPA that analyzes potential environmental impacts, as well as alternatives to the proposed action. Coordination with federal, state, and local agencies; applicants; Tribes; and the public are key elements in the preparation of an EA. When the preliminary

¹ Under 49 U.S.C. 10502, the STB must exempt the proposed construction of a rail line from the requirements of 49 U.S.C. 10901 if it finds that regulation of the project: (1) is not necessary to carry out the transportation policy of 49 U.S.C. 10102; and (2) either: (a) the transaction or service is of limited scope, or (b) the application of a subdivision of subtitle IV of the ICC Termination Act of 1995 is not needed to protect shippers from the abuse of market power.

² The proposed 11.5-mile-long rail route includes the acquisition and rehabilitation of approximately three miles of existing track that is currently owned by Columbia Basin Railroad Company (CBRW). In addition, the proposed 11.5-mile-long rail route includes the acquisition of approximately 0.5 miles of existing track, for which no construction or rehabilitation is planned. Accordingly, the 0.5-mile rail segment was not evaluated in this EA.

³ The STB and WSDOT are co-lead agencies pursuant to 40 Code of Federal Regulations (CFR) 1501.5(b).

⁴ 40 CFR 1500 et seq.

analysis is completed, an EA is issued and government agencies, Tribes, and the public have an opportunity to review and comment on the document. The purpose of an EA is to provide enough analysis to determine whether a proposed project would have significant environmental impacts, in which case an Environmental Impact Statement is required. When no significant impacts are found or significant impacts can be mitigated, that results in a “Finding of No Significant Impact.”

Under Washington’s State Environmental Policy Act (SEPA)⁵, any agency that proposes to take an official action is required to perform an environmental review to identify any impacts that may result from the action.

This EA identifies and analyzes the potential environmental impacts associated with the construction, acquisition and operational components of the proposed Build Alternative. SEA and WSDOT prepared this EA in accordance with NEPA, the Council on Environmental Quality (CEQ) guidelines,⁶ the STB’s environmental regulations,⁷ Washington SEPA, WSDOT requirements,⁸ Executive Orders,⁹ and other applicable federal and state laws.

SEA and WSDOT are issuing this EA for public review and comment. SEA will consider all comments received on this document in making its final recommendations to the STB. The STB will consider the entire environmental record, all comments, and SEA’s final recommendations in making its final decision in this proceeding. The STB will decide whether to approve, approve with conditions (which could include environmental conditions to mitigate impacts), or deny the proposed action.

What is the role of the Surface Transportation Board?

The ICC Termination Act of 1995¹⁰ established the STB to assume certain regulatory activities that the Interstate Commerce Commission (ICC) had previously administered, particularly those related to the regulation of railroads. The STB has jurisdiction over certain transportation matters such as railroad acquisitions, rail line construction, and abandonment of rail service.

SEA is responsible for conducting the environmental review of the proposed Northern Columbia Basin Railroad (NCBR) Project on behalf of the STB. In preparing this EA with WSDOT, SEA identified issues and areas of potential

⁵ Revised Code of Washington (RCW). 43.21C.

⁶ 43 CFR § 1508.9(b).

⁷ 49 CFR Part 1105.

⁸ WSDOT’s *Environmental Procedures Manual* outlines the department’s legal requirements related to natural and man-made environmental resources. The *Environmental Procedures Manual* provides guidance on environmental procedures for WSDOT and its environmental consultants. The *Environmental Procedures Manual* may be viewed online at <http://www.wsdot.wa.gov/Publications/Manuals/M31-11.htm>.

⁹ Executive Order (EO) 12898 (Federal Register 1994), *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.

¹⁰ ICC 1995. L, pp 104-88; p. 109 no. 803.

environmental impact, analyzed the potential environmental impacts of the proposed rail project, reviewed agency and public comments, and developed mitigation measures to avoid or reduce anticipated impacts on the environment.

In accordance with the STB's environmental regulations at 49 CFR 1105.4(j) and 1105.10(d), SEA approved HDR Engineering, Inc., to act as the independent third-party consultant. Under the direction, supervision, and approval of SEA, the third-party contractor develops the technical data required to conduct the environmental review of the proposed project and assists in the preparation of the EA.

What is the role of the Washington State Department of Transportation?

WSDOT's mission is "to keep people and business moving by operating and improving the state's transportation systems vital to taxpayers and communities,"¹¹ while "protecting and preserving natural resources and other environmental assets and its citizens' health and safety."¹²

The economic vitality of Washington State requires a strong rail system capable of providing its businesses, ports, and shippers with competitive access to North American and international markets.

WSDOT's State Rail & Marine Office is responsible for managing and directing the state's capital freight and passenger rail programs, and working with private and federal railroads to ensure safe, consistent, and efficient service all across Washington State. In addition, the State Rail & Marine Office is responsible for environmental compliance for rail projects that are funded through its office.

For the Northern Columbia Basin Railroad Project, the State Rail & Marine Office assisted SEA in the preparation of this EA. WSDOT also provided technical expertise specific to Washington State.

Who is the project applicant?

The Port of Moses Lake is a municipality of Washington State that is chartered for economic development. As a municipality, it is similar in nature to cities, counties and other municipal organizations. State law authorizes Port Districts to be established in various counties of the state for purposes of industrial

¹¹ *WSDOT Mission Statement*, found at <http://www.wsdot.wa.gov/accountability/mgmtprinciples.htm>.

¹² *WSDOT Environmental Policy Statement*, September 26, 2001, found at <http://www.wsdot.wa.gov/Environment/PolicyStatement.htm>.

improvements and economic development.¹³ The Port is governed by three elected commissioners who represent the district.

CBRW would operate over the rail lines that are part of the proposed project. CBRW is a Class III short line rail carrier¹⁴ incorporated in Washington State and headquartered in Yakima, Washington. CBRW serves central Washington via its main line between Connell and Wheeler. It connects with the BNSF Railway Company's main line at Connell. A map showing the CBRW rail line and its connection to the national rail system can be found in Chapter Two, **Exhibit 2.1**.

Organization of the EA

This EA is organized as follows:

- The Executive Summary provides a brief description of the project and the potential environmental impacts associated with the proposed rail line construction and operation.
- Chapter One introduces the environmental process.
- Chapter Two describes the purpose and need of the proposed project.
- Chapter Three describes the proposed project and its alternatives.
- Chapter Four describes the project area and the existing environmental conditions.
- Chapter Five identifies the potential environmental impacts of the proposed project and its alternatives.
- Chapter Six addresses mitigation measures.
- Chapter Seven offers a conclusion statement.
- Chapter Eight describes the agency consultation process and public involvement opportunities.
- Chapter Nine provides information about the individuals who prepared the EA.
- Chapter Ten lists the references used for preparing the EA.

¹³ RCW 53.04.010.

¹⁴ A "short line" railroad is a railroad that generally serves industries in small communities by providing a link to the larger, national rail network.