

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**AB-6 (Sub No. 425X)**

**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY –  
ABANDONMENT EXEMPTION – IN CHASE, MORRIS, MARION AND DICKINSON  
COUNTIES, KS**

**BACKGROUND**

The Burlington Northern and Santa Fe Railway (BNSF) has filed a notice of exemption under 49 CFR 1152 to abandon its entire line of railroad between BNSF M.P. 0.00 near Neva, Kansas and M.P. 25.45 near Lost Springs, in Chase, Morris, Marion and Dickinson Counties, Kansas, a total distance of 25.57 miles. A map depicting the rail line in relationship to the area served is appended to the report. If the exemption becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances, and to dispose of the right-of-way.

**CONTACTS AND PROCEDURES**

The railroad has 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. The railroad has served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules at 49 CFR 1105.7(b). We have investigated the record in this proceeding. Also, we have consulted with appropriate agencies and individuals to verify the railroad's report and to obtain additional information and comments regarding the potential environmental effects of the proposed abandonment. Contacts have included Natural Resources Conservation Service, State Historic Preservation Officer, National Park Service, U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Department of Agriculture, and National Geodetic Survey.

**ENVIRONMENTAL REVIEW**

BNSF states that there has been no overhead traffic and no local traffic on the rail line for over two years. The proposed abandonment should have no effect on regional or local transportation systems and patterns. All activities associated with the proposed abandonment would be confined to the rail line right-of-way (ROW) and would not affect adjacent land use or

any important farmland along the line. The ROW is not within a designated coastal zone.

BNSF believes that the proposed abandonment would not be inconsistent with local or regional land use plans. In response to BNSF's notice of exemption, the Morris County and Chase County Board of Commissioners advised the railroad of their opposition to the creation of a recreational trail on this rail corridor because an existing recreational trail in Morris County has is poorly maintained. BNSF states that it would work with Morris County in regards to concerns raised about any potential development of the rail corridor.

The proposed action would not result in an increase in local or regional truck traffic, air emissions, or noise levels because the line is out of service. The proposed action should have no adverse effect on health or public safety. BNSF states that during salvage operations on the line, if required, precautions would be taken to ensure public safety, and its contractors would be required to satisfy all applicable health and safety laws and regulations. BNSF states that there is no evidence of known hazardous waste sites or hazardous materials spills sites on the right-of-way.

The rail line crosses three streams in which the federally listed endangered Topeka shiner (*Notropis topeka*) has been found. The streams, all located on the segment between Neva and Hymer, include Gannon Creek, Mulvane Creek, and Schaffer Creek, in Chase County. The U.S. Fish and Wildlife Service (USFWS) states that as long as abandonment or salvage activities would not affect the streams or stabilizing riparian vegetation in any way, there should be no adverse impact to this listed species. However, USFWS advises that if BNSF determines that abandonment or salvage activities may in some way impact the streams, BNSF should contact USFWS for a determination of the need for formal consultation pursuant to section 7 of the Endangered Species Act.

If salvage activities results in any modification to waterways, the Kansas Department of Wildlife and Parks (KDWP) advises that it should again be notified of such activities so that it can determine if the activities warrant an Action Permit from this agency. KDWP also states that BNSF should implement standard erosion control Best Management Practices, temporary weed-free seeding/mulching to protect water quality during demolition, and the use of native grasses and forbs to permanently revegetate any areas disturbed by salvage activity. KDWP advises that the project would not impact any public recreational areas.

BNSF maintains that no work is proposed within any jurisdictional waters, including wetlands, and that proposed salvage activities would not involve the discharge of dredged or fill material in waters of the United States and an Army Corps of Engineers permit would not be required. Chase and Marion Counties have advised that a portion of the rail line passes through several areas of the 100-year floodplain. BNSF does not believe that the proposed exemption would affect any designated wetlands or 100-year flood plains. BNSF maintains that the segment of line proposed for abandonment is not located in a designated flood plain. To ensure that the 100-year floodplain is not adversely affected, SEA recommends that BNSF again consult with Chase and Marion Counties regarding the location of the floodplain and potential impacts to the floodplain prior to any salvage activities.

BNSF states that any salvage operations that may result from abandonment would be in accordance with BNSF's general practice of requiring 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 resources of archaeological significance.

### **Cultural and Historic Resources**

The railroad submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)]. The railroad served the report on the State Historic Preservation Officer (SHPO) pursuant to 49 CFR 1105.89 9(c). The SHPO has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) have been identified within the area of potential effects that would be affected by the proposed abandonment. We have reviewed 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 800.4(d)(1) and 36 CFR 800.8, we have determined that the proposed abandonment would not 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.

The National Geodetic Survey reviewed this proposed project and determined that 24 geodetic station markers may be affected by the proposed abandonment: JF -0290, JF 0240 - 0247, JF 0385 - 0398 and JF - 0400. If there are any planned activities which would disturb or destroy these markers, NGS requires not less than 90 days notification in advance of such activities in order to plan for their relocation.

### **CONDITIONS**

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

1. The rail line crosses three streams in which the federally listed endangered Topeka shiner (*Notropis topeka*) has been found. The streams, all located on the segment between Neva and Hymer, include Gannon Creek, Mulvane Creek, and Schaffer Creek, in Chase County. If BNSF determines that abandonment or salvage activities may in some way impact these streams, BNSF shall contact USFWS for a determination of the need for formal consultation pursuant to section 7 of the Endangered Species Act.
2. If any modification to streams along the right-of-way are necessary, the Kansas Department of Wildlife and Parks (KDWP) should again be notified of such activities so that it can be determined if the activities warrant an Action Permit from this agency.
3. Based on the recommendation of KDWP, BNSF shall implement standard erosion

control Best Management Practices, temporary weed-free seeding/mulching to protect water quality during demolition, and the use of native grasses and forbs to permanently revegetate any areas disturbed by salvage activity.

4. The National Geodetic Survey has determined that 24 geodetic station markers may be affected by the proposed abandonment: JF - 0290, JF 0240 - 0247, JF 0385 - 0398 and JF - 0400. If there are any planned activities which would disturb or destroy these markers, BNSF should contact NGS not less than 90 days in advance of such activities in order to plan for their relocation.
5. To ensure that the 100-year floodplain is not adversely affected, BNSF should consult with Chase and Marion Counties again regarding the location of the floodplain and potential impacts to the floodplain prior to any salvage activities.

## **CONCLUSIONS**

Based on the information provided from all sources to date, we conclude that, as currently proposed, 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 any 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 petition for 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, Room 848, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this environmental assessment, you should send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Phillis Johnson-Ball, who prepared this environmental assessment. **Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov) by clicking on the "E-Filing" link. Please refer to Docket No. AB 6 (Sub No. 425X) in all correspondence addressed to the Board.** If you have questions regarding this environmental assessment, you should contact Phillis Johnson-Ball at (202) 565-1530.

Date made available to the public: 10/04/04.

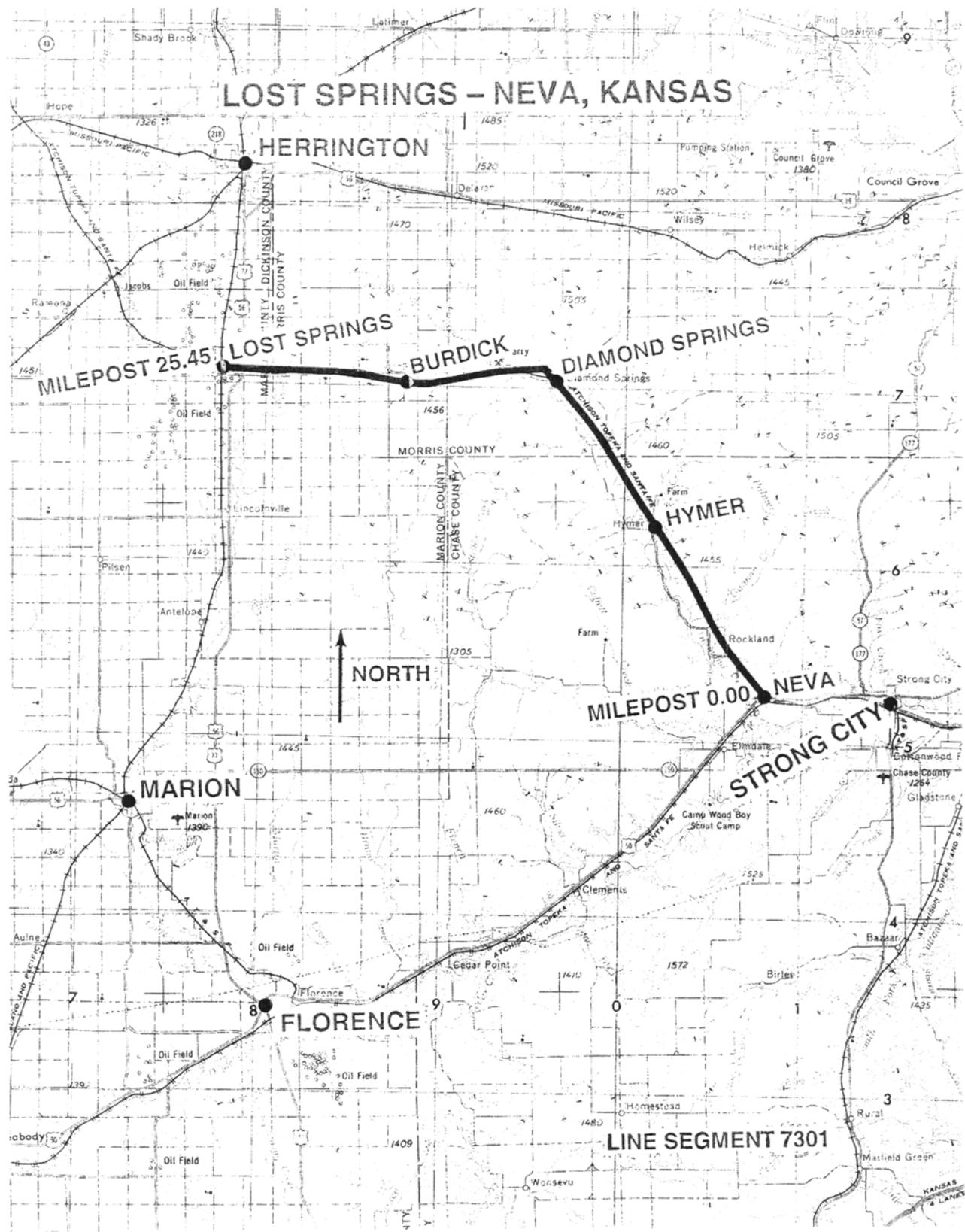
**Comment due date:** 10/19/04

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

Vernon A. Williams  
Secretary

Attachment

# LOST SPRINGS – NEVA, KANSAS



LINE SEGMENT 7301