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SEA

SERVICE DATE – FEBRUARY 7, 2006

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-6 (Sub-No. 436X)**

**BNSF Railway Company – Abandonment Exemption – in Park County, WY**

**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 0.11 mile of track and railroad right-of-way between MP 42.59 to MP 42.70 near Cody in Park County, Wyoming. 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 the Chicago, Burlington and Quincy Railroad (CBQ) in 1875. CBQ merged with other railroads to become the Burlington Northern Railroad (BN) in 1970. BN and the Atchison Topeka and Santa Fe Railway merged to become the Burlington Northern and Santa Fe Railway in 1995, which changed names to BNSF Railway Company in January 2005.

According to BNSF, the line is located at the end of a branch line in a commercial area of Cody. Cody had a 2000 population of 8,835 residents. BNSF indicates that the right-of-way is 200 feet wide. Based on information in BNSF's possession, the line does contain federally granted rights-of-way. There are no public crossings and no private crossings on the line. BNSF states that there are no railroad structures on the line that are 50 years old or older.

BNSF states that 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.

BNSF indicates that there are no known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way. BNSF states that precautions will be taken during salvage operations to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

## **ENVIRONMENTAL REVIEW**

BNSF submitted an environmental report that concludes the quality of the human environment would 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.

The United States Department of Agriculture, Natural Resources Conservation Service in Powell, Wyoming has indicated that, after investigation of the soils in the area of the proposed line abandonment, there would be no effects on prime agricultural lands.

The United States Department of the Interior, National Park Service, Intermountain Region in Denver, Colorado has reviewed the project and determined that no National Park Service units or National Natural Landmarks would be affected and therefore they have no comments.

The United States Department of the Army, Corps of Engineers, Omaha District (Corps) does not have any flood plain related comments. The Corps is concerned that National Wetlands Inventory maps or other resources may not have been consulted to determine the presence or absence of wetlands in the proposed abandonment area. If abandonment activities involve any work in waters of the United States, a Section 404 permit may be required. Accordingly, we will recommend a condition requiring that BNSF consult with the Corps' Wyoming Regulatory Office prior to commencement of salvage activities regarding possible Section 404 requirements.

The United States Department of the Interior, Bureau of Land Management in Cody, Wyoming has indicated that there are no endangered or threatened species, wildlife sanctuaries, refuges, or areas designated as critical habitat adjacent to or near the proposed line abandonment.

The United States Department of the Interior, Fish and Wildlife Service (USFWS) Wyoming Field Office has determined that two threatened species which may require specific protective measures in accordance with the Endangered Species Act may be present in or near the project area: Bald Eagle (*Haliaeetus leucocephalus*) and the Ute ladies'-tresses (*Spiranthes diluvialis*). USFWS also indicates that specific protective measures may be appropriate for migratory birds in accordance with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. USFWS 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 USFWS prior to commencement of salvage activities to determine possible impacts to species of federal concern.

The State of Wyoming Department of Transportation (WYDOT) in Cheyenne, Wyoming has indicated that the proposed abandonment does not appear to conflict with any future plans of WYDOT or local/county governments and is consistent with local land use plans. WYDOT is not aware of any alternate land uses for the corridor at this time. The Park County Board of Commissioners has also indicated that the proposed action would not affect their land use plan and they are not aware of any alternate public uses for the corridor.

The Wyoming Department of Environmental Quality Water Quality Division has indicated that the proposed rail line abandonment is not likely to require Wyoming Pollutant Discharge Elimination System permits for point source discharge or storm water runoff. The Environmental Protection Agency, Region 8 Storm Water Coordinator also indicated that the proposed abandonment would not require storm water permit coverage as the area of the project is less than one acre.

## **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 Wyoming State Historic Preservation Office (SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has concurred with BNSF's assessment that the proposed abandonment would have no adverse effect on 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(e), consists of BNSF's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

The SHPO recommends that the Board allow the project to proceed in accordance with state and federal laws subject to the stipulation that if any cultural materials are discovered during construction, work in the area shall halt immediately, the Board must be contacted, and the materials evaluated by an archaeologist or historian meeting the Secretary of the Interior's Professional Qualification Standards (48 FR 22716, Sept. 1983). We will recommend a condition accordingly to address the SHPO's concern.

The National Park Service National Center for Cultural Resources Native American Consultation Database (NACD) was queried for Park County, Wyoming 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 three tribes. SEA has added the Crow Tribe of Montana, the Shoshone Tribe of Wind River Reservation, and the Shoshone-

Bannock Tribes of Fort Hall 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 three environmental conditions be placed on any decision granting abandonment authority:

1. To address the concerns of the United States Department of the Army, Corps of Engineers, Omaha District (Corps), BNSF shall consult with the Corps' Wyoming Regulatory Office prior to commencement of salvage activities regarding possible Section 404 requirements.
2. To address the concerns of the United States Department of the Interior, Fish and Wildlife Service (USFWS) Wyoming Field Office, prior to commencement of any salvage activities, BNSF shall consult with USFWS concerning possible impacts to species of federal concern.
3. To address the concerns of the Wyoming State Historic Preservation Office, BNSF shall halt work immediately if any cultural materials are discovered during salvage operations, contact the Board, and have the materials evaluated by an archaeologist or historian meeting the Secretary of the Interior's Professional Qualification Standards.

### **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](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub-No. 436X) 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](mailto:blodgettk@stb.dot.gov).

Date made available to the public: February 7, 2006.

**Comment due date: February 22, 2006 (15 days).**

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

Vernon A. Williams  
Secretary

Attachment