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SEA

SERVICE DATE – JUNE 5, 2007

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (Sub-No. 459X)

BNSF Railway Company - Abandonment Exemption - in King County, WA

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF or railroad) filed a notice of exemption under 49 CFR 1152.20 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in King County, Washington (WA). The rail line proposed for abandonment extends approximately 0.20 miles between Engineering Station 73+58 and Engineering Station 84+26 (“the Line”). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

The Line runs north-south between South Stevens and South Horton streets within the city limits of Seattle, WA. Land use in the vicinity of the Line is industrial and the right-of-way is generally 30 feet wide. Interstate 5 separates the Line and vicinity from historic Beacon Hill to the east. According to BNSF, there are no railroad structures on the Line that are 50 years of age or older. There are no public or private road crossings on the Line.

The Line was originally constructed by Northern Pacific Railroad Company (NP) in 1905. The NP merged with other railroads in 1970 to become the Burlington Northern Railroad (BN). In 1996, BN merged with the Atchison, Topeka and Santa Fe Railway Company to become The Burlington Northern and Santa Fe Railway Company. The Burlington Northern and Santa Fe Railway Company changed its name to BNSF Railway Company in 2005.

BNSF has provided a verified statement indicating that no local traffic has moved on the Line for at least two years and that there is no overhead traffic handled on the Line to be rerouted. Accordingly, the proposed abandonment would not result in the diversion of rail traffic to other modes. BNSF is not aware of any hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way.

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. BNSF served the environmental 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)].¹ The Board's Section of Environmental Analysis (SEA) reviewed and investigated the record in this proceeding.

Diversion of Traffic

Because there is no rail traffic on the Line, 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.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

As part of the proposed abandonment, BNSF states that it would salvage all rail and rail ties from the Line. There are no bridges or other structures on the Line proposed for abandonment. According to BNSF, salvage activities would begin with the removal of the rails and metal parts of the track structure. Thereafter, wooden ties would be removed and separated into second hand ties, landscape quality ties, and scrap ties; any scrap ties would be disposed of at an appropriate site. Culverts and rail embankments located along the Line would remain intact to maintain the existing water conveyance within the right-of-way. BNSF further indicates that any concrete abutments and piers would be left intact, and that contractors would not be allowed to place fill or other material into water bodies, including inland waterways.

BNSF states that the proposed abandonment should not be inconsistent with local or regional land use plans. The Seattle Department of Planning and Development (DPD) stated that the proposed abandonment would be consistent with the City of Seattle Comprehensive Plan. DPD also expressed interest in trails use of the Line.

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-6 (Sub-No. 455X).

The Natural Resources Conservation Service stated that the area in which the Line is located is considered “land in urban development” and the proposed abandonment would have no effect on prime agricultural farmlands. Therefore, the proposed abandonment does not involve the Federal Farmland Protection Policy Act (7 U.S.C. 4201).

In response to the railroad’s initial consultation letter, the U.S. Fish and Wildlife Service, Western Washington Fish and Wildlife Office (USFWS) referred the railroad to their website to obtain a species list for King County, WA. As requested by the USFWS, the railroad provided the downloaded species list to the USFWS for review with the railroad’s environmental report. SEA has reviewed the list and observed that the following seven listed species are identified for King County:

- Bald eagle,
- Bull trout,
- Canada lynx,
- Gray wolf,
- Grizzly bear,
- Marbled murrelet, and
- Northern spotted owl.

Because of the industrial nature of the Line and immediate vicinity, and the limited scope of activities that would occur with salvaging 0.20 miles of rail line, SEA would not expect the proposed abandonment to impact the level of use of the project area by the listed species. In addition, the proposed abandonment would not likely disturb the listed species, or affect food stocks, prey species and foraging areas for the listed species.

To date, the USFWS has not offered its conclusions regarding impacts to Federally listed species. Pending a USFWS response, SEA recommends a condition that prohibits BNSF from conducting any salvage activities and consummating abandonment until completion of the Section 7 consultation process of the Endangered Species Act (16 U.S.C. 1535). A copy of this EA has also been provided to the USFWS.

The Washington Department of Fish and Wildlife concluded that there are no fish and wildlife issues related to the proposed abandonment.

The National Marine Fisheries Service concluded that the proposed abandonment would have no effect on listed species or critical habitat under its jurisdiction.

The National Park Service and Washington State Parks and Recreation Department noted that there are no parks or property under their jurisdiction that would be affected by the proposed abandonment. The Bureau of Land Management (BLM) noted that there are no BLM-administered lands in the vicinity of the Line.

The U.S. Army Corps of Engineers (Corps) stated that it does not require permits for the removal of existing structures from navigable or non-navigable water, and that permits are only required if the work involves the discharge of fill materials. However, lacking site-specific wetlands or floodplains data, the Corps was unable to conclude whether the proposed abandonment would require a permit under Section 404 of the Clean Water Act (33 U.S.C. 1344). Therefore, SEA recommends a condition to address this concern. A copy of this EA has also been provided to the Corps for review and comment.

The U.S. Environmental Protection Agency, Region 10, referred the railroad to the Washington Department of Ecology to determine whether or not any permits would be required under Section 402 of the Clean Water Act (33 U.S.C. 1342). In its reply, the Washington Department of Ecology stated that the proposed abandonment area is less than two acres in size; and therefore, a construction stormwater discharge permit under Section 402 would not be required.

The proposed abandonment is located in Washington's designated coastal zone and railroad abandonments are subject to Federal consistency review under the Washington's coastal zone management program. According to the Board's environmental rules (49 CFR 1105.9), for any proposed action that is within a state coastal zone and subject to review under a state's coastal zone management plan, the railroad must certify that the proposed action is consistent with the state's coastal zone management plan. Accordingly, SEA recommends a condition to address this concern.

HISTORIC REVIEW

BNSF submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Washington Department of Archaeology & Historic Preservation (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). After reviewing the report and discussing it with BNSF representatives, the SHPO determined that no historic resources would be affected by the proposed abandonment.

SEA conducted a search of the Native American Consultation Database at www.cast.uark.edu/other/nps/nacd/ to identify Federally recognized tribes that may have ancestral connections to the project area. The database identified the following four tribes within King County that may have an interest in the proposed abandonment:

- Confederated Tribes and Bands of the Yakama Nation, Washington,
- Confederated Tribes of the Colville Reservation, Washington,
- Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington, and
- Snoqualmie Tribe, Washington.

A copy of this EA has been provided to all four tribes for review and comment.

CONDITIONS

In order to mitigate the potential environmental impacts from the proposed abandonment, SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. BNSF Railway Company shall be prohibited from performing any salvage activities and consummating abandonment until completion of the Section 7 consultation process of the Endangered Species Act (16 U.S.C. 1535) with the U.S. Fish and Wildlife Service, Western Washington Fish and Wildlife Office (USFWS). The railroad shall also report the results of any consultation with the USFWS to the Board's Section of Environmental Analysis (SEA) in writing. Should any potential impacts be identified, the railroad shall consult with SEA and USFWS to develop appropriate mitigation measures.
2. Prior to commencement of any salvage activities, BNSF Railway Company shall consult with the U.S. Army Corps of Engineers (Corps) regarding potential impacts to waters of the United States, including wetlands, and shall comply with the reasonable requirements of the Corps.
3. BNSF Railway Company shall be prohibited from performing any salvage activities until the Federal consistency certification and concurrence process is completed pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.* and the Board's environmental regulations at 49 CFR 1105.9.

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 would 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 and no salvage activities), 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 ROW 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 202-245-0230, 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, please send an **original and one copy** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Dave Navecky, 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. 459X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Dave Navecky, the environmental contact for this case, by phone at 202-245-0294, fax at 202-245-0454, or e-mail at naveckyd@stb.dot.gov.

Date made available to the public: June 5, 2007.

Comment due date: June 19, 2007.

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

Vernon A. Williams
Secretary

Attachment