



Kristy D. Clark
General Attorney

BNSF Railway Company
P. O. Box 961039
Fort Worth, TX 76161
2500 Lou Menk Drive, AOB-3
Fort Worth, TX 76131-2828
(817) 352-3394
(817) 352-2397 fax

Kristy.Clark@BNSF.com

EI-18206

VIA UPS OVERNIGHT MAIL

May 5, 2010

Ms. Victoria Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423-0001

Re: STB Docket No. AB-6 (Sub-No. 468X)
BNSF Railway Company Abandonment Exemption in Kootenai County, ID

Dear Ms. Rutson:

On October 10, 2009 BNSF Railway Company (BNSF) filed a Verified Petition for Exemption to abandon a 6.24-mile rail line located between Milepost 6.10 and Milepost 12.34 in Kootenai County, Idaho. Subsequently the Surface Transportation Board issued a decision making the exemption of abandonment subject to certain conditions, one of which states that "Prior to the commencement of any salvage activities, consult with the U.S. Department of Interior, Fish and Wildlife Service, Idaho Field Office (USFWS) to assess potential impacts to the Bull trout (*Salvelinus confluentus*), a Federally listed threatened species, and identify any appropriate mitigation measures that may be warranted, and to report the results of the USFWS consultations to SEA in writing prior to the onset of salvage operations."

BNSF contacted USFWS via email dated October 16, 2009 (copy attached) as directed. On November 2, 2009, BNSF received the attached response which states in summary, "Our letter, responding to BNSF's notice of abandonment, simply identified that bull trout are present in the Spokane River in the vicinity of the railway line. It is up to the federal agency...or their designated federal representative (could be BNSF if so designated) to determine if the proposed action...will affect [bull trout] within the action area. If the federal agency or their designated representative determines that the proposed action will not affect listed species or their habitat...then consultation with the Fish and Wildlife Service (Service) is not required."

BNSF salvage work for abandonments is performed by experienced rail material salvagers who are instructed to leave all culverts, ballast and right of way intact so as not to alter the prevailing waterflows along the line. Contractors are also required by contract to limit their activities to the width of the right of way and not to place fills or other material in water bodies, including inland waterways. Consequently, waterflows in the area should not be disrupted. BNSF has, therefore, concluded that the proposed action will have no impact on the Bull trout within the action area..

Please advise at your earliest convenience if additional action is required of BNSF in order to consummate abandonment of the subject line.

Sincerely,

Kristy Clark

Kristy D. Clark
General Attorney

KDC/so

Enclosure

cc: Susan Odom



Odom, Susan

From: Bryon_Holt@fws.gov
Sent: Monday, November 02, 2009 6:22 PM
To: Odom, Susan
Subject: Re: STB Docket No. AB-6 (Sub-No. 468X) - Conditions imposed by STB
Attachments: 20091016131715.pdf

Susan,

Our letter, responding to BNSF's notice of abandonment, simply identified that bull trout are present in the Spokane River in the vicinity of the railway line. It is up to the federal agency (if a federal agency is involved) or their designated federal representative (could be BNSF if so designated) to determine if the proposed action (e.g., in this case railway line abandonment) will affect listed species or their habitat identified as potentially present within the action area (in this case bull trout). If the federal agency or their designated representative determines that the proposed action will not affect listed species or their habitat potentially present within the action area, then consultation with the Fish and Wildlife Service (Service) is not required. If however, a determination is made that implementation of the proposed action may affect listed species or their habitat, then the federal agency (or their designated representative) is required to consult with the Service. To initiate consultation, the federal agency or its representative submits a letter, with information supporting the effect determination (e.g., a biological assessment), to the Service requesting Service concurrence with the determination effect.

In regards to your request to initiate consultation, as described above, we do not have sufficient information to initiate consultation at this time. We are not aware that a federal agency (if a federal nexus exists) has prepared a biological assessment and determined what effect, if any, abandonment of the railway line may have on bull trout.

If I can be of further assistance, let me know.

Bryon Holt
U.S. Fish and Wildlife Service
Northern Idaho Field Office, Spokane, WA
Telephone: (509) 893-8014
Fax: (509) 891-6748
email: bryon_holt@fws.gov

cc "Odom, Susan" <Susan.Odom@BNSF.com>

"Odom, Susan"
<Susan.Odom@BNSF.com>

10/16/2009 07:19 AM

To "bryon_holt@fws.gov" <bryon_holt@fws.gov>
cc "Clark, Kristy D" <Kristy.Clark@BNSF.com>
Subject STB Docket No. AB-6 (Sub-No. 468X) - Conditions imposed
by STB

Bryon:
BNSF contacted your office in May of this year concerning BNSF Railway Company's proposed abandonment between Post Falls and Coeur d'Alene, Idaho. You responded by letter dated July 23, 2009. The STB has subsequently issued its preliminary decision on BNSF's abandonment exemption with the condition that "Prior to commencement of any salvage activities, BNSF Railway Company shall consult with the U.S. Fish and Wildlife Service, Idaho Field Office (USFWS) to assess potential

5/4/2010

impacts to the Bull trout (*Salvelinus confluentus*), a Federally listed threatened species, and identify any appropriate mitigation measures that may be warranted. BNSF Railway Company shall report the results of the USFWS consultations to the Board's Section of Environmental Analysis in writing prior to the onset of salvage operations."

BNSF would like to initiate the required consultation at this time. Please identify any potential impacts to the referenced species as well as any suggested mitigation. I appreciate your help and look forward to hearing from you. A copy of your July 23 letter and the Board's decision are attached for your reference.

Susan Odom / *Manager Network Strategy* / p 817-352-6432 / f 817-352-7154 / susan.odom@bnsf.com
BNSF Railway Company / 2500 Lou Menk Drive / AOB - 3rd Floor / Fort Worth, TX 76131

 This message may be confidential and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender by replying to this message and then delete it from your system. Thank you.

(See attached file: 20091016131715.pdf)

5/4/2010