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E-FILED

Ms. Victoria Rutson, Esq.
Environmental Analysis Chief
Surface Transportation Board
395 E Street, SW, Room 1106
Washington, DC 20423

Re: STB Docket No. AB 6 (Sub-No. 485X), BNSF Railway Company --
Abandonment Exemption -- in McKinley County, New Mexico

Dear Ms. Rutson:

On August 10, 2012, BNSF Railway Company ("BNSF") filed with the Board its Environmental and Historic Reports in the above-captioned matter. Attached please find the additional response we received from the National Park Service.

Also attached is a letter BNSF received from the U.S. Fish and Wildlife Service ("USFWS"). The USFWS letter provided BNSF instructions on how to self-assess whether the proposed action would be likely to adversely affect endangered or threatened species or areas designated as a critical habitat. Pursuant to that letter, BNSF generated the list of "Listed and Sensitive Species in McKinley County".

It is BNSF's self-determination that the proposed action should have "no effect" on any endangered or threatened species. The southwestern willow flycatcher (endangered) breeds in dense multi-layered riparian habitats, usually in proximity to permanent water or saturated soils. The black-footed ferret (endangered) inhabits large prairie dog colonies in open grassland habitats. There are no bodies of water or grasslands adjacent to the project area.

There are also no suitable habitats adjacent to the project area for the zuni fleabane (threatened) and Mexican spotted owl (threatened).

Sincerely,

Karl Morell
Of Counsel

Morell, Karl

From: Crystal_Salas@nps.gov
Sent: Wednesday, August 15, 2012 11:39 AM
To: Morell, Karl
Subject: STB Docket No. AB-6 (Sub-No. 485X), BNSF Railway Company -- Abandonment Exemption -- McKinley County, NM.

Hi Karl,

The National Park Service has no comment on the subject project.

Thank you,

Crystal Salas
Environmental Protection Assistant
NPS - Intermountain Regional Office
12795 W. Alameda Pkwy.
Denver, Colorado 80225-0287
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United States Department of the Interior

FISH AND WILDLIFE SERVICE

New Mexico Ecological Services Field Office

2105 Osuna NE

Albuquerque, New Mexico 87113

Phone: (505) 346-2525 Fax: (505) 346-2542

Thank you for your recent request for information on threatened or endangered species or important wildlife habitats that may occur in your project area. The New Mexico Ecological Services Field Office has posted lists of the endangered, threatened, proposed, candidate and species of concern occurring in all New Mexico Counties on the Internet. Please refer to the following web page for species information in the county where your project occurs: http://www.fws.gov/southwest/es/NewMexico/SBC_intro.cfm. If you do not have access to the Internet or have difficulty obtaining a list, please contact our office and we will mail or fax you a list as soon as possible.

After opening the web page, find New Mexico Listed and Sensitive Species Lists on the main page and click on the county of interest. Your project area may not necessarily include all or any of these species. This information should assist you in determining which species may or may not occur within your project area.

Under the Endangered Species Act of 1973, as amended (Act), it is the responsibility of the Federal action agency or its designated representative to determine if a proposed action "may affect" endangered, threatened, or proposed species, or designated critical habitat, and if so, to consult with us further. Similarly, it is their responsibility to determine if a proposed action has no effect to endangered, threatened, or proposed species, or designated critical habitat. On December 16, 2008, we published a final rule concerning clarifications to section 7 consultations under the Act (73 FR 76272). One of the clarifications is that section 7 consultation is not required in those instances when the direct and indirect effects of an action pose no effect to listed species or critical habitat. As a result, we do not provide concurrence with project proponent's "no effect" determinations.

If your action area has suitable habitat for any of these species, we recommend that species-specific surveys be conducted during the flowering season for plants and at the appropriate time for wildlife to evaluate any possible project-related impacts. Please keep in mind that the scope of federally listed species compliance also includes any interrelated or interdependent project activities (e.g., equipment staging areas, offsite borrow material areas, or utility relocations) and any indirect or cumulative effects.

Candidates and species of concern have no legal protection under the Act and are included on the web site for planning purposes only. We monitor the status of these species. If significant declines are detected, these species could potentially be listed as endangered or threatened. Therefore, actions that may contribute to their decline should be avoided. We recommend that candidates and species of concern be included in your surveys.

Also on the web site, we have included additional wildlife-related information that should be considered if your project is a specific type. These include communication towers, power line safety for raptors, road and highway improvements and/or construction, spring developments and livestock watering facilities, wastewater facilities, and trenching operations.

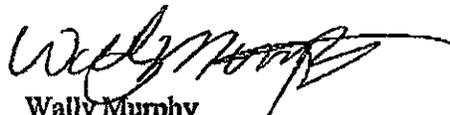
Under Executive Orders 11988 and 11990, Federal agencies are required to minimize the destruction, loss, or degradation of wetlands and floodplains, and preserve and enhance their natural and beneficial values. We recommend you contact the U.S. Army Corps of Engineers for permitting requirements under section 404 of the Clean Water Act if your proposed action could impact floodplains or wetlands. These habitats should be conserved through avoidance, or mitigated to ensure no net loss of wetlands function and value.

The Migratory Bird Treaty Act (MBTA) prohibits the taking of migratory birds, nests, and eggs, except as permitted by the U.S. Fish and Wildlife Service. To minimize the likelihood of adverse impacts to all birds protected under the MBTA, we recommend construction activities occur outside the general migratory bird nesting season of March through August, or that areas proposed for construction during the nesting season be surveyed, and when occupied, avoided until nesting is complete.

We suggest you contact the New Mexico Department of Game and Fish, and the New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division for information regarding fish, wildlife, and plants of State concern.

Thank you for your concern for endangered and threatened species and New Mexico's wildlife habitats. We appreciate your efforts to identify and avoid impacts to listed and sensitive species in your project area.

Sincerely,



Wally Murphy
Field Supervisor