



Kristy D. Clark
General Attorney

BNSF Railway Company
PO 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

VIA UPS OVERNIGHT MAIL

December 2, 2009

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423-0001

226107



Re: STB Docket No. AB-6 (Sub-No. 469X)
BNSF Railway Company Abandonment Exemption in Pierce County, Washington

Dear Ms. Brown:

On October 2, 2009 BNSF Railway Company (BNSF) filed a Verified Notice of Exemption to abandon a 1.56-mile rail line located between Milepost 0.59 and Milepost 2.15 in Tacoma, Pierce County, Washington (the "Line"). The Line traverses United States Postal Service Zip Code 98402.

BNSF hereby advises the Board that: 1) BNSF has complied with the Board's November 20, 2009 decision regarding salvage conditions; and 2) as of today's date, December 2, 2009, BNSF consummated abandonment of the line between Milepost 1.95 and Milepost 2.15. BNSF intends to close its sale of the Line between Milepost 1.95 and Milepost 2.15 to The Central Puget Sound Transit Authority on December 3, 2009.

Attached is the Verification and Certification of Susan Odom demonstrating compliance with the Board's requirements.

Please acknowledge receipt of this letter by date-stamping the enclosed copy of this letter and returning it to me in the enclosed self-addressed stamped envelope.

Ten (10) additional copies of this letter are attached for the Board's use and distribution.

Sincerely,

Kristy D. Clark
General Attorney

cc: Washington Utilities and Transportation Commission
Victoria Rutson, Chief, SEA
Peter Rickershauser
Dennis Eytcheson
Susan Odom
Dalen Wintermute
Steve Kuzma
Rail Services Update

ENTERED
Office of Proceedings

DEC 03 2009

Part of
Public Record

VERIFICATION AND CERTIFICATION

I, Susan Odom being duly sworn depose and state that, as Manager Network Strategy in the Network Development department of BNSF Railway Company ("BNSF"), I am authorized to make this verification, and that I have personal knowledge of the facts asserted herein and the facts are true and accurate as stated to the best of my knowledge, information and belief.

On November 20, 2009 the Surface Transportation Board (the "Board") issued a decision, reopening the proceeding in AB-6 (Sub-No. 469X) and making the exemption of abandonment subject to certain conditions, to wit:

Prior to beginning any salvage activities, or consummation of the abandonment if salvage does not occur, BNSF shall:

- 1) (a) Consult with the City of Tacoma to determine if the proposed abandonment is consistent with the City's proposed multi-use trail/park in the Union Station Conservation District as envisioned in its comprehensive plan.
(b) Report the results of the discussions with the City back to SEA in writing; and
- 2) (a) Consult with the Washington Department of Ecology, Shoreland and Coastal Zoning Program ("WDE S&CZMP") to determine whether state coastal management consistency certification is required.
(b) If consistency certification is required, be prohibited from performing any salvage activities until it obtains consistency certification; and (c) notify SEA 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.

BNSF has consulted with the City of Tacoma and the WDE S&CZMP and provides certification of the results of such consultation.

On November 20, 2009, BNSF received an email from Peter Huffman, Manager Planning Division, City of Tacoma Community and Economic Development Department. In the email Mr. Huffman states that after "reviewing the City's Comprehensive Plan and trail development concepts, we find that the proposed abandonment, as specified...is still consistent with the City of Tacoma's Comprehensive Plan." A copy of the email is attached below as Exhibit A.

On November 24, 2009, BNSF received an email from Jessica Moore with the Federal Permit Unit of WDE S&CZMP. In the email Ms. Moore states that after reviewing the relevant documents, "no CZM consistency review will be required at this time. When the line is salvaged or considered for further development, please contact Ecology to determine if a CZM Consistency review is needed."

In anticipation of BNSF's sale of the Line between Milepost 1.95 and Milepost 2.15 to The Central Puget Sound Transit Authority ("Sound Transit"), BNSF once again contacted Ms. Moore to advise WDE S&CZMP of the proposed sale. On December 2, 2009 BNSF received an email from Ms. Moore who stated, "Sound Transit should contact Ecology prior to salvage activities/redevelopment of the line for a CZM Consistency Determination if the activities require federal permits or approval or if federal monies are used to fund some or all of the activities." A copy of the series of emails is attached as Exhibit B.

Further, I hereby certify that the photocopied pages attached to this Verification and Certification as Exhibit C are excerpts from the Real Estate Purchase and Sale Agreement ("Agreement") between BNSF and Sound Transit. Section 3(g) on page 3 of the Agreement requires Sound Transit to complete all requirements and obligations imposed by the STB in AB-6 (Sub-No. 469X). Exhibit D of the Agreement is a copy of the Board's October 27, 2009 decision for this proceeding. Page 10 of the Agreement is the

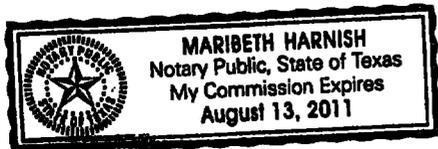
signatory page which evidences Sound Transit's acceptance of the Agreement as a whole, including the salvage conditions stated in Exhibit D.

The foregoing certification is made on behalf of BNSF by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information and belief of the undersigned.



Susan Odom
Manager Network Strategy

Subscribed and sworn to before me this 2nd day of December, 2009.





Notary Public
My commission expires: 8-13-11

EXHIBIT A

Odom, Susan

From: Huffman, Peter [phuffman@ci.tacoma.wa.us]
Sent: Friday, November 20, 2009 4:08 PM
To: Odom, Susan; 'phuffman@cityoftacoma.org'
Cc: 'lwung@cityoftacoma.org'; Brown, Dana
Subject: RE: Abandonment of BNSF's Lakeview Subdivision in Tacoma

Susan, after reviewing the below and attached information, and reviewing the City's Comprehensive Plan and trail development concepts, we find that the proposed abandonment, as specified below, is still consistent with the City of Tacoma's Comprehensive Plan.

If you would like or require a formal written response please let me know and I can provide that to you next week.

Peter Huffman, Manager
 Planning Division
 City of Tacoma Community and Economic Development Department
 253.591.5373

From: Odom, Susan [mailto:Susan.Odom@BNSF.com]
Sent: Tuesday, November 17, 2009 12:40 PM
To: 'phuffman@cityoftacoma.org'
Cc: 'lwung@cityoftacoma.org'; Brown, Dana
Subject: Abandonment of BNSF's Lakeview Subdivision in Tacoma

Mr. Huffman:

BNSF is in receipt of your letter dated July 16, 2009 in reference to the subject abandonment. You stated in your letter that the city supported the abandonment and are encouraged by the development potential and opportunities that may result from the abandonment.

The Surface transportation Board subsequently issued a decision on October 27, 2009 that stated specific concerns with the fact that the City's envisioned comprehensive plan includes a trail on the entire right of way proposed for abandonment. Since BNSF intends to retain the northernmost 0.52 mile of track and sell the southernmost 0.20 mile of track to Sound Transit, the STB has required that BNSF consult with your office to "determine if the proposed abandonment is [still] consistent with the City's proposed multi-use trail/park in the Union Station Conservation District as envisioned in its comprehensive plan." BNSF is further required to report to the STB the results of that consultation in writing.

Please review at your earliest convenience and confirm, if appropriate, your staff's finding that the abandonment as proposed (leaving 84/100 mile for trail use) is consistent with the city's comprehensive plan.

I have attached some of the relevant documentation for your reference. Please let me know if you need any additional information. Thank you for your time and contribution.

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.

11/20/2009

EXHIBIT B

Odom, Susan

From: Moore, Jessica (ECY) [jemo461@ECY.WA.GOV]
Sent: Wednesday, December 02, 2009 10:33 AM
To: Odom, Susan
Subject: RE: Abandonment exemption in Tacoma Washington

Hi Susan,

Sound Transit should contact Ecology prior to salvage activities/redevelopment of line for a CZM Consistency Determination if the activities require federal permits or approval or if federal monies are used to fund some or all of the activities.

Thanks,
 Jessica

From: Odom, Susan [mailto:Susan.Odom@BNSF.com]
Sent: Tuesday, December 01, 2009 9:32 AM
To: Moore, Jessica (ECY)
Subject: RE: Abandonment exemption in Tacoma Washington
Importance: High

Jessica:
 We will be selling the portion of the line between MP 1.95 and MP 2.15 to Sound Transit who will be responsible for salvaging the line. Please let me know if CZM consistency review will be required so we can include appropriate language in the conveyance documents.

Thank you for your help. And I will preface the next request with an apology – if there is any way you can get a response to me today, it would be greatly appreciated.

Attachment: Map of Sound Transit sale

Susan Odom / Manager Network Strategy / BNSF Railway Company / 817-352-6432 phone

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.

From: Moore, Jessica (ECY) [mailto:jemo461@ECY.WA.GOV]
Sent: Tuesday, November 24, 2009 11:56 AM
To: Odom, Susan
Subject: FW: Abandonment exemption in Tacoma Washington

Hi Susan,

After reviewing the documents you e-mailed and the environmental document posted on the STB website, no CZM consistency review will be required at this time. When the line is salvaged or considered for further development, please contact Ecology to determine if a CZM consistency review is needed.

Let me know if you have any questions or need more information.

Thanks,
 Jessica

 Jessica Moore
 Federal Permit Unit
 Shorelands and Environmental Assistance Program
 Washington Department of Ecology

12/2/2009

360.407.7421
jemo461@ecy.wa.gov



Please consider the environment before printing this e-mail

From: Odom, Susan [mailto:Susan.Odom@BNSF.com]
Sent: Tue 11/17/2009 1:29 PM
To: Randall, Loree' (ECY)
Subject: Abandonment exemption in Tacoma Washington

Loree':

On June 25 of this year BNSF sent Penny Keys a letter regarding the proposed abandonment of 1.56 miles of rail line in downtown Tacoma. To date we have not received a reply. On October 27, 2009 the Surface Transportation Board issued a decision with the requirement that BNSF contact the Department of Ecology Shoreland and Coastal Zone Management Program again to determine whether state coastal management consistency certification is required in the future event of rail salvage. (There are no current plans to salvage the rail.)

Please review the attached documentation and advise at your earliest convenience. If you are not the correct person to perform this review, please forward to the appropriate person or let me know who that would be. Feel free to contact me if you need additional information and thank you in advance for your time and contribution.

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.

12/2/2009

EXHIBIT C

BNSF RAILWAY COMPANY

REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement ("Agreement") is entered into as of the Effective Date (defined below) between THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY ("Buyer") and BNSF RAILWAY COMPANY ("Seller"). This Agreement shall not be binding upon either party unless and until both parties have executed and delivered this Agreement. The submission of this document by Seller to Buyer shall not constitute an offer to sell by Seller.

In consideration of the mutual covenants set forth in this Agreement and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

GENERAL TERMS AND DEFINITIONS

1. The following terms shall have the meanings set forth below:

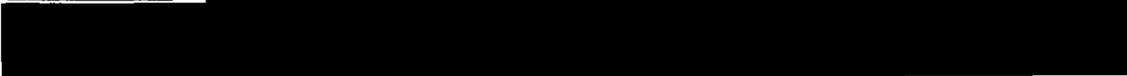
Closing The consummation of the transaction contemplated by this Agreement, which shall be deemed to have occurred when both parties have delivered the items contemplated in Section 4 of this Agreement.

Closing Date Notwithstanding anything herein to the contrary, the sale contemplated by this Agreement shall close on or before December 3, 2009, subject to Seller's extension provision described in Section 3(d).

Effective Date The date of Seller's execution of this Agreement as indicated below Seller's signature hereto.

Property That parcel of land situated in or near the City of Tacoma, County of Pierce, and State of Washington, shown on map marked Exhibit A dated January 7, 2009 (revised September 21, 2009) and described on Exhibit A-1, both attached hereto and made a part hereof. The Property shall include all of Seller's right, title and interest, if any, in and to all rail, ties, spikes, tie plates, rail anchors, bridges, trestles, culverts, signaling equipment, and other supporting structures, ballast, support grading, infrastructure, track materials and supplies (collectively, "Track Material") (excluding only any vehicles, maintenance equipment on wheels, radios, computer equipment, or office furnishings or supplies) that are present on such land; provided, however, Seller does not purport to own any interest in signaling or grade crossing equipment or property to the extent that it may be owned by a third party, such as a governmental authority or municipality.

Purchase Price



Review Period The period commencing on the Effective Date and expiring at 5:00 p.m. central time on the date that is 15 days after the Effective Date.

PURCHASE AND SALE

2. (a) Buyer hereby advises Seller that Buyer has immediate need for the Property for incorporation into Buyer's commuter line operations and should Seller not agree to sell the Property to Buyer under the

Notwithstanding anything in this Agreement to the contrary, including the provisions of Section 6(a), nothing in this Agreement or the exercise of any remedy by Seller under this Agreement shall limit or affect in any manner any remedy available to Seller under the Entry Agreement in the event of a breach of Buyer's obligations under the Entry Agreement.

(d) It is specifically understood by Seller and Buyer that Seller is seeking abandonment authority for the Property from the Surface Transportation Board ("STB") or such successor governmental agency and the sale of Seller's interest (if any) in the Property is conditioned upon obtaining such approval. If such approval cannot be obtained by November 30, 2009, Seller may elect to extend the Closing Date to January 31, 2010. In the event said approval cannot be obtained by such extended date, this Agreement shall terminate and thereafter neither party shall have any obligation hereunder except those that expressly survive termination. This section is not meant to limit any powers Buyer may have to institute eminent domain proceedings for the Property.

(e) Notwithstanding the foregoing provisions of Section 3(b), Buyer shall not be entitled to object to any judgment against Seller which may appear of record as a lien against the Property. Seller shall pay such lien if and when it is judicially determined to be valid, and Seller hereby indemnifies the Buyer for all loss arising out of Seller's failure to have a judgment lien so settled and satisfied.

(f) Notwithstanding the foregoing provisions of Section 3(b), Buyer shall not be entitled to object to any lien of any of Seller's mortgages. Seller shall deliver to Buyer, who shall place of record, good and sufficient releases of the liens of any mortgages on the Property securing indebtedness to which Seller is obligated to pay within one hundred eighty (180) days after the first meeting of Seller's Board of Directors held after the Closing. If such liens affect the Property, Seller shall indemnify Buyer, by letter ("Mortgage Indemnity Letter") similar in form to the letter attached hereto as Exhibit C. In the event Seller shall be unable to obtain said releases for any reason, Seller shall have the right to repurchase the Property from Buyer for the Purchase Price and Buyer shall reconvey the Property to Seller free and clear of defects or objections arising after the Effective Date upon which this Agreement shall terminate and neither party shall have any further rights or obligations hereunder except those that expressly survive termination.

(g) The parties expressly acknowledge and agree that salvage of any of the Track Material may be subject to certain salvage conditions set forth by the STB. Furthermore, Buyer acknowledges and agrees that it shall be subject to and shall complete, or cause to be completed, all requirements and obligations imposed by the STB with regards to the Property, future removal of any or all of the track on the Property, and the abandonment contemplated in Section 3(d) above, including, without limitation, those requirements and obligations listed in Exhibit D, attached hereto and incorporated by reference herein. The terms and provisions of this Section 3(g) shall survive the Closing and shall not be merged into the Deed or any document delivered at Closing.

CLOSING

4. (a) Subject to the terms of this Agreement, the Closing shall occur on the Closing Date. The Closing will occur in the office of Title Company. On or before the Closing Date Buyer shall (1) pay the Purchase Price to Seller in cash, by certified check made payable Seller or by wire transfer to Seller's account as designated by Seller and complete the Assignment (defined in Section 4(b) below), and (2) complete such other affidavits or certificates as is reasonably necessary or customary to consummate the transaction. After Buyer has delivered the foregoing items, Seller shall deliver to Buyer (1) a Quitclaim Deed in the form attached hereto as Exhibit E (the "Deed") conveying to Buyer Seller's interest, if any, in and to the Property, (2) counterparts of the Assignment, (3) a bill of sale for the Track Material in the form set forth as Exhibit F attached hereto (the "Bill of Sale"), and (4) such other affidavits and certificates as is reasonably necessary or customary to consummate the transaction in form and substance acceptable to

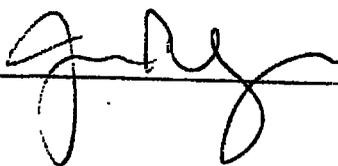
IN WITNESS WHEREOF, Buyer and Seller have executed this Agreement to be effective as of the Effective Date.

BUYER:

**THE CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY**

By: 
Print Name: Ronald J. Tober
Title: Deputy CEO

Office of Legal Counsel
Approved as to Form.

By: 

Buyer's Address:

The Central Puget Sound Regional Transit Authority
401 S. Jackson Street
Seattle, WA 98104
Attn: Don Vogt, Senior Real Estate Representative

Fax: 206-398-5228
Phone: 206-689-3396

Buyer's SSN or EIN: 91-1628275

SELLER:

BNSF RAILWAY COMPANY

By: 
Print Name: Thomas N. Friend
Title: Executive Vice President and
Chief Financial Officer

Seller's Address:
c/o Jones Lang LaSalle
Attn: Title & Escrow Dept.
3017 Lou Menk Drive, Suite 100
Fort Worth, Texas 76131-2800

Fax: 817-306-8129
Phone: 817-230-2600

11-20-2009
Date of Seller's Execution (Effective Date)

EXHIBIT A

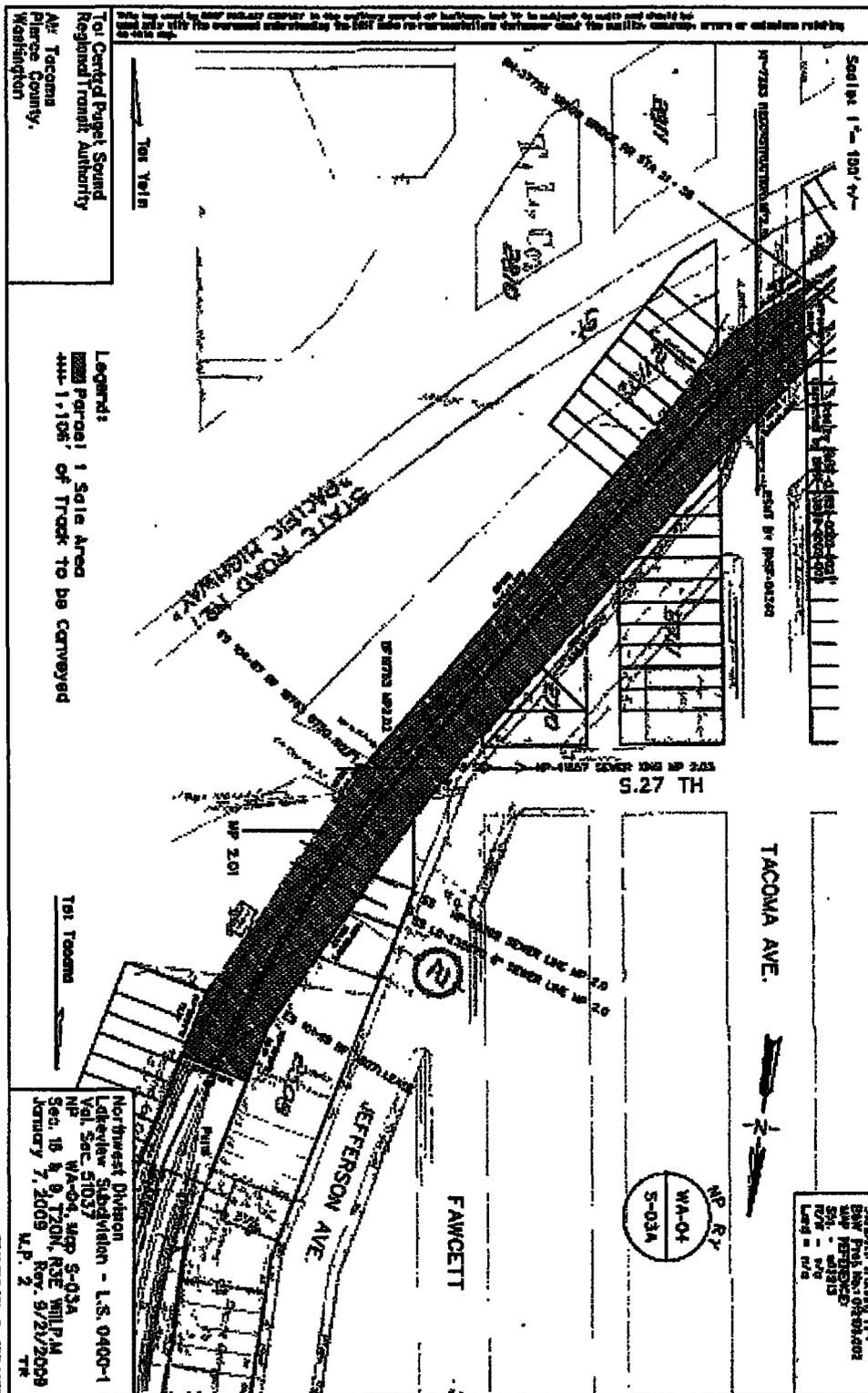


EXHIBIT "A"

Scale: 1" = 100' +/-

For Certified Puget Sound
Regional Transit Authority
Air Tacoma
Pierce County,
Washington

Legends:
1.105' of Truck to be conveyed

Northwest Division
Lafayette Subdivision - L.S. 0400-1
Vol. Sec. 51007
Map WA-04, Map S-03A
Sec. 18 & 9, T10N, R5E Willamette
January 7, 2009
M.P. 2

MEASURED BY: G. ARNOLD

EXHIBIT D

40285
SEA

SERVICE DATE – OCTOBER 27, 2009

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-6 (Sub-No. 469X)

BNSF Railway Company – Abandonment Exemption –
in Pierce County, WA

BACKGROUND

In this proceeding, the BNSF Railway Company (BNSF) filed a notice under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a portion of railroad in Tacoma, Pierce County, Washington. The line extends from Milepost 0.59 to Milepost 2.15, a distance of 1.56 miles. BNSF certifies that no rail cars have used the line for at least two years and that no overhead traffic would have to be rerouted over other lines as a result of the abandonment. BNSF indicates that the proposed abandonment does not contain any Federally granted rights-of-way.

According to BNSF, the segment of rail line to be abandoned is located in a highly commercialized area of downtown Tacoma, with portions running parallel to Sound Transit's commuter line right-of-way and Interstate 785 near the Port of Tacoma. BNSF states that there are five active public grade crossings, two pedestrian crossings, one public overpass and one private overpass within the area of the proposed abandonment. BNSF indicates that there are no railroad structures 50 years or older located in the area of the proposed abandonment, but that a section of line travels through the Union Depot Warehouse Historic District between South 17th and South 21st Streets. The rail line traverses U.S. Postal Service Zip Code 98402. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA).

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) environmental rules [49 CFR 1105.7(b)].¹ The

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. 469X).

Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding. BNSF states that no salvage activities are contemplated as part of the abandonment. However, because BNSF would have the option of conducting salvage activities if the abandonment is approved, SEA has examined the effects of salvage activities on the human and natural environment.

Diversion of Traffic

BNSF states that no local traffic has moved over the line for at least two years and no overhead traffic would be rerouted. Accordingly, 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. Following abandonment, BNSF states that no salvage activities are contemplated as part of the abandonment. Instead, BNSF proposes to retain the portion of line from 0.59 to Milepost 1.11 to access its main line and drainage facilities, and to accommodate telecom and fiber optic lines in the area. BNSF would sell or donate the line between Milepost 1.11 and 1.95, and sell the remaining portion of the line to be abandoned, from Milepost 1.95 to 2.15, to Sound Transit for its commuter rail operations. However, as previously stated, BNSF would have the option of conducting salvage activities if the abandonment is approved.

SEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

The U.S. Department of Commerce, National Geodetic Survey (NGS) commented that there are no geodetic station markers located within the area of the proposed abandonment. Therefore, SEA has concluded that no further consultation with NGS is necessary.

The Pierce County Department of Planning and Land Services deferred its comments to the City of Tacoma Planning Commission, citing that the City has planning authority to determine if the proposed abandonment is consistent with existing land use plans.

The City of Tacoma, Community and Economic Development Department, commented that the proposed abandonment is consistent with its comprehensive plan in that it envisions that the rail line to be abandoned, which traverses the Union Station Conservation District in Downtown Tacoma, would be converted to a multi-use trail/park. The City further commented that such a change in land use would enhance its bicycle and pedestrian system and provide connections to the University of Washington at Tacoma, the downtown Brewery District, and the City's nonmotorized Water Ditch Trail at South Tacoma. The City is therefore in support of the proposed abandonment. In viewing the City's comprehensive plan on its web site and comparing the map on page T-19 entitled *Transportation Element Figure 2* with BNSF's map of the proposed abandonment, it appears that the City's envisioned trail would include the entire rail line proposed for abandonment. Since BNSF has indicated that following abandonment, it intends to retain 0.52 miles of the rail line for its own use, sell or donate approximately 0.84 miles of line, and sell approximately 0.2 miles of the rail line to Sound Transit, SEA has noted that there could be a conflict between the proposed abandonment and the City's comprehensive plan. SEA is therefore recommending a condition that would require BNSF to consult with the City of Tacoma prior to salvage, or consummation of the abandonment if salvage does not occur, to determine if the proposed abandonment is consistent with the City's proposed multi-use trail/park in the Union Station Conservation District as envisioned in its comprehensive plan, and to report the results of the discussions back to SEA in writing.

BNSF indicates that the proposed abandonment is located within a designated coastal zone and further states that it has submitted an environmental report to the Washington State Department of Ecology, Shoreland and Coastal Zone Management Program (WDE S&CZMP), but to date, has not received a response. SEA is therefore recommending a condition that would require BNSF to consult with the WDE S&CZMP prior to salvage, or consummation of the abandonment if salvage does not occur, to determine whether state coastal management consistency certification is required.

The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) commented that the proposed abandonment is entirely within an urban area and that there would be no impact on prime agricultural soils or important farmland. Therefore, SEA has determined that no further consultation with NRCS is necessary.

The U.S. Department of Interior, Bureau of Land Management (BLM), Wenatchee Field Office, commented that it has no lands or interests in the area of the proposed abandonment. Therefore, SEA has concluded that no further consultation with BLM is necessary.

SEA has not yet received responses from several Federal, state and local agencies regarding potential environmental impacts from the proposed abandonment. Therefore, SEA is sending a copy of this EA to the following agencies for review and comment: the Rivers Trails Pacific West Region, the Washington State Department of Ecology, the Washington State Department of Fish and Wildlife, the Washington State Department of Natural Resources, the Washington Utilities and Transportation Commission, the U.S. Fish and Wildlife Service, the

U.S. Army Corps of Engineers; the U.S. Environmental Protection Agency; and the U.S. Fish and Wildlife Service.

HISTORIC REVIEW

BNSF submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Washington Department of Archaeology and Historic Preservation (DAHP or State Historic Preservation Office (SHPO)) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments in response to the historic report stating that it concurs with the area of potential effect (APE or project right-of-way), but that the information provided by BNSF regarding historic properties along the line is insufficient to formulate an opinion on whether any of the resources are eligible for listing on the National Register of Historic Places (National Register). The SHPO recommends that the affected rail line be evaluated as a cultural resource by a professional meeting the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation* and that the railroad line, at a minimum, be surveyed to DAHP's standards. However, because BNSF has indicated that salvage would not occur and both the rail line and the rail corridor would remain intact following abandonment, SEA has determined that there would be no historic properties affected by this undertaking. SEA has added the SHPO to the service list for this proceeding and will carefully consider any comments it receives from the SHPO in the Post EA.

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(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.

Pursuant to 36 CFR 800.2, SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd> to identify Federally recognized tribes, which may have ancestral connections to the project area. The database indicated that the following six Federally recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the project area: the Yakima Nation, the Confederated Tribes of Colville Reservation, the Cowlitz Indian Tribe, the Muckleshoot Tribal Council, the Nisqually Indian Tribe, and the Puyallup Tribal Council. SEA has added the tribes to the service list for this proceeding and will ensure that they receive a copy of this EA for their review.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Prior to beginning any salvage activities, or consummation of the abandonment if salvage does not occur, the BNSF Railway Company (BNSF) shall consult with the City of Tacoma, Community and Economic Development Department, to determine if the proposed abandonment is consistent with the City's proposed multi-use trail/park in the Union Station Conservation District as envisioned in its comprehensive plan. BNSF shall report the results of the discussions with the City back to the Section of Environmental Analysis (SEA) in writing.
2. Prior to beginning any salvage activities, or consummation of the abandonment if salvage does not occur, BNSF shall consult with the Washington State Department of Ecology, Shoreland and Coastal Zone Management Program to determine whether state coastal management consistency certification is required. If consistency certification is required, BNSF shall be prohibited from performing any salvage activities until it obtains consistency certification and shall then notify the Board's Section of Environmental Analysis, 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 condition is 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 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 Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, 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 Diana Wood, 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. 469X)** in all correspondence, including e-filings, addressed to the Board. If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: October 27, 2009.

Comment due date: November 12, 2009.

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

Anne K. Quinlan
Acting Secretary

Attachment