

**SURFACE TRANSPORTATION STB
SECTION OF ENVIRONMENTAL ANALYSIS**

POST POST ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB-6 (Sub-No. 469X)

August 17, 2010

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

RECOMMENDATION: Remove Coastal Zone Management Condition
in AB-6 (Sub-No. 469X) BNSF Railway Company –
Abandonment Exemption – In Pierce County, WA

In this proceeding, BNSF Railway Company (BNSF) filed a notice of exemption with the Surface Transportation Board (Board) seeking approval authority to abandon 1.56 miles of railroad in Pierce County, Washington. By decision served on November 20, 2009, the Board imposed two (2) environmental conditions and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

Coastal Zone Consistency Condition

The condition requires BNSF to consult with the Washington State Department of Ecology, Shoreland and Coastal Zone Management Program (CZMP) to determine if state coastal management consistency certification is required, and if required, the condition prohibits BNSF from conducting any salvage activities until such approval is granted, 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.

The attached email correspondence from BNSF, dated June 30, 2010, indicates that on June 29, 2010, Jessica Moore of the CZMP determined that coastal zone review

would not be required for the salvage activities associated with the proposed abandonment, but did caution that any activities outside of the salvage process – those that would require other federal approvals or use federal funding – could trigger the need for CZMP’s review. Because these potential triggers do not apply to the proposed abandonment here, SEA has determined that the coastal zone consultation process has been completed and therefore recommends that the following condition be removed:

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.

SEA CONTACT:

Diana Wood 
(202) 245-0302
woodd@stb.dot.gov

Distribution:

Ann Newman, Office of Proceedings
SEA Chron
ECT

Attachment

#E1-18256



FW: BNSF rail crossing removal - City of Tacoma - South 25th & Hood Street

Sims, John A to: 'Diana.Wood@stb.dot.gov'

06/30/2010 08:47 AM

Cc: "Odom, Susan", "Sims, John A"

History:

This message has been replied to.

Diana,
See message below.
Does this resolve the issue?
Thanks,

John A. Sims, CP
Paralegal
BNSF Railway Company
2500 Lou Menk Drive, 3rd Fl
Fort Worth, Texas 76131-2828
817.352.2376
817.352.2397 (fax)

John.Sims@BNSF.com

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From: Moore, Jessica (ECY) [mailto:jemo461@ECY.WA.GOV]

Sent: Tuesday, June 29, 2010 4:06 PM

To: Odom, Susan

Cc: dseabran@ci.tacoma.wa.us; marty@eagleharbargroup.com; Ball, James A; Sims, John A; rflynn@cityoftacoma.org

Subject: RE: BNSF rail crossing removal - City of Tacoma - South 25th & Hood Street

Hi Susan,

Sorry for my delay in getting back to you! I ran this by our policy lead and we decided that CZM review was not necessary for the track removal since there is not an additional CZM trigger (federal funding, approval, etc.) outside of the abandonment filing. You mentioned in your voicemail that there will be a series of track removals—if subsequent removals utilize federal funds or require a federal permit/approval we request that Ecology be notified for CZM review.

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

Jessica

From: Odom, Susan [mailto:Susan.Odom@BNSF.com]

Sent: Tuesday, June 22, 2010 1:39 PM

To: Moore, Jessica (ECY)

Cc: 'dseabran@ci.tacoma.wa.us'; 'marty@eagleharbargroup.com'; Ball, James A; Sims, John A; 'rflynn@cityoftacoma.org'

Subject: FW: BNSF rail crossing removal - City of Tacoma - South 25th & Hood Street

Jessica:

Please forgive the confusion. We will need you to take another look at this request. While the public project in and of itself does not fall within CZMP's purview, the track removal is actually pursuant to an abandonment filing (AB-6 Sub-No. 469X). One of the conditions imposed by the STB is to consult with CZM prior to any track removal to determine whether state coastal zone management consistency certification is required. A copy of your 11/24/2009 email related to this abandonment application is attached.

As you may recall, we are removing the track in segments. This request for review is for a section of track that will be removed by the City of Tacoma in order to complete certain street repairs.

Please feel free to call or email if you have any questions. Again, pardon the confusion and as always thank you for your help.

Susan Odom / *Manager Network Strategy*
BNSF Railway Company
817-352-6432 office
682-429-0930 mobile

This message may be confidential and should be read or retained only by the intended recipient.

From: Seabrands, Dan [mailto:DSEABRAN@ci.tacoma.wa.us]
Sent: Monday, June 21, 2010 3:39 PM
To: marty@eagleharborgroup.com; Ball, James A
Cc: Brown, Dana; Flynn, Ryan
Subject: FW: BNSF rail crossing removal - City of Tacoma - South 25th & Hood Street

Hello Marty and James,

In regards to the removal of the BNSF rail crossing at South 25th Street and Hood Street we have received the following response from Jessica More with the D.O.E.

As you can see, a State coastal management consistency **is not required**.

The contractor working on the water line installation has started to work his way up the hill in South 25th Street and should be near the rail crossing in the next 2 weeks. Is there any more information needed to get a quick formal response from BNSF to enable the rail removal?

Thank You

Dan Seabrands P.E.

Assistant Division Manager
Engineering Division
747 Market Street, Room 520
Tacoma, WA 98402-3769
(253) 591-5150/FAX 591-5533
email:dseabran@cityoftacoma.org

From: Flynn, Ryan
Sent: Thursday, June 17, 2010 3:41 PM
To: Seabrands, Dan; Scattarella, Kim
Subject: FW: BNSF rail crossing removal - City of Tacoma - South 25th & Hood Street
Dan,

Please see below.

Ryan M. Flynn, P.E.
Tacoma Public Utilities
Water Distribution Engineering
3628 South 35th Street
Tacoma, WA 98409-3192

P: (253) 396-3111 F: (253) 502-8694
E: rflynn@cityoftacoma.org

From: Moore, Jessica (ECY) [mailto:jemo461@ecy.wa.gov]
Sent: Thursday, June 17, 2010 1:30 PM
To: Flynn, Ryan
Subject: RE: BNSF rail crossing removal - City of Tacoma - South 25th & Hood Street

Hi Ryan,

Thanks for the additional information. I do not see a federal nexus to require project review under the CZMA. Let me know if you need additional information.

Jessica

From: Flynn, Ryan [mailto:RFLYNN@ci.tacoma.wa.us]
Sent: Monday, June 14, 2010 11:01 AM
To: Moore, Jessica (ECY)
Subject: RE: BNSF rail crossing removal - City of Tacoma - South 25th & Hood Street

Jessica,

The water main is being installed utilizing budgeted funds from Tacoma Water, federal funding will not be utilized for the installation of the water main. If we're approved to remove the tracks, the removal would be paid for through a Change Order added onto our existing contract (i.e. no federal funds utilized to remove the tracks).

Due to the overall size of our project we do have a Construction Stormwater General Permit through the Washington State Department of Ecology (permit no. WAR012107). The Construction Stormwater permit was required due to the area of disturbance being over 1 acre, it was not required due to direct a impact to waters of the US.

Hope that helps. Thanks for the quick response.

Ryan M. Flynn, P.E.
Tacoma Public Utilities
Water Distribution Engineering
3628 South 35th Street
Tacoma, WA 98409-3192

P: (253) 396-3111 F: (253) 502-8694
E: rflynn@cityoftacoma.org

From: Moore, Jessica (ECY) [mailto:jemo461@ecy.wa.gov]
Sent: Monday, June 14, 2010 10:17 AM
To: Flynn, Ryan

Subject: RE: BNSF rail crossing removal - City of Tacoma - South 25th & Hood Street

Hi Ryan,

There are two possible triggers for needing CZM review for this project—federal funding or federal permit/approval. Will water main construction or track removal utilize federal funding? Or will either piece require a federal permit for impacts to waters of the US? If there is no federal nexus, a CZM consistency determination review will not be necessary.

Let me know if there is a federal nexus and I will get you started on that review path. If you have any additional questions or need more information, please give me a call/email.

Thanks!
Jessica

From: Flynn, Ryan [mailto:RFLYNN@ci.tacoma.wa.us]
Sent: Tuesday, June 08, 2010 1:21 PM
To: Moore, Jessica (ECY)
Subject: BNSF rail crossing removal - City of Tacoma - South 25th & Hood Street

Jessica,

The email is just a follow up on the voice mail I left you earlier this morning.

Tacoma Water is presently constructing water main in South 25th Street between Jefferson Avenue and South C Street (in the City of Tacoma). In the middle of the project limits exists a BNSF rail crossing in the intersection of South 25th Street and Hood Street. The rail line which formerly utilized the rail crossing is no longer in use (i.e. the portions of the rail north and south of the crossing have been removed rendering the rail line abandoned).

We have petitioned BNSF to remove the rail crossing to facilitate construction of the water main and a future street improvement project. BNSF has responded with the following:

"In response to the City of Tacoma's request to remove the track within 25th Street, please instruct the City to contact Jessica Moore with the Department of Ecology to determine whether State coastal management consistency is required. The City will need to follow any instructions handed down by the Department of Ecology and report the results of such consultation to BNSF."

I would be most appreciative if you could please let me know what steps are necessary to receive Department of Ecology approval to remove the rail crossing.

Thanks,

Ryan M. Flynn, P.E.
Tacoma Public Utilities
Water Distribution Engineering
3628 South 35th Street
Tacoma, WA 98409-3192

P: (253) 396-3111 F: (253) 502-8694
E: rfflynn@cityoftacoma.org