

#E-1504

**SURFACE TRANSPORTATION STB
OFFICE OF ENVIRONMENTAL ANALYSIS**

**SUPPLEMENT to FINAL
ENVIRONMENTAL ASSESSMENT**

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

September 9, 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**

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.

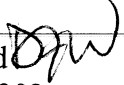
Comments on the EA

The condition requires BNSF to 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. The condition requires BNSF to report the results of the discussions with the City back to the Office of Environmental Analysis (OEA)¹ in writing.

The attached email correspondence from BNSF, dated November 30, 2009, indicates that on November 20, 2009, Peter Huffman, Manager in the Planning Division of the City of Tacoma, Community and Economic Development Department, determined that the proposed abandonment is consistent with its Comprehensive Plan for trail development. Therefore, OEA has determined that no further consultation with the City is necessary and recommends removal of the following condition:

¹ Formally the Section of Environmental Analysis.

Prior to beginning any salvage activities, or consummation of the abandonment if salvage does not occur, 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 OEA in writing.

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

Distribution: Ann Newman, Office of Proceedings
SEA Chron
ECT

Attachment



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

November 30, 2009

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

#E1-17959
AB-6 469X
DAW

Via email: rutsonv@stb.dot.gov

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

Dear Ms. Rutson:

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. On November 20, 2009 the Surface Transportation Board issued a decision, reopening the proceeding 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 in this letter written report of those results.

On November 20, 2009, BNSF received an email from Peter Huffinan, Manager Planning Division, City of Tacoma Community and Economic Development Department. In the email Mr. Huffinan 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 to this letter for your reference and use.

November 30, 2009

On November 24, 2009, BNSF received an email (copy attached) 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."

Also attached to this letter is a certified statement from David P. Schneider, General Director Land Revenue Management, who describes BNSF's process for conveying essential sale conditions in BNSF's Purchase and Sale agreements and conveyance documents. Mr. Schneider states that BNSF has taken the necessary precautions to ensure that appropriate language will be used in any future conveyance documents related to future sales of the subject line.

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

Sincerely,



Kristy D. Clark

Attachments: 11/20/2009 Email from Peter Huffman to Susan Odom
11/24/2009 Email from Jessica Moore to Susan Odom
Verification and Certification of David P. Schneider

Odom, Susan

From: Moore, Jessica (ECY) [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

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.

11/30/2009

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

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11/30/2009

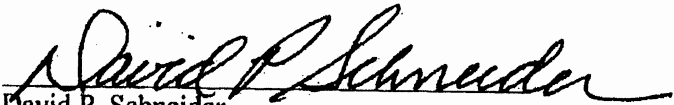
VERIFICATION AND CERTIFICATION

I, David P. Schneider, being duly sworn depose and state that, as General Director Land Revenue Management at 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.

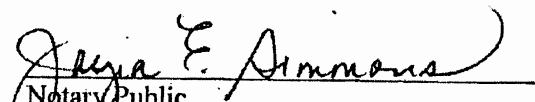
I hereby certify that BNSF has an established process for conveying essential sale conditions in its Purchase and Sale agreements and associated conveyances documents. Specifically related to STB Docket AB-6 (Sub-No. 469X) BNSF has instructed its real estate sales personnel and outsource partners that all future sales of the subject line will include the language, "Prior to removing any ties or rails from the property, Buyer is obligated to 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 and adhere to WDE S&CZMP requirements, if any, when performing salvage activity on the line."

In addition, BNSF has an established process of posting significant notations to its corporate maps used by its real estate personnel. Maps of the subject line will be appropriately noted to direct real estate personnel to BNSF Law and Network Development who are in positions to ensure the above language is appropriately inserted.

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


David P. Schneider
General Director Land Revenue Management

Subscribed and sworn to before me this 30th day of November, 2009.


Notary Public

My commission expires: 3/11/2012

