

SERVICE DATE – JANUARY 14, 2011

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 6 (Sub-No. 473X)

**BNSF Railway Company – Abandonment Exemption –
in Rolette and Towner Counties, N.D.**

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) filed a notice of exemption with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.50 to abandon 17.75 miles of stub-ended rail line extending from milepost 30.00, north of Bisbee to milepost 47.75, at Rolla, in Rolette and Towner Counties, N.D. (Line). The Line is located in the far north of central North Dakota, approximately 30 miles south of Manitoba, Canada. The Line traverses U.S. Postal Zip Codes 58317, 58363, 58367 and contains no federally granted rights-of-way. A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA).

DESCRIPTION OF THE RAIL LINE

According to BNSF, no rail traffic has moved over the Line for more than 2 years and there is no reasonable alternative to abandonment. Moreover, BNSF embargoed the Line on March 29, 2007, the result of poor condition of the Line. BNSF states that muskrats created a recurring track maintenance problem by creating tunnels under the rail line, which then fill with water. The water-filled tunnels in turn created an unstable sub-grade, which affected track alignment. Furthermore, after BNSF embargoed the Line, 2 of the 3 bridges were severely damaged by fire when controlled burns overseen by the Rolla Fire Department burned out of control.

Following the events listed above, BNSF states that it entered into an agreement with Rolla Cooperative Grain Company (Rolla Coop), the only shipper on the Line, to transload its rail traffic at nearby BNSF rail stations.

ENVIRONMENTAL REVIEW

BNSF submitted an Environmental Report that concludes the quality of the human environment will not be affected significantly because 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 C.F.R. § 1105.7(b)).¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to BNSF, no local or overhead traffic has moved over the Line for more than 2 years since the Line was embargoed on March 29, 2007. BNSF also notes that because the Line is stub-ended, it is not capable of handling overhead traffic. BNSF also states that Rolla Coop, the only shipper on the Line, has agreed to transload its grain shipments at nearby BNSF rail stations.

Therefore, because no traffic has moved over the Line in more than 2 years, if approved, 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

If the Board should approve the proposed abandonment, BNSF states that it would remove the rails, ties, the remnants of 2 fire damaged bridges, and the one remaining bridge. The right-of-way, ballast, and culverts would remain in place. BNSF states that salvage would occur as described below.

The salvage process would begin with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) would be removed. Next, the wooden ties would be raised from among the ballast with a tool designed for minimum disruption of the ground material. The ties would then be separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be re-sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

All culverts, ballast and right-of-way would remain intact so as not to alter the prevailing flow of water. BNSF's salvage contractors would be required to limit their activities to the width of the right-of-way. The salvage contractors would not place fills or other material in water bodies, including inland waterways, ensuring that water flow in the area is not disrupted.

¹ The 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. 473X).

Finally, all road crossings would be removed, then resurfaced with gravel, asphalt or concrete, as required by the local governing authority. Any railroad signals would also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers. Each salvage contract included detailed information on any environmental or historical conditions imposed by the Board in its final decision. Completed work would be independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including Board imposed conditions.

According to BNSF, if the Board were to approve this proposed abandonment, public health and safety would be enhanced by the permanent closure of 20 public and 6 private at-grade crossings.

BNSF believes that the proposed abandonment would be consistent with existing land use plans and is not likely needed for other public purposes other than a possible trail. BNSF also notes that portions of the right-of-way are subject to reversionary interests.

Comments Received from Agencies

In a letter dated November 30, 2010, the U.S. Department of Interior, Bureau of Land Management states that it does not have any surface management responsibility in Rolette and Towner Counties and therefore has no comment.

In an email dated November 19, 2010, the Towner County Auditor/Treasurer stated that the abandonment information would be added to the Towner County Commission's (Commission) agenda meeting on December 7, 2010. On January 10, 2011, OEA, via telephone, learned that the Commission had no opposition to the proposed abandonment.

On January 10, 2011, OEA, via telephone, contacted Rolette County Auditor/Treasurer and learned that it is in the process of gathering additional information regarding its options. Rolette County also indicated that other parties may have an interest in purchasing the Line from BNSF.

In a letter dated December 23, 2010, the Rolla Job Development Authority submitted comments taking issue with several points used by BNSF to justify abandonment of the Line. Environmental concerns raised by the Rolla Job Development Authority include increased trucks traveling through the area because there is not interstate or 4-lane highway in the area. The increased trucks, which could number over 2,000 per year, would generate air emissions and impact safety.

OEA notes that according to BNSF, the Line has been out of service for more than 2 years and as such, the additional truck traffic and resulting impacts, if any, are currently being experienced by the local communities. Furthermore, as outlined in the Board's environmental rules, the threshold in rail-to-truck diversions that would warrant additional analysis is 50 trucks per day, which is above the number of trucks currently moving through the area.

BNSF states that there are no known hazardous waste sites or sites where there have been known hazardous waste spills on the right-of-way.

According to BNSF, it does not believe that the proposed abandonment would result in any adverse impacts to endangered or threatened species or areas designated as a critical habitat. Furthermore, BNSF is not aware of any wildlife sanctuaries or refuges, national or state parks or forests that would be adversely affected.

In an email dated December 3, 2010, the U.S. Fish and Wildlife Service (USFWS) states that it has no property interests in the area of the proposed abandonment.

In a letter dated December 15, 2010, the USFWS Ecological Services Office makes the following observations: 1) the USFWS has property interests located in or near the proposed abandonment and recommends that all property interests within the National Wildlife Refuge System be avoided.; 2) the following are Endangered or Candidate Species found in Rolette and Towner Counties: a) the Endangered Whooping crane (*Grus Americana*) and the Gray wolf (*Canis lupus*) and the Candidate Species include the Sprague's Pipit (*Anthus spragueii*) and the Dakota skipper (*Herperia dacotae*); and 3) Review of the National Wetland Inventory maps and photographs indicate that several wetland basins lie adjacent to the proposed abandonment. To minimize disturbance to fish and wildlife habitat, the USFWS provides the following recommendations:

- Install and maintain appropriate erosion control measures to reduce sediment transport to and water quality degradation of wetlands and streams near the proposed abandonment.
- Make no stream alterations or changes in drainage patterns.
- Defer the timing of the abandonment related activities until after July 15th or the fall so as not to disrupt waterfowl or other wildlife during the nesting season and to avoid high water conditions.
- Reseed disturbed areas with a mixture of native grasses and forbs.

Accordingly, OEA will recommend a condition requiring that prior to commencement of any salvage activities, BNSF shall consult with Mr. Jeffrey Towner, Field Supervisor, USFWS

(701.250.4481) regarding potential impacts from salvaging activities to federally listed threatened and endangered species that may occur near the Line. BNSF shall report the results of these consultations in writing to the Board's Office of Environmental Analysis prior to the onset of salvage operations.

According to BNSF, it does not believe that any designated wetlands or 100-year floodplains would be adversely affected by the proposed abandonment.

In letters dated November 24, 2010 and January 4, 2011, the North Dakota State Water Commission states that: 1) the property is not located in an identified floodplain and that it is believed the proposed project would not affect an identified floodplain; 2) that it is the responsibility of the project sponsor to ensure that local, state, and federal agencies are contacted for any required approvals, permits, and easements; 3) all waste material associated with the proposed abandonment must be disposed of properly and not placed in identified floodway areas; and 4) no sole-source aquifers have been designated in N.D.

BNSF states that, if approved, salvage activities would not disturb any of the underlying roadbed or cause sedimentation or erosion of the soil, or involve any dredging or use of fill in the removal of the track material.

In a letter dated December 8, 2010, the Army Corps of Engineers, St. Paul District (Corps) states that no real estate, completed projects, or ongoing projects would be affected by the proposed project. The Corps also notes that although the proposed abandonment is located within the St. Paul District's civil works boundaries, the project area is within the Omaha District's Regulatory jurisdiction. Accordingly, OEA will recommend a condition requiring that prior to commencement of any salvage activities, BNSF shall consult with Mr. Daniel Cimarosti, Corps, Bismarck Regulatory Office, regarding its requirements and, if applicable, shall comply with the reasonable requirements of the Corps.

Based on all information available to date, OEA does not believe that abandonment activities would cause significant environmental impacts. OEA is providing a copy of this EA to the National Geodetic Survey, USFWS, and the Corps.

HISTORIC REVIEW

In its Historic Report, BNSF states that right-of-way is approximately 100 feet wide with increases in some areas to 200 feet in width and in areas with station grounds increasing to 300 feet in width. BNSF states that there are 3 bridges on the Line. Two of the bridges mentioned earlier were destroyed by fire and are less than 50 years old while the single remaining bridge is 50 years old or older. The single remaining bridge was constructed in 1947, is located at milepost 35.8, is 69 feet long and is of open deck timber construction.

BNSF states that it may have maps showing the right-of-way and /or station maps which could be furnished upon request, if available. In addition, BNSF believes that since the Line was disturbed during original construction by cuts and fill that any archaeological resources that may have existed would have been affected at that time. BNSF records do not indicate any environmental conditions that may affect the archaeological recovery of such resources.

According to BNSF, the Line was originally owned by the Saint Paul, Minneapolis and Manitoba Railway Company (SPMM), which was incorporated by Special Act of the Minnesota Legislature on May 23, 1879. On November 1, 1907, SPMM sold the Line to the Great Northern Railway Company (GN). In 1970, GN merged with Northern Pacific Railway Company, Pacific Coast Railroad Company, and Chicago, Burlington & Quincy Railroad Company to become Burlington Northern Inc. The latter changed its name to Burlington Northern Railroad Company (BNRR) in 1981. BNRR merged with The Atchison, Topeka and Santa Fe Railway Company in 1996 to become The Burlington Northern Santa Fe Railway Company, which name was changed to BNSF Railway Company in 2005.

BNSF served the Historic Report on the North Dakota State Historical Society (SHPO), pursuant to 49 C.F.R. § 1105.8(c). Based on available information, the SHPO, in a letter dated November 23, 2010, has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. In a subsequent letter dated December 9, 2010, the SHPO states that ‘if consulted by a federal agency’ that it would concur with a “No Historic Properties Affected” determination. On January 11, 2011, OEA confirmed, via telephone, that the SHPO believes that no historic properties listed in or eligible for inclusion in the National Register would be affected.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 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 through posting on the Board’s website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.² The database indicated that the Turtle Mountain Band of

² Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited on January 10, 2011).

Chippewa Indians of North Dakota is the only federally-recognized tribe that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment. Accordingly, OEA is sending a copy of this EA to Turtle Mountain Band of Chippewa Indians of North Dakota for review and comment.

CONDITIONS

We recommend that the following 2 conditions be imposed on any decision granting abandonment authority:

1. **BNSF Railway Company, prior to commencement of any salvage activities, shall consult with Mr. Jeffrey Towner, Field Supervisor, U.S. Fish and Wildlife Service (701.250.4481) regarding potential impacts from salvaging activities to federally listed threatened and endangered species that may occur near the Line. BNSF shall report the results of these consultations in writing to the Board's Office of Environmental Analysis prior to the onset of salvage operations.**
2. **BNSF Railway Company, prior to commencement of any salvage activities, shall consult with Mr. Daniel Cimarosti, U.S. Army Corps of Engineers, Bismarck Regulatory Office, regarding its requirements and, if applicable, shall comply with the reasonable requirements of the Corps.**

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are 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 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

BNSF believes that the right-of-way is not likely needed for other public purposes. BNSF also notes that sections of the right-of-way are subject to reversionary interests.

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 C.F.R. § 1152.29).

BNSF believes that the right-of-way may be useful for trail purposes. BNSF also notes that sections of the right-of-way are subject to reversionary interests.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office 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 original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 6 (Sub-No. 473X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at Troy.Brady@stb.dot.gov.

Date made available to the public: January 14, 2011.

Comment due date: January 31, 2011.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment