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OEA

SERVICE DATE – NOVEMBER 24, 2017

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 1106X
ABE Fairmont, LLC – Abandonment Exemption –
in Fillmore County, Neb.

Docket No. AB 6 (Sub-No. 488X)
BNSF Railway Company – Discontinuance of Service Exemption – in Fillmore County,
Neb.

BACKGROUND

In this proceeding, ABE Fairmont, LLC (ABE) and BNSF Railway Company (BNSF) (collectively, Applicants) jointly filed a petition of exemption under 49 U.S.C. § 10502 seeking exemption from the requirements of 49 U.S.C. § 10903 for ABE to abandon and BNSF to discontinue service over a line of railroad in Fillmore County, Nebraska. The rail line proposed for abandonment by ABE extends approximately 2.77 miles from Milepost 0.93 near the east-west main line of BNSF at Fairmont to Milepost 3.70 at the north property line of Fillmore County Road H (the line). The portion of the line proposed for discontinuance by BNSF extends approximately 0.77 miles from Milepost 0.93 to Milepost 1.70. Maps depicting the line in relationship to the area served are appended to this Environmental Assessment (EA). If the petition becomes effective, ABE would be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

Applicants filed the petition seeking abandonment authority on July 7, 2014 so the line could be reclassified from a Surface Transportation Board (Board) regulated line of railroad to private shipper owned industry track. On July 23, 2014, Applicants requested that the Board hold the proceeding in abeyance while they resolved issues concerning continued operations post-abandonment with Flint Hill Resources – Fairmont (FHR-Fairmont) and The Andersons, Inc. d/b/a O'Malley Grain Company (The Andersons), the line's only two shippers. FHR-Fairmont, The Andersons, ABE, and BNSF have spent nearly three years working on Industry Track Agreements (ITAs) to ensure that their common interest in providing continued safe and operationally efficient rail service for both shippers is protected. ITAs have been crafted that provide extensive remedies and safeguards for service failures and/or the failure to maintain the track.

On June 16, 2017, Applicants requested that the Board lift the abeyance and reinstate the proceeding on the Board's active docket, indicating that the matters that had caused the proceeding to be held in abeyance had been resolved. The Board issued a decision on August 17, 2017 lifting the abeyance.

ENVIRONMENTAL REVIEW

Applicants submitted an Environmental and Historic 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 disposition of the right-of-way. Applicants served the Environmental and Historic Report on a number of appropriate federal, state, and local agencies as required by the Board's 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.

The line was constructed in 1886 by a predecessor of BNSF as part of a cluster of branch lines extending in a generally southerly direction from what is now BNSF's east-west main line at Fairmont. The right-of-way is approximately 100 feet wide. There is one bridge located on the line. Commodities currently transported over the line are ethanol and grain.

Applicants are unaware of any archeological resources or any other previously unknown historic properties in the project area. The right-of-way was disturbed during original construction by cuts and fill and any archeological resources that may have been present would have been affected at that time.

Diversion of Traffic

If granted abandonment authority by the Board, Applicants indicate that the line would be kept in place and operated as private industrial track. BNSF would continue to operate on the line pursuant to an ITA with ABE. The abandonment would not result in changes to current rail operations or track maintenance practices. No passenger or freight traffic would be diverted to other transportation systems. 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. In this abandonment, Applicants indicate that the trackage comprising the line would be kept in place and operated as private industrial track. The proposed abandonment would not include salvage activities, or the environmental impacts commonly associated with salvage activities.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 1106X.

BNSF has no knowledge of hazardous waste sites or sites where there have been known hazardous material spills on the ROW or in adjacent areas.

The line is not located within a designated coastal zone. No designated wetlands or 100-year flood plains would be affected by the proposed abandonment. The proposed abandonment would not result in the discharge of dredged or fill material within waters of the United States and does not involve work in, over, or under navigable waters of the United States. No U.S. Department of the Army Corps of Engineers permits would be required.

The U.S. Department of Agriculture, Natural Resource Conservation Service in Lincoln has indicated that the proposed abandonment would have no adverse effect on prime agriculture land as traffic would continue to move over the line on the previously established right-of-way and no additional cropland would be taken out of production.

The National Geodetic Survey has advised OEA that no geodetic station markers have been identified that may be affected by the proposed abandonment.

Applicants state that no wildlife sanctuaries, refuges, National or State parks, or forests would be adversely affected by the proposed abandonment. Because rail service would continue without material changes, the abandonment would have no adverse effect on endangered or threatened species or areas designated as a critical habitat. The U.S. Fish and Wildlife Service Nebraska Field Office in Grand Island has determined, based on the information provided, that no endangered or threatened species would be affected by the proposed abandonment.

Because the line would be kept in place and operated as private industrial track, OEA does not believe that there would be any change in air emissions or noise associated with the proposed abandonment.

Based on all information available to date, OEA does not believe that abandonment, as proposed, would cause significant environmental impacts.

HISTORIC REVIEW

Applicants submitted an Environmental and Historic Report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Nebraska State Historical Society (SHPO) pursuant to 49 C.F.R. § 1105.8(c). The SHPO has determined that no historic properties or structures listed in or eligible for inclusion in the National Register of Historic Places (National Register) within the right-of-way (the Area of Potential Effect, or APE) would be affected by the proposed abandonment.

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 within the APE 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.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 two federally-recognized tribes (Pawnee Nation of Oklahoma and the Santee Sioux Nation, Nebraska) may have knowledge regarding properties of traditional religious and cultural significance within the APE of the proposed abandonment. Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

OEA recommends that no environmental conditions be imposed on any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the line would 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 lines, 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.

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.

² Native American Consultation Database, <http://grantsdev.cr.nps.gov/Nagpra/NACD/> (last visited November 6, 2017).

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).

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 Kenneth Blodgett, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 1106X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Kenneth Blodgett by phone at (202) 245-0305, fax at (202) 245-0454, or e-mail at Kenneth.Blodgett@stb.gov.

Date made available to the public: November 24, 2017.

Comment due date: December 22, 2017.

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

Attachments

STB Docket No. 1106X

ABE Fairmont, LLC Abandonment Exemption In Fillmore County, NE

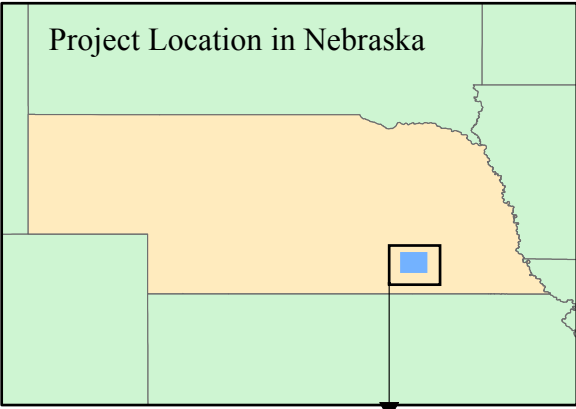
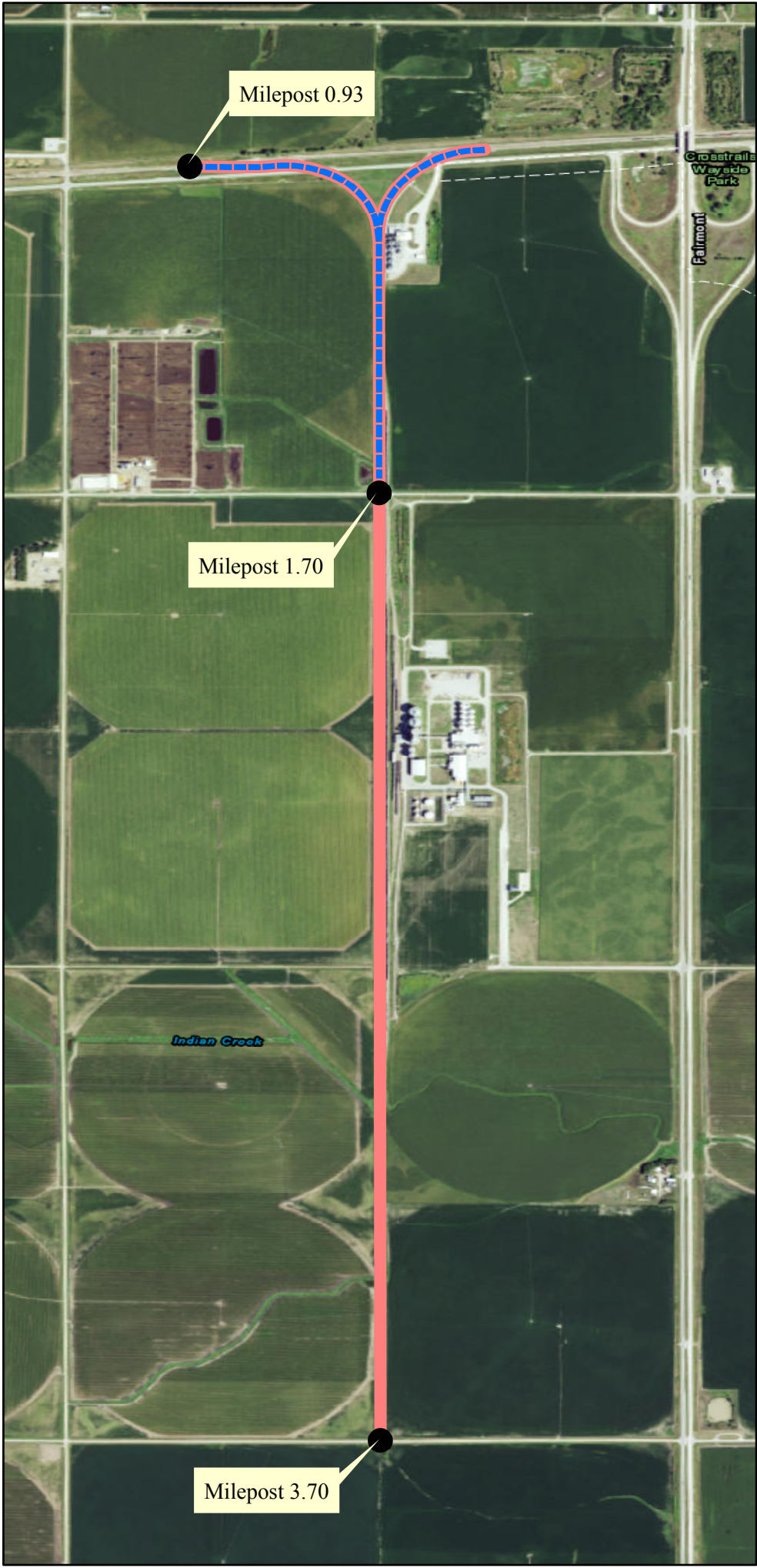


Legend

- Proposed abandonment
- Proposed discontinuance
- Railroad mileposts

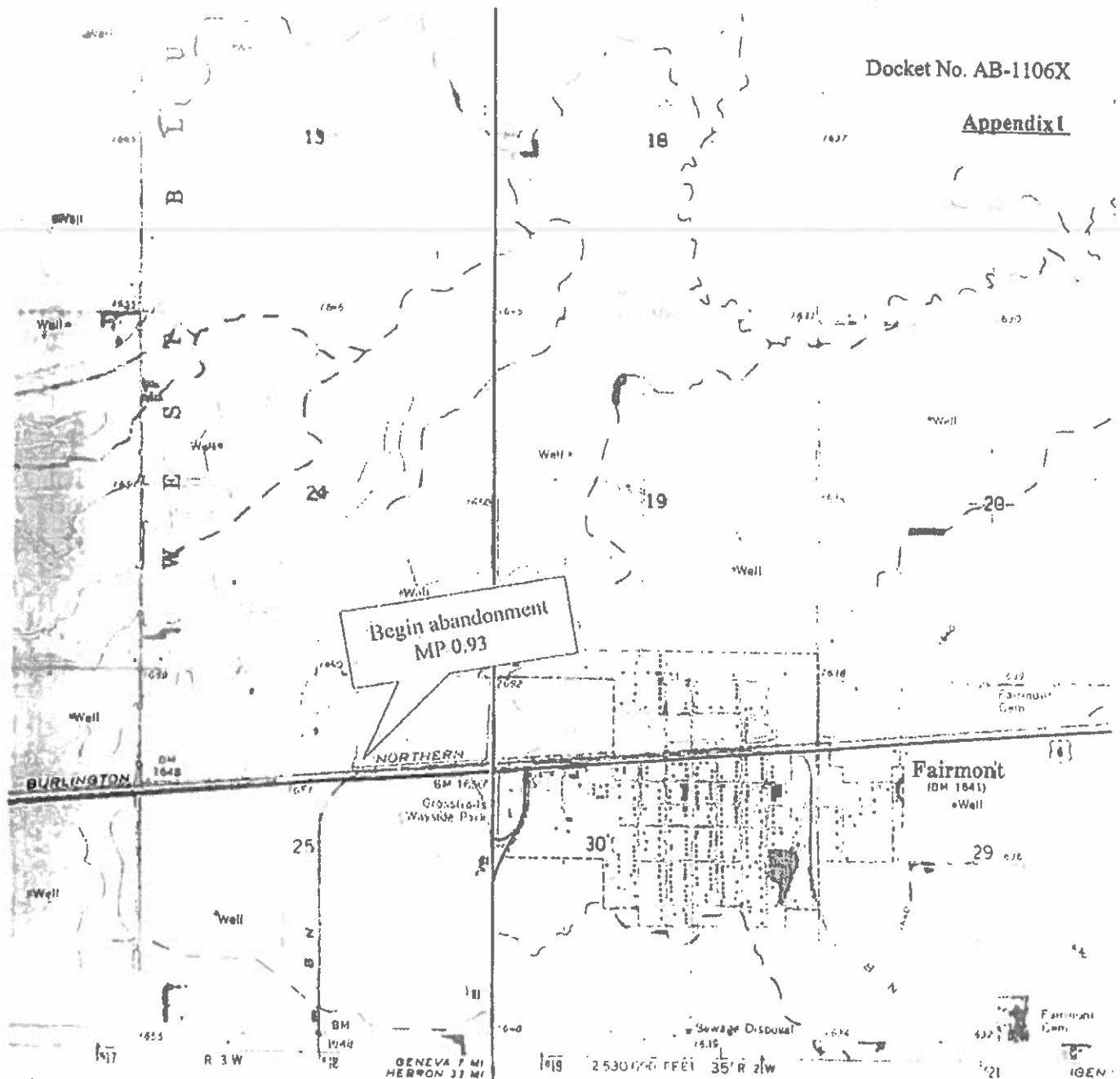


Note: Maps produced by the Surface Transportation Board, Office of Environmental Analysis are based on information provided by the railroad applicant and are for general reference purposes only.



Docket No. AB-1106X

Appendix I



edited, and published by the Geological Survey
of the Department of the Interior program
development of the Missouri River Basin
by USGS and USC&GS

by by photogrammetric methods from aerial
photos taken 1967 Field checked 1969

projection 1927 North American datum
grid based on Nebraska coordinate system, south zone
the Universal Transverse Mercator grid ticks
shown in blue

flushed lines indicate selected fence and field lines where
visible on aerial photographs This information is unchecked

1959 AND 1969 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET

SCALE

CONTOUR INTERVAL
DOTTED LINES REPRESENT
1:10,000 SCALE

THIS MAP COMPLIES WITH NATIONAL
FOR SALE BY U.S. GEOLOGICAL SURVEY, DENVER
A FOLDER DESCRIBING TOPOGRAPHIC MAPS

9 37 30
10 37 30

