

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-927X

Boot Hill & Western Railway Co., L.C. - Abandonment Exemption - in Ford County, KS

BACKGROUND

In this proceeding, Boot Hill & Western Railway Co., L.C. (BHWR or railroad) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Ford County, Kansas (KS). The line extends approximately 15.8 miles from Milepost 0.0 at Bucklin to Milepost 15.8 at Wilroads (the subject line). A map depicting the subject line in relationship to the area served is appended to the report. If the notice becomes effective, the railroad intends to salvage the rails, ties and other track material. There are no plans to remove five bridge structures on the line.

DESCRIPTION OF THE LINE

The subject line crosses predominantly flat and rural areas. The right-of-way (ROW) width is typically 100 feet. BHWR has certified that no local traffic has moved over the subject line for at least two years and no overhead traffic has moved over the subject line for at least two years. According to BHWR, there are no known hazardous material waste sites or sites where known hazardous material spills have occurred on or along the ROW. There are five bridges on the line that appear to be 50 years of age or older.

The subject line was originally constructed by the Arkansas, Kansas & Colorado Railway Company (AK&CR) in 1887. AK&CR sold the line to the Chicago, Rock Island & Pacific Railway (Rock Island) in 1891. Rock Island operated the line until Rock Island was ordered liquidated in 1980. The Ford County Historic Railroad Preservation Foundation acquired the subject line in the early 1980s and subsequently sold the line to the Dodge City Ford & Bucklin Railroad Company (DCF&B) in 1989. The DCF&B primarily used the subject line for tourist operations until the subject line was sold to BHWR in 2000.

ENVIRONMENTAL REVIEW

BHWR submitted environmental and historical reports that indicate that 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. BHWR served these reports 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)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

The U.S. Department of Agriculture, Natural Resources Conservation Service (formerly the Soil Conservation Service) had not responded to the railroad's environmental report at the time this Environmental Assessment (EA) was prepared. However, because BHWR only intends to remove track material, impacts to any prime farmland soils that may be present would be negligible.

As stated above, no traffic has moved on the subject line segment within the last two years. 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.

The U.S. Fish and Wildlife Service, Kansas Field Office (USFWS) concluded that no threatened and endangered species would likely be affected by the proposed abandonment. In addition, the USFWS stated that it had no concerns with potential impacts to other fish and wildlife resources such as wetlands and migratory birds.

The U.S. Army Corps of Engineers, Tulsa District, Flood Plain Management Services (USACE) noted that portions of the subject line are located within the 100-year flood plain of the Arkansas River. USACE stated that salvaging the rails and ties would not adversely impact the flood plain. However, if physical changes to the railroad alignment are proposed, those changes should occur in a manner that does not increase flooding and should be completed in compliance with applicable Federal, state and local flood plain regulations. BHWR has not stated any intentions to alter the railroad alignment.

The Kansas Department of Health and Environment, Bureau of Water (KDHE) stated that the proposed abandonment would not require permitting under Section 402 of the Federal Clean Water Act. KDHE noted, however, that a construction stormwater general permit under the National Pollutant Discharge Elimination Permit program may be required if clearing, grubbing, excavation or similar activities disturb one acre or more. In response, BHWR has stated that its proposed abandonment activities would not require clearing, grubbing, excavating or otherwise disturbing one or more acres of land.

The National Geodetic Survey (NGS) has identified 14 geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends a condition to address this concern.

The Kansas State Historical Society (State Historic Preservation Office or SHPO) acknowledged receipt of the railroad's historical report. The SHPO has completed its review of the report and determined that the proposed abandonment would not adversely affect any property listed or eligible for listing on the National Register of Historic Places.

CONDITIONS

SEA recommends that the following environmental condition be placed on any decision granting abandonment authority.

1. The National Geodetic Survey (NGS) has identified 14 geodetic station markers that may be affected by the proposed abandonment. Therefore, the railroad shall notify NGS 90 days prior to conducting salvaging activities in order to plan for the markers' possible relocation by NGS.

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 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 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 the petition for 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 Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at 202-565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, 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 David Navecky, 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-927X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact David Navecky, the environmental contact for this case, by phone at 202-565-1593, fax at 202-565-9000, or e-mail at naveckyd@stb.dot.gov.

Date made available to the public: April 8, 2005

Comment due date: April 22, 2005

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

Vernon A. Williams
Secretary

Attachment