

SERVICE DATE – JULY 30, 2012

SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB-6 (Sub-No. 483X)

BNSF Railway Company - Abandonment Exemption - in Los Angeles County, Cal.

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF or railroad) filed a notice with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.20 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a freight rail service easement over an approximately 5.3-mile rail line owned by the Los Angeles County Metropolitan Transportation Authority (LACMTA). The rail line extends from Milepost 7.95 (just north of West 67th Street curb line), and Milepost 13.25 (just south of Metro Green Line structure) in the City of Los Angeles, California (CA) (the Line). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA).

Related Prior Proceedings

The line proposed for abandonment is part of a group of lines that were subject to a 1992 agreement between the Atchison, Topeka and Santa Fe Railway Company (ATSF)¹ and Los Angeles County Transportation Commission (LACTC), a predecessor of LACMTA. Under that agreement, LACTC acquired ownership of the physical assets of certain ATSF rail lines, as well as the right to direct ATSF's future disposition of these lines. ATSF retained an exclusive and permanent easement to continue providing freight common carrier service over the lines.

Five years later, LACMTA sought a blanket exemption from the Board, asking that it be released from the requirements of the Interstate Commerce Act at 49 U.S.C. Subtitle IV. LACMTA sought this exemption because it did not intend to operate any rail lines as a rail freight common carrier and had no wish to hold itself out to provide freight rail service on the rail lines it had acquired from ATSF.² The Board granted LACMTA the blanket exemption in

¹ ATSF later merged with Burlington Northern Railroad Company to become the Burlington Northern and Santa Fe Railway Company, which is now known as BNSF Railway Company.

² See Orange County Transportation Authority, Riverside County Transportation Commission, San Bernardino Associated Governments, San Diego Metropolitan Transit Development Board, North San Diego County Transit Development Board—Acquisition Exemption—The Atchison, Topeka and Santa Fe Railway Co., FD 32173 at 4 (STB served Mar.

1997, and further stated in its decision that, if the railroad sought to abandon its rail freight service obligation over the line at a future date, the Board would evaluate the potential environmental impacts of the abandonment at that time.³

While the physical assets of the line remain in the ownership of LACMTA, BNSF's responsibility to provide rail freight service over the line remains in effect. Now, BNSF has come before the Board seeking to abandon its rail freight service easement over the Line.

DESCRIPTION OF THE LINE

As stated in the railroad's environmental and historic reports, the Line is located in a highly urbanized area of Los Angeles. The width of the right-of-way is generally 100 feet. According to the railroad, structures on the Line are limited to three bridges that carry the Line over local roads. Two of the bridges were constructed in 1967 and the remaining bridge was constructed in 1962.

The Line and its physical assets (e.g., bridges and track materials) are owned by LACMTA, which would like to construct and operate a light rail commuter service within the right-of-way. To enable LACMTA's light rail project to proceed, BNSF must abandon its rail freight service easement over the Line. Any salvaging activities that would follow BNSF's proposed abandonment would be conducted by LACMTA.

There has been no local freight rail traffic on the Line for approximately 10 years and the Line does not handle overhead freight rail traffic. The railroad is not aware of any hazardous waste sites on the Line that would be affected by the proposed abandonment.

ENVIRONMENTAL REVIEW

The railroad submitted an environmental report that concludes the quality of the human environment would not be affected significantly because of the abandonment or any post-abandonment activities. The railroad served the environmental 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)].⁴ OEA reviewed and investigated the record in this proceeding.

For environmental reviews of rail line abandonments, the Board's role is limited to the anticipated impacts of the abandonment proposal before the agency. This includes the diversion

12, 1997) (Orange County).

³ LACTMA agreed to adopt any Environmental and Historic Reports filed by the railroad. See Orange County at 6.

⁴ The railroad's 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. 483X).

of traffic to other rail lines or transportation modes and the consequences of removing the track and related structures. Iowa Southern R. Co. – Exemption – Abandonment, 5 I.C.C.2d 496, 501 (1989), aff'd, Goos v. ICC, 911 F.2d 1283 (8th Cir. 1990).

Diversion of Traffic

Because there is no rail traffic on the Line, 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 structures that may be present on the right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way or, if necessary, via the construction of new access points to the right-of-way. Because BNSF has no ownership interest in any fixed assets on the line, it will not undertake any salvage operations in connection with the proposed abandonment. BNSF has stated that, if the Board grants it abandonment authority, LACMTA would undertake salvage activities. Any mitigation measures recommended in this EA and imposed by the Board would require BNSF to ensure that salvage takes place according to the conditions required.

The Natural Resources Conservation Service (NRCS) has not responded to the railroad's environmental report. However, because of the highly urbanized character of the project area, the proposed abandonment is not likely to affect prime or important farmland.

In response to the railroad's environmental report, the U.S. Fish and Wildlife Service, Carlsbad Office (USFWS) referred the railroad to a USFWS Web site for use in generating a list of threatened and endangered species with the potential to occur in the project area, subject to habitat availability. Upon review of the list, BNSF concluded that the proposed abandonment should have no effect on threatened and endangered species. Because of the highly urbanized character of the project area, OEA concurs with this conclusion. Nevertheless, OEA has provided a copy of this EA to the USFWS for review and comment.

The U.S. Army Corps of Engineers – Los Angeles District (Corps) has not responded to the railroad's environmental report. OEA has provided a copy of this EA to the Corps for review and comment.

The U.S. Environmental Protection Agency, Region 9 (USEPA) has not responded to the railroad's environmental report. OEA has provided the USEPA with a copy of this EA for review and comment.

HISTORIC REVIEW

The railroad submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and provided a copy to the California Department of Parks, Office of Historic Preservation (the State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). As a component of its public outreach, the railroad placed a notice of the proposed abandonment in The Los Angeles Daily News on July 2, 2012. The railroad also notified local governments of the proposed abandonment. Both the historic report and this EA are available on the Board's Web site, and OEA has provided the SHPO with a copy of this EA.

Because the SHPO has not submitted comments on BNSF's proposed abandonment, OEA has not been able to consider the SHPO's opinion before determining whether the proposed project could affect historic properties. Accordingly, we are recommending a condition requiring BNSF to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right of way (the Area of Potential Effect) eligible for listing or listed in the National Register until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

OEA conducted a search of the Native American Consultation Database at <http://grants.cr.nps.gov/nacd/index.cfm> (database searched July 16, 2012) to identify federally recognized tribes that may have ancestral connections to the project area. The database identified no federally recognized tribes as having connections to Los Angeles County, CA.

CONDITIONS

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

1. BNSF Railway Company (BNSF) (or any holder of a successor interest in the rail property) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. BNSF shall report to the Board's Office of Environmental Analysis regarding any consultations with the California Department of Parks, Office of Historic Preservation (the State Historic Preservation Office or SHPO) and the public. BNSF may not file its consummation notice until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA 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 and no salvage activities), 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 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 the time specified in the Federal Register notice. 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, D.C. 20423.

COMMENTS

If you wish to file comments regarding this EA, please send an **original and one copy** to Surface Transportation Board, Washington, D.C. 20423, to the attention of Dave Navecky, who prepared this document. 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. 483X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Dave Navecky, the environmental

contact for this case, by phone at 202-245-0294, fax at 202-245-0454, or e-mail at david.navecky@stb.dot.gov.

Date made available to the public: July 30, 2012.

Comment due date: August 13, 2012.

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

Attachment