

**33400**

**SERVICE DATE - MARCH 10, 2003**

**SURFACE TRANSPORTATION BOARD**

WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-6 (Sub-No. 400X)**

**The Burlington Northern and Santa Fe Railway Company - Abandonment Exemption - in  
Franklin and Webster Counties, NE**

**BACKGROUND**

In this proceeding, The Burlington Northern and Santa Fe Railway (BNSF or applicant) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 to abandon a rail line in Franklin and Webster counties in Nebraska (NE). The proposed abandonment spans 19.8 miles from Milepost 216.95 near Franklin, in Franklin County, to Milepost 197.15 near Red Cloud, in Webster County. A map depicting the rail line in relationship to the area served is appended to this report. If the notice becomes effective, the applicant would be able to salvage track, ties and other railroad appurtenances.

**DESCRIPTION OF THE LINE**

According to BNSF, there has been no originating or terminating rail traffic on the subject line for the past two years, and there is no overhead traffic to be rerouted.

The subject rail line is located within the Republican River valley in rural southeast NE. Towns in the vicinity of the line include Franklin (population 1,026), Riverton (population 145), and Red Cloud (population 1,131). There are 13 public road crossings and 21 private road crossings that would be eliminated by the abandonment. The width of the right-of-way (ROW) is approximately 100 feet except at station locations. There are 26 bridges on the line that are 50 years of age or older.

According to BNSF, the Republican Valley Railroad Company (RVR) and the Chicago Burlington and Quincy Railroad Company (CBQ) acquired the ROW from 1878 through 1921. RVR was a predecessor of the CBQ. In 1979, the CBQ merged with the Northern Pacific Railway Company and the Great Northern Railway Company to become Burlington Northern Railroad Company (BN). In 1995, BN merged with the Atchison Topeka and Santa Fe Railway Company to become BNSF.

## **ENVIRONMENTAL REVIEW**

The applicant 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. The applicant 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)]. We have reviewed and investigated the record in this proceeding.

The State Conservationist with the U.S. Department of Agriculture, Natural Resources Conservation Service has stated that the proposed abandonment would not affect prime farmland.

The U.S. Army Corps of Engineers - Omaha District stated that a Department of Army permit would not be required because BNSF does not propose to place any fill in any waters of the United States including wetlands.

The U.S. Environmental Protection Agency - Region 7 did not respond to the applicant's environmental report.

The U.S. Fish and Wildlife Service - Ecological Services - Nebraska Field Office (USFWS) noted that two Federally-listed species may occur in the vicinity of the proposed abandonment. Bald eagles (*Haliaeetus leucocephalus*) winter and migrate along the Republican River, but the USFWS stated that it is unlikely that abandonment activities would adversely affect the bald eagles. Whooping cranes (*Grus americana*) have been confirmed using wetlands adjacent to the Republican River upstream from Franklin and downstream from Red Cloud, which are the two endpoints of the proposed abandonment. The USFWS stated that if whooping cranes are observed within 1 mile of active abandonment and salvaging activities, those activities should cease until the whooping cranes leave the area.

In response to the environmental report, the NE Game and Parks Commission (NGPC) stated that the records of the NE Natural Heritage Program indicate no documented occurrences of threatened or endangered species or their critical habitats within or adjacent to the ROW. NGPC also noted that approximately 1.1 miles of the ROW proposed for abandonment occurs within the NGPC's Narrows Wildlife Management Area. However, NGPC did not identify any concerns related to the proposed abandonment and the wildlife management area.

Based on the information available to date, SEA concludes that the proposed abandonment is unlikely to adversely affect Federally-listed species. Therefore, a formal Section 7 consultation with the USFWS is not warranted. However, SEA recommends a condition to address the USFWS's

whooping crane concerns.

The NE Department of Environmental Quality stated that a National Pollutant Discharge Elimination System (NPDES) permit would not be required for the removal of rails and ties.

The applicant is not aware of any hazardous waste sites, or sites where there have been known hazardous materials spills within the ROW.

The U.S. Department of Commerce's National Geodetic Survey (NGS) has identified ten geodetic station markers that may be affected by the proposed abandonment. If abandonment and salvage activities could disturb or destroy these markers, NGS must be notified not less than 90 days in advance of the activities in order to plan for the relocation of the markers. In a February 11, 2003 letter from Brian Nettles, an attorney representing BNSF, to NGS, the 90-day notification was provided. Therefore, SEA concludes that a condition that addresses the 90-day notification requirement is unnecessary.

Because traffic has not moved on the subject rail line for the past two years, the proposed abandonment would not be expected to impact the development, use and transportation of energy resources or recyclable commodities, or result in the diversion of rail traffic to truck traffic that could result in impacts to air quality or the local transportation network.

Based on documentation provided by the applicant, the NE State Historical Society (State Historic Preservation Office or SHPO) identified the presence of two archaeological resources on or near the proposed abandonment. Information on either resource is insufficient for the SHPO to make a determination of eligibility for the National Register of Historic Places. Accordingly, the SHPO recommends that a qualified archaeologist inspect the location of the two resources to determine the potential effect of the proposed abandonment. The SHPO identified no other historic resources that could be affected by the proposed abandonment. SEA has recommended a condition to address the SHPO's concern for these two archaeological resources.

## **CONDITIONS**

We recommend that the following environmental conditions be placed on any decision granting abandonment authority:

1. According to the U.S. Fish and Wildlife Service, whooping cranes (*Grus americana*), a Federally-listed species, have been confirmed using wetlands adjacent to the Republican River upstream from Franklin, NE, and downstream from Red Cloud, NE, which are the two endpoints of the proposed abandonment. If the applicant observes whooping cranes within 1

mile of active abandonment and salvaging activities, those activities shall cease until the whooping cranes leave the area.

2. The applicant shall determine if the two archaeological resources identified by the Nebraska State Historical Society (State Historic Preservation Office or SHPO) are located within the right-of-way (ROW) proposed for abandonment. If either or both of the archaeological resources are located within the ROW, the applicant shall retain its interest in and take no steps to alter the historic integrity of the ROW until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

## **CONCLUSIONS**

Based on the information provided from all sources to date, we conclude 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**

If abandonment and salvage of the rail line do take place, the ROW may be suitable for other public uses. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Surface Transportation 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 Surface Transportation Board, with a copy to the railroad, within 20 days of publication of the notice of exemption in the Federal Register. However, the Board will accept late-filed requests as long as it retains jurisdiction to do so. This request must comply with the Board's rules for use of ROWs 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 the Surface Transportation Board, Office of Public Services, Washington, DC 20423.

## **ENVIRONMENTAL 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. **Please refer to STB Docket No. AB-6 (Sub-No. 400X) in all correspondence addressed to the Board. Questions regarding this environmental assessment should be referred to David Navecky at 202-565-1593 (naveckyd@stb.dot.gov).**

Date made available to the public: March 10, 2003.

Comment due date: **March 24, 2003.**

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

Vernon A. Williams  
Secretary

Attachment

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