



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue
Seattle, WA 98101

ED-1969
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February 27, 2006

Reply To
Attn Of: ORC-158

Section of Environmental Analysis
Surface Transportation Board
1925 K Street NW, Room 504
Washington, D.C. 20423-0001

Re: STB Docket No. AB-6 (Sub-No. 440X) - BNSF Railway Abandonment in
Olympia, WA

Dear Ladies and Gentlemen:

The U.S. Environmental Protection Agency (EPA) has received and reviewed a letter to us dated February 16, 2006, concerning the abandonment proceeding referenced above. This letter attached an Environmental Report and Historic Report prepared in support of an anticipated petition for abandonment of a railroad line of approximately 0.23 miles within the City of Olympia, Washington. At this time, EPA is unaware of any specific inaccuracies contained within this Environmental Report. However, based on our review of the report and other provided materials, we nonetheless provide the following comments addressing one potential environmental concern related to any prospective railroad abandonment activity.

The Environmental Report (p.8) expresses a belief that the proposed abandonment will require no permit under Section 402 of the federal Clean Water Act. Potentially contrary to that assumption, it is evident from the materials provided that this rail line proposed for abandonment runs directly adjacent to Capitol Lake, a navigable water. Beyond the railbed itself, the railroad right-of-way is reported 16 to 100 feet wide (Historical Report, p. 1), a width that may actually extend into Capitol Lake and almost certainly includes jurisdictional wetlands along the lake.

Notwithstanding this presence of jurisdictional wetlands, if the proposed action merely entails the abandonment or railbanking and transfer of the railroad right-of-way, EPA agrees that no permits under the Clean Water Act should be required. If, however, the proposed action also entails railroad salvage activities, such as the removal of ties and tracks for any purpose, then Clean Water Act requirements may be implicated. In particular, if salvage activities involve clearing, grading or excavating that will disturb more than one acre of land, such activities must comply with requirements for obtaining a permit under the Clean Water Act National Pollutant Discharge Elimination System (NPDES) to prevent or minimize the discharge of pollutants in storm water runoff from the disturbed areas to waters of the United States.

In the State of Washington, the Department of Ecology (WDOE) is authorized to administer the NPDES program and in particular to issue permits for regulating storm water runoff. To apply for such a permit, if necessary for the proposed action, information may be found on-line at

<http://www.ecy.wa.gov/programs/wq/stormwater/construction>. The permit, commonly known as the Construction Storm Water General Permit, requires the development and implementation of a project-specific Storm Water Pollution Prevention Plan. This plan must describe all appropriate erosion, sediment and construction waste Best Management Practices to be used during the active construction phase, including maintenance and self-inspection requirements, that will prevent the discharge of pollutants to waters of the United States via runoff from the construction sites. Upon development of the SWPPP, operators must submit a Notice of Intent application form to Department of Ecology prior to the start of the construction, and submit a Notice of Termination to end permit coverage upon final stabilization of all disturbed areas. More information about the WDOE Construction Storm Water General Permit process can be obtained through the WDOE website or by contacting Joyce Smith at (360) 407-6858.

If you or your staff have any general questions for EPA about storm water permitting requirements, please contact Misha Vakoc, Storm Water Program Coordinator, at (206) 553-6650 or vakoc.misha@epa.gov. Legal questions may be directed to me at (206) 553-1185.

Sincerely,



Clifford J. Villa
Assistant Regional Counsel

cc: Michael A. Smith, Esq.