

SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS

ED-445
KCB

POST ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN STB DOCKET NO. AB-6 (Sub-No. 434X)

March 21, 2007

The decision in this proceeding, served January 11, 2006, imposed a condition requiring BNSF to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f has been completed. By decision served on May 17, 2006, the Section 106 condition was modified to allow BNSF to advance with salvage operations in order to redeploy the track assets elsewhere.

The attached correspondence from BNSF indicates that the condition requiring compliance with the Section 106 process has been fulfilled. On December 11, 2006, BNSF entered into a railbanking agreement with the City of Lewistown. BNSF railbanked the subject line from Milepost 13.88 to Milepost 28.35, including the 1.30 mile Berg Lumber Spur (Milepost 0.00 to Milepost 1.30) and the Heath Spur (Milepost 0.00 to Milepost 1.10). On January 19, 2007, BNSF requested authority from the Board to discontinue only, and not abandon, that portion of the line between Milepost 9.50 and Milepost 13.88, a distance of approximately 4.38 miles. Because the rail corridor to be abandoned by BNSF has been railbanked through the National Trails Systems Act and BNSF has complied with the requirements of the modified May 17, 2006, Section 106 condition, the Montana Historical Society (MT SHPO) has concurred with BNSF's determination that there will be no adverse effect to historic properties listed in or eligible for inclusion in the National Register of Historic Places along the rail corridor as a result of the proposed abandonment. SEA agrees with the SHPO's concurrence.

Therefore, we recommend that the Section 106 condition imposed by the Board in this proceeding be removed.

SEA CONTACT: Kenneth Blodgett (202-245-0305) KCB

Attachments

cc: Mr. Joseph Warhank, MT SHPO
Sidney Strickland and Associates
Office of Congressional and Public Services (Public Docket)
SEA Chron



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REC'D. LAW DEPT.

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VIA UPS OVERNIGHT MAIL

December 19, 2006

Mr. Josef Warhank
Montana Historical Society
225 North Roberts
P.O. Box 201201
Helena, MT 59620-1201

**CONCUR
MONTANA SHPO**

DATE 2/21/07 SIGNED Josef Warhank

Josef
STB
BNSF: MOORE -
LEWISTOWN
ABANDONMENT
RAIL BANKING

BY: [Signature]
DEC 20 2006

Re: Surface Transportation Board (STB) Docket No. AB-6 (Sub-No. 434X); BNSF Railway Company (BNSF) Abandonment between Moore, Montana and Lewistown, Montana

Dear Mr. Warhank:

Please reference Sarah Bailiff's letter dated April 6, 2006, regarding the above-referenced matter.

In consultation with you, Ken Blodgett with the Surface Transportation Board, and Duane Ferdinand with the Lewistown Historic Preservation Office (LHPO), BNSF proposed advancing with salvage operations in order to satisfy an immediate need to redeploy the track assets elsewhere. With some conditions, the Montana Historical Society (SHPO) and LHPO had indicated no objection to BNSF implementing salvage operations. BNSF proposed the following modifications to the existing condition:

BNSF shall take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. Section 470f (NHPA); provided, however, BNSF may proceed with salvage of the rail and track materials (rails, ties, tie plates, spikes) so long as all bridges, culverts, right of way, or trail related structures and a designated section of 150 feet of trackage (location to be specifically designated in writing by the LHPO prior to salvage) shall remain intact until completion of the Section 106 process.

Salvage operations have been completed and the 150 feet of trackage remains intact at the site designated by LHPO (copy of LHPO letter enclosed). We had preliminarily discussed, in concept, negotiation of a possible Memorandum of Agreement which would provide that in the event the rail corridor is railbanked through the National Trails Systems Act, there would be a determination of "no adverse effect" or, in the alternative, if a railbanking agreement could not be concluded, a prescribed mitigation (as all parties may agree upon as appropriate) would otherwise apply. On December 11, 2006, BNSF entered into a Railbanking Agreement with the City of Lewistown (copy enclosed). Therefore, BNSF requests SHPO's concurrence of "no adverse effect" to historical properties regarding this matter.

We would appreciate prompt consideration of our request.

If you have any questions, please contact me at (817) 352-3394 or Jake.Deboever@BNSF.com or our paralegal John Sims at (817) 352-2376 or John.Sims@BNSF.com.

Sincerely,



Jake DeBoever
Assistant General Attorney

JPD/js

cc: Ken Blodgett (STB)
Duane Ferdinand (LHPO)
Jerry Johnson
Rich Batie
John Sims

JAN 5 2007

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SIDNEY L. STRICKLAND, JR.
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January 5, 2007

Honorable Vernon A. Williams
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Docket No. AB-6 (Sub. No. 434X); BNSF Railway Company—Abandonment Exemption—in Fergus County, MT

Dear Secretary Williams:

On November 25, 2005, BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a line of railroad between milepost 9.50 near Moore, MT, and milepost 28.35 near Lewistown, MT, the 1.30-mile Berg Lumber Spur (milepost 0.00 – milepost 1.30), and the Heath Spur (milepost 0.00 – milepost 1.10), a total distance of 21.25 miles in Fergus County, MT. The line traverses United States Postal Service Zip Codes 59457 and 59464.

By decision served December 14, 2005, the STB granted the exemption authority to abandon effective on January 13, 2006. Within that same decision, the STB stated that the abandonment was to be consummated as of December 14, 2006.

By decision served on January 11, 2006, the proceeding was reopened and a 180-day period was authorized for the City of Lewistown, MT (Lewistown), to negotiate an interim trail use/railbanking agreement with BNSF for the right-of-way.

By decision served July 11, 2006, the Board granted Lewistown's request to extend the NITU negotiating period until January 8, 2007.

On December 13, 2006, BNSF filed a letter with the STB requesting an extension of the abandonment consummation deadline until June 14, 2007.

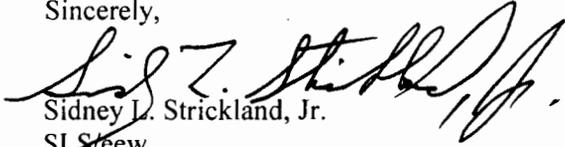
This letter is to advise the Board that BNSF is railbanking the subject Line from milepost 13.88 to milepost 28.35, including the 1.30-mile Berg Lumber Spur (milepost 0.00 – milepost 1.30), and the Heath Spur (milepost 0.00 – milepost 1.10). BNSF will address the remainder of the Line and the pending historical condition in a separate letter.

Please acknowledge receipt of this letter by date stamping the enclosed copy of this letter and returning it to me in the enclosed self-addressed stamped envelope.

Ten (10) additional copies of this letter are enclosed for the Board's use and distribution.

If you have any questions, please contact me at (202) 338-1325.

Sincerely,



Sidney L. Strickland, Jr.
SLS/ew

cc: Jake DeBoever
John Sims