

SERVICE DATE – APRIL 30, 2019

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 6 (Sub-No. 498X)

**BNSF Railway Company–Abandonment Exemption–
in Pawnee County, Okla.**

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) filed a verified notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of approximately 0.74 miles¹ between milepost 6.47 and milepost 7.21 in Pawnee County, Oklahoma (the Line). BNSF states that the rail line on either side of the Line was abandoned in 1973² and that there has been no traffic on this segment since prior to 2008.

The Line travels through a mix of rural, residential and agricultural land uses and is bounded to the north by Black Bear Creek, to the east by Oklahoma State Highway 18, and to the south by U.S. Route 64. According to BNSF, all the parcels along the Line are subject to a reversionary interest except one parcel that is non-reversionary. The Line traverses United States ZIP Code 74058, and the right-of-way is 100 feet to 200 feet wide. Maps depicting the Line in relationship to the area served are appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes 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. BNSF served the environmental report on a number of appropriate federal, state, and local agencies as required

¹ According to BNSF, the 0.74 miles of Line is formally referred to as “Line segment 1047 (formerly 7401), track 5403.”

² The Atchison, Topeka and Santa Fe Railway abandoned Line Segment 7401 from milepost 0.00 to milepost 6.47 and from milepost 7.21 to milepost 8.40 in Atchison, Topeka & Santa Fe Ry. Co. Abandonment between Esau Junction & Pawnee, Pawnee Co., Okla., FD 27221 (ICC served March 2, 1973). See attached Exhibit A maps for specific locations.

by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].³ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to BNSF, no local traffic has moved over the Line since prior to 2008 and there is no overhead traffic to be rerouted. 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.

Salvage Activities

If abandonment authority is granted, BNSF states that it would use specialized machinery placed on the right-of-way to salvage the Line. BNSF intends to remove the rails, signals, ties, angle bars, tie plates, spikes, switches and any other metal parts and would use a tool designed for minimal ground disturbance to lift the ties from the ballast. The ties would then be sorted, depending on quality, for re-use, landscaping, or scrap. BNSF would dispose of any scrap ties at an Environmental Protection Agency-approved facility. The ballast and culverts would remain in place so as not to alter the prevailing waterflows or cause fill material to be discharged or placed in any water bodies, including inland waterways. BNSF intends to pave the four at-grade crossings on the Line with asphalt, concrete, or gravel in accordance with applicable state or local requirements. BNSF states that it requires its salvage contractors to limit salvage activity to the right-of-way and to adhere to Board-imposed environmental or historic conditions, if applicable, as well as its own standards of quality. BNSF independently verifies compliance with these requirements through on-site inspections.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

The National Geodetic Survey (NGS) commented that there are approximately two geodetic station markers that may be affected by the proposed abandonment. Accordingly, OEA is recommending a condition that would require BNSF to notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order for NGS to plan for their possible relocation.

³ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 6 (Sub-No. 498X).

The U.S. Army Corps of Engineers' (Corps) commented that the proposed abandonment is not subject to regulation pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344). As previously stated, BNSF's salvage operations would not involve the discharge of dredge or fill material into waters of the United States because it intends to conduct salvage activities in the existing right-of-way and does not intend to disturb any of the underlying road bed or perform any activities that would result in sedimentation or erosion of the soil. No dredging or use of fill material would occur in removing the track and ties, and BNSF would transport the ties and other debris away from the rail line. Accordingly, OEA has determined that no further consultation with the Corps is necessary in this proceeding.

The Natural Resources Conservation Service (NRCS) has not commented on any potential impacts to prime agricultural land resulting from the proposed abandonment, pursuant to the Farmland Protection Policy Act (FPPA). However, based on BNSF's detailed salvage procedure of minimal ground disturbance, OEA believes that the proposed abandonment would not adversely affect FPPA resources, but has included NRCS in the service list for this proceeding so that it may review the EA and provide comments, if necessary.

The Bureau of Land Management (BLM) commented that no BLM interests would be affected by the proposed abandonment. Accordingly, OEA has determined that no further consultation with BLM is necessary in this proceeding.

The U.S. Fish and Wildlife Service (USFWS) has not commented on the proposed abandonment. However, based on information that BNSF included in its report, OEA obtained an official list of threatened or endangered species that may be in the project area using the USFWS online Information for Planning and Consultation (IPaC) tool.⁴ Four bird species identified as federally endangered or threatened may potentially be present in the project area. The birds are: Least Tern (*Sterna antillarum*), Piping Plover (*Charadrius melodius*), Red Knot (*Calidris canutus rufa*), and Whooping Crane (*Grus americana*). The report indicates that there are no designated critical habitats associated with the four federally protected species within the project area, nor are there any wildlife sanctuaries, refuges, national or state parks, or forests. Due to the limited scope of BNSF's proposed salvage activities, which would take place within the existing rail right-of-way, OEA believes that impacts to the federally listed threatened or endangered species, or to critical habitat, would be unlikely to occur as a result of the proposed abandonment. Accordingly, OEA has concluded that the proposed abandonment would have no effect on the species listed above, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. § 1536). OEA has included the USFWS Southwest Region in Albuquerque, New Mexico in the service list for this proceeding so that it may review the EA and provide comments, if necessary.

Oklahoma does not have a state coastal zone management approved program because there are no coastal zone boundaries in the state. Accordingly, OEA has concluded that a

⁴ U.S. Fish and Wildlife Service, Information, Planning, and Conservation System, <http://ecos.fws.gov/ipac> (last visited April 16, 2019).

Federal Consistency Determination, pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq) is not required.

According to BNSF, there is a remediation site adjacent to the Line that BNSF jointly manages with Phillips 66. Petroleum hydrocarbons above the Oklahoma Department of Environmental Quality's (DEQ) Tier 2a screening levels are present in the area of the proposed abandonment. BNSF indicates that it is in the process of deed-restricting this area and that DEQ has agreed that no further action is necessary. In a December 18, 2018 email to BNSF, DEQ's Office of External Affairs commented that DEQ completed its review of air, land and water records for the proposed abandonment and concluded that "no environmental concerns under DEQ jurisdiction are anticipated." DEQ sent a follow-up email dated February 27, 2019 stating that it had no additional comments on the proposed abandonment. As DEQ's correspondence made no mention of the hydrocarbon monitoring and the need to deed-restrict the area, OEA is not certain if this contamination would affect any reversionary interests along the Line, particularly if there are residential properties. OEA is therefore recommending a condition that would require BNSF to consult with DEQ prior to commencement of any salvage activities to ensure that DEQ's requirements regarding the petroleum hydrocarbon contamination have been adequately addressed. BNSF would be required to submit the results of these consultations in writing to OEA prior to the onset of salvage operations.

OEA has not yet received responses from other agencies regarding potential environmental impacts from the proposed abandonment. Therefore, in addition to the agencies that provided comments, OEA is sending a copy of this EA for review to the National Park Service; the U.S. Department of Agriculture's Natural Resources Conservation Service; the U.S. Fish and Wildlife Service; the U.S. Environmental Protection Agency; Pawnee County; and the City of Pawnee.

HISTORIC REVIEW

BNSF submitted a historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Oklahoma Archeological Survey (Survey) and the Oklahoma Historical Society (State Historic Preservation Office or SHPO) pursuant to 49 C.F.R. § 1105.8(c).⁵ The Survey responded that it crosschecked the proposed abandonment with state site files containing approximately 26,500 archaeological sites and found no sites occurring within the proposed abandonment area. The Survey further reported that, based on the topographic and hydrologic setting, no archeological materials are likely to be encountered, and

⁵ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act (NHPA). Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found on the Board's website at [https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation of 106 in Rail Abandonments.pdf](https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation%20of%20106%20in%20Rail%20Abandonments.pdf).

that an archaeological field inspection is not necessary. The SHPO responded that it reviewed its Oklahoma Landmarks Inventory and other resources and found that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected within the right-of-way (the Area of Potential Effects, or APE) of the proposed abandonment. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.gov/stb/environment/preservation.html>.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO, the Survey, and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development Tribal Directory Assessment Tool to identify federally recognized tribes that may have ancestral connections to the project area.⁶ The database indicates that there are five federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way or APE of the proposed abandonment. The tribes are: the Apache Tribe of Oklahoma; the Cheyenne and Arapaho Tribes; the Osage Nation; the Otoe-Missouria Tribe of Indians; and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma. OEA is sending a copy of the EA to these tribes for review and comment.

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority:

1. BNSF Railway Company (BNSF) shall consult with the National Geodetic Survey (NGS) and notify NSG at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order for NGS to plan for their possible relocation.
2. Prior to commencement of any salvage activities, BNSF Railway Company (BNSF) shall consult with the Oklahoma Department of Environmental Quality (DEQ) to ensure that DEQ's Tier 2a screening level requirements for the petroleum hydrocarbon contamination in the area of the proposed abandonment have been adequately addressed. BNSF shall submit the results of these consultations in writing to the Board's Office of Environmental Analysis prior to the onset of salvage operations.

⁶ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tadat/> (last visited April 25, 2019).

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that if the conditions above are imposed by the Board, 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 4-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 10 days of publication of the notice of 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 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

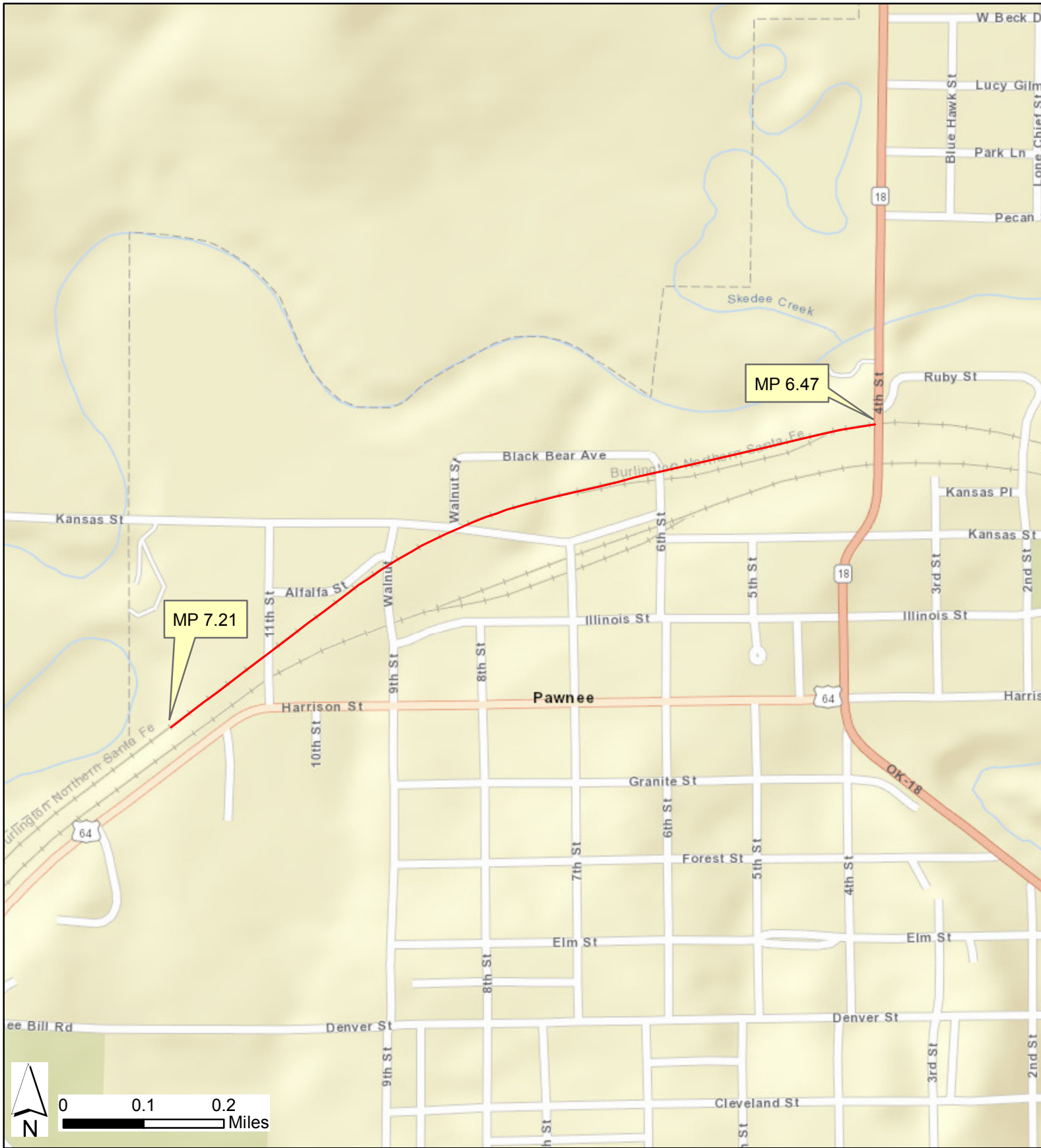
If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 6 (Sub-No. 498X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at Diana.Wood@stb.gov.

Date made available to the public: April 30, 2019.

Comment due date: May 15, 2019.

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

Attachment

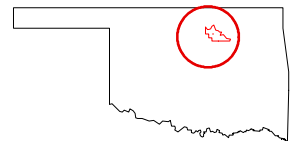


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 Pawnee County, OK

Legend

— the Line

Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.



Location in State

Maps of proposed abandonment

**STB Docket No. AB 6 (Sub-No. 498X), BNSF Railway Company--Abandonment Exemption--
In Pawnee County, Oklahoma**

