

SERVICE DATE APRIL 3, 2023

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 6 (Sub-No. 501X)

**BNSF Railway Company – Abandonment Exemption –
In Contra Costa County, Cal.**

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) filed a notice of exemption under 49 C.F.R. 1152.50 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Contra Costa County, California. The rail line proposed for abandonment, known as Line Segment 7258, extends approximately 0.79 miles from milepost 1190.9 to milepost 1191.69 near Point Richmond (the Line). A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

As noted above, the Line extends approximately 0.79 miles in Contra Costa County, California, between milepost 1190.9 and milepost 1191.69. According to BNSF, most of the right-of-way is 30 feet wide, but a portion is 170 feet wide. The Line includes the historic Ferry Point Pier, at Point Richmond. Based on recent aerial imagery, just under half the track on the Line remains; the rest was removed some time during its more than 20 years out of service.

ENVIRONMENTAL REVIEW

BNSF submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly as a result of the proposed abandonment of the Line, including salvage. BNSF served the E&H Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)]¹ implementing the National

¹ The E&H Report is available for viewing on the Board's website at www.stb.gov by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "6" "501" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on March 9, 2023.

Environmental Policy Act. 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 over the last 20 or so years, and overhead traffic on the Line has been rerouted. Therefore the proposed abandonment would not result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. Nor would the proposed abandonment adversely impact the development, use and transportation of energy resources or recyclable commodities or the transportation of ozone-depleting materials.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail 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. BNSF has stated that it has no intention to salvage any part of the Line, only to convey a 485-foot section of right-of-way between milepost 1190.9 and milepost 1191 to the East Bay Regional Park District (the District) and release the easement that BNSF holds over a remaining portion of the Line. According to BNSF, these actions would extinguish all remaining property rights that BNSF holds related to the Line and allow the District to acquire the land underlying the Line for incorporation into the Miller/Knox Regional Shoreline park.

The Natural Resource Conservation Service stated that the proposed abandonment will not impact any prime agricultural lands and is not subject to the Farmland Protection Policy Act.

The National Geodetic Survey (NGS) has indicated that there may be geodetic survey markers in the right-of-way that could be disturbed by the proposed abandonment. Accordingly, OEA recommends a condition requiring BNSF to notify NGS at least 90 days prior to beginning abandonment-related salvage activities to allow time for any geodetic survey markers that may be present in the right-of-way to be preserved.

According to BNSF, the proposed abandonment of the Line will not affect land or water uses within a designated coastal zone. The proposed abandonment extends into the San Francisco Bay; while not in a coastal zone itself, the proposed abandonment may still have the potential to affect nearby land or water. Accordingly, OEA is recommending that any decision granting abandonment authority include a condition requiring BNSF to consult with CCC and obtain state coastal management consistency certification, if necessary, and report the outcome of that consultation to OEA in order for the condition to be removed before consummation of abandonment authority.

BNSF does not intend to appreciably remove or alter the contour of the roadbed underlying the Line or conduct any salvage. BNSF also has no plans to undertake in-stream work or dredge and/or fill any materials in connection with the proposed abandonment. However, the Line passes through 100-year floodplains. Accordingly, OEA has included the appropriate offices of the U.S. Army Corps of Engineers (Corps) and the Federal Emergency Management Agency (FEMA) on the service list for this proceeding for their review.

BNSF requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species. To date, USFWS has not provided comments. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.² Eight protected threatened or endangered species are located in the area of the proposed abandonment, and one species proposed for listing as endangered:

Common name	Scientific name	Status	Type
Salt Marsh Harvest Mouse	<i>Reithrodontomys raviventris</i>	Endangered	Mammal
California Clapper Rail	<i>Rallus longirostris obsoletus</i>	Endangered	Bird
California Least Tern	<i>Sterna antillarum browni</i>	Endangered	Bird
Western Snowy Plover	<i>Charadrius nivosus nivosus</i>	Threatened	Bird
California Red-legged Frog	<i>Rana draytonii</i>	Threatened	Amphibian
Longfin Smelt	<i>Spirinchus thaleichthys</i>	Proposed Endangered	Fish
California Seablite	<i>Suaeda californica</i>	Endangered	Flowering plant
Tiburon Jewelflower	<i>Streptanthus niger</i>	Endangered	Flowering plant
Tiburon Mariposa Lily	<i>Calochortus tiburonensis</i>	Threatened	Flowering plant

According to the IPaC report, there is no critical habitat for these species in the project area. OEA has determined that these federally listed threatened or endangered species would not be affected because BNSF is not intending to conduct any salvage activities related to the proposed abandonment. Therefore, there would be no physical alteration or disturbance of any habitat that may support these species. OEA is providing the USFWS San Francisco Bay-Delta Fish And Wildlife field office a copy of this Draft EA for its review.

² <https://ipac.ecosphere.fws.gov/>, report generated March 29, 2023

OEA believes that the proposed abandonment would have no impact on air quality or noise because BNSF has stated that it does not intend to conduct any salvage activities.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to the following agencies for review and comment: NGS, CCC, Corps, FEMA, and USFWS.

HISTORIC REVIEW

BNSF served the E&H Report on the California State Parks Office of Historic Preservation (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).³ According to BNSF, in approximately 1900, BNSF's predecessor, the Atchison, Topeka and Santa Fe Railway (ATSF), constructed the Ferry Point terminal to facilitate ferry docking to transfer passengers and freight to other locations around the San Francisco Bay. ATSF operated passenger ferry service to San Francisco until 1933, but continued car ferry freight service until 1984. ATSF retained an easement to serve remaining Ferry Point customers until the mid-1990s. There has been no service on the Line since that time.

While the Ferry Point Pier has been identified as a historic resource on the Line, OEA is continuing consultation and is still determining the potential for adverse effects, the next step in the Section 106 review process. Accordingly, OEA is recommending a condition requiring the railroad 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 of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at [www.https://www.stb.gov/resources/environmental/historic-preservation-overview](https://www.stb.gov/resources/environmental/historic-preservation-overview).

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool (TDAT) to identify federally recognized Tribes that may have ancestral connections to the project area.⁴ The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: the California Valley Miwok Tribe, California; the Scotts Valley

³ 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. 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 at a link on the bottom of the Board's website overviews historic preservation at <https://www.stb.gov/resources/environmental/historic-preservation-overview>.

⁴ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed March 29, 2023).

Band of Pomo Indians (Scotts Valley Band of Pomo Indians of California); and the Tule River Indian Tribe of the Tule River Reservation, California. Accordingly, OEA is sending a copy of this Draft EA to these Tribes for review and comment.

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority:⁵

1. Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.) and the Board's environmental regulations at 49 C.F.R. § 1105.9, BNSF shall consult with the California Coastal Commission and obtain state coastal management consistency certification, if necessary. BNSF may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis and the Board has removed this condition.
2. BNSF shall notify the National Geodetic Survey (NGS) at NGS.Infocenter@noaa.gov at least 90 days prior to beginning abandonment-related salvage activities.
3. BNSF 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, 54 U.S.C. § 306108, has been completed. BNSF shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the State Historic Preservation Office and the public. BNSF may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) 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 conditions are imposed, abandonment of the Line will 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

⁵ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with these conditions is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

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 Board's Federal Register notice of the proposed abandonment. The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁶

TRAIL 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). The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁷

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, DC 20423.

COMMENTS

OEA encourages interested parties to submit their comments on the Draft EA electronically through the Board's website at <https://www.stb.gov/>. From the Board's home page, select "File an Environmental Comment" below the "Need Assistance?" button. Log-in accounts are not needed to file environmental comments electronically, and brief comments can be typed in the comment field, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats.

⁶ Board decisions are available for viewing on the Board's website at www.stb.gov by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "6" "501" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁷ Id.

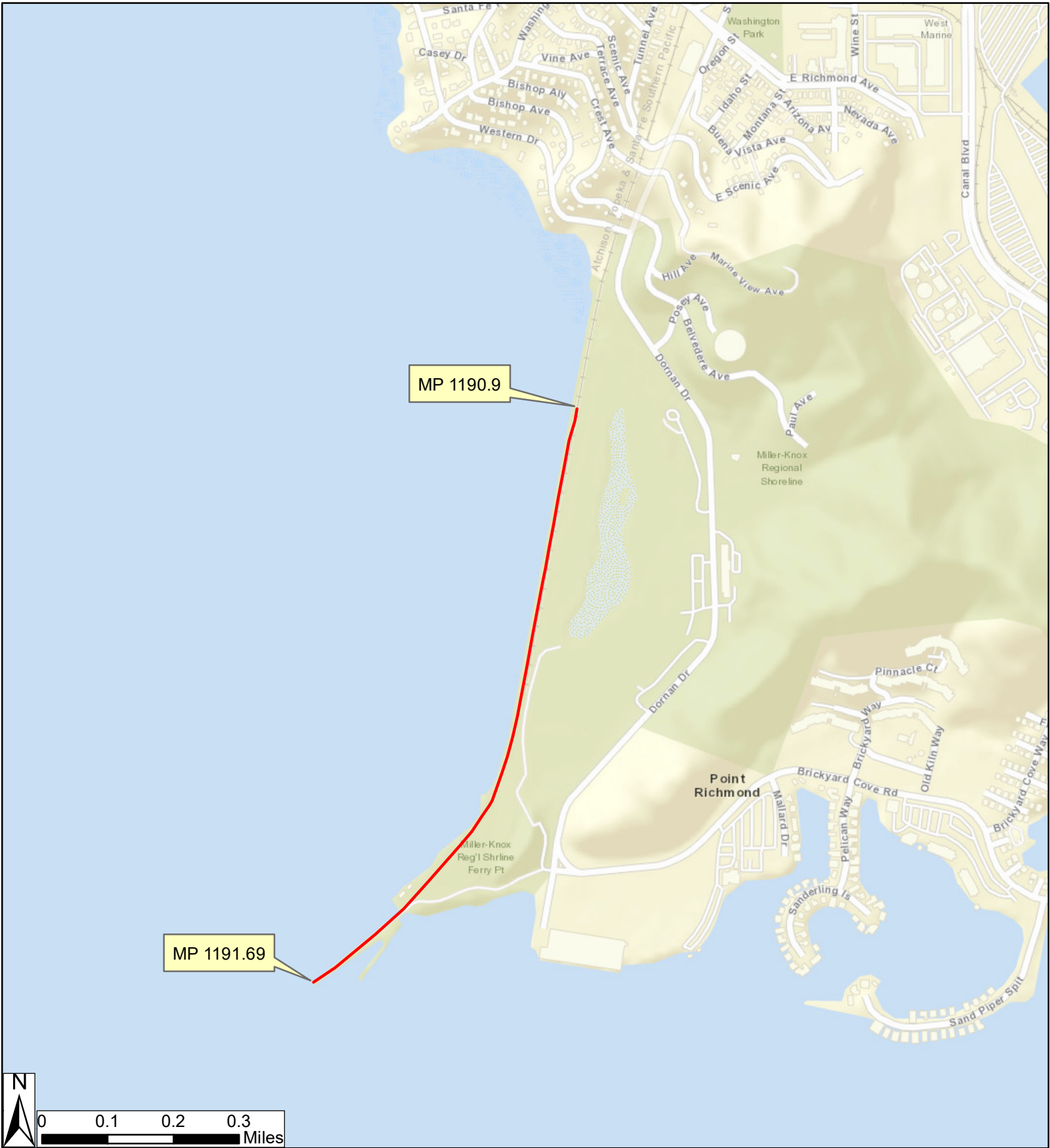
Alternatively, comments submitted by mail should be addressed to: Adam Assenza, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, Attention: Environmental Filing, Docket No. AB 6 (Sub-No. 501X). If you have any questions, please contact Adam Assenza by email at Adam.Assenza@STB.gov or by phone at 202-245-0301.

Date made available to the public: April 3, 2023.

Comment due date: April 18, 2023.

By the Board, Danielle Gosselin, Director, Office of Environmental Analysis.

Attachment



Docket No. AB 6 (Sub-No. 501X)

BNSF Railway Company
Abandonment Exemption
in Contra Costa County, Cal.

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.



California



Contra Costa County