

SERVICE DATE – JULY 19, 2019

**SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 6 (Sub-No. 499X)

BNSF Railway Company - Abandonment Exemption - in Los Angeles County, Cal.

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) filed a verified notice of exemption with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.20 seeking exemption from the requirements of 49 U.S.C. § 10903 for BNSF to abandon its freight rail easement over approximately 5.93 miles of rail line (the Line). The Line extends from approximate Milepost 2.10 to approximate Milepost 7.95, in Los Angeles County, California (CA). The right-of-way and physical assets of the Line are owned by the Los Angeles County Metropolitan Transportation Authority (LACMTA). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA).

Related Prior Proceedings

The Line is part of a group of lines subject to a 1992 agreement between the Atchison, Topeka and Santa Fe Railway Company (ATSF)¹ and the Los Angeles County Transportation Commission (LACTC), a predecessor of LACMTA. Under that transaction, LACTC acquired ownership of the right-of-way and physical assets of the lines, and ATSF retained an exclusive and permanent easement to continue providing freight common carrier service over the lines.

Five years later, LACMTA sought a blanket exemption from the Board, asking that it be released from the requirements of the Interstate Commerce Act at 49 U.S.C. Subtitle IV. LACMTA sought this exemption because it did not operate any rail line as a rail freight common carrier and had no wish to hold itself out to provide rail freight service on the rail lines it had acquired from ATSF.² The Board granted LACMTA the blanket exemption in 1997, and further stated in its decision that, if the railroad sought to abandon its freight rail service obligation over

¹ ATSF later merged with Burlington Northern Railroad Company to become the Burlington Northern and Santa Fe Railway Company, which is now known as BNSF Railway Company.

² See Orange County Transportation Authority, Riverside County Transportation Commission, San Bernardino Associated Governments, San Diego Metropolitan Transit Development Board, North San Diego County Transit Development Board—Acquisition Exemption—The Atchison, Topeka and Santa Fe Railway Co., FD 32173 at 4 (STB served Mar. 12, 1997) (Orange County).

the line at a future date, the Board would evaluate the potential environmental impacts of the abandonment at that time.³

While the physical assets of the Line remain in the ownership of LACMTA, BNSF's responsibility to provide rail freight service over the Line remains in effect. Now, BNSF has come before the Board seeking to abandon its rail freight service easement over the Line.

DESCRIPTION OF THE LINE

The Line is in south-central Los Angeles. At its western end, the Line begins near W. 67th Street and extends in a northeasterly direction until reaching W. Slauson Street near Denker Avenue. From this point, the Line extends directly east and parallel to W. Slauson Street, and then parallel to E. Slauson Street. The Line ends just east of the intersection of E. Slauson Street and Albany Street. The corridor containing the Line is highly urbanized and densely developed. The width of the Line's right-of-way is 30 feet. According to BNSF, there are no bridges on the Line, and structures are limited to concrete and corrugated steel culverts. There has been no traffic on the Line since approximately 2009, and there is no overhead traffic.

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment would not be affected significantly because of the abandonment or any post-abandonment activities. BNSF served the environmental report on several appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].⁴ The Board's Office of Environmental Analysis (OEA) reviewed and investigated the record in this proceeding.

Diversion of Traffic

BNSF stated that no local traffic has moved over the Line for about 10 years and that the Line does not handle overhead traffic. 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.

³ LACMTA agreed to adopt any environmental and historic reports filed by the railroad. See Orange County at 6.

⁴ BNSF's 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. 499X).

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. Because BNSF has no ownership interest in any fixed assets on the line, it will not undertake any salvage operations in connection with the abandonment. However, BNSF stated that LACMTA plans to construct the Rail to Rail Active Transportation Corridor Project – Segment A and intends to use the right-of-way for on- and off-street bicycle and pedestrian/multipurpose paths. Any mitigation measures recommended in this EA and imposed by the Board would require BNSF to ensure that salvage takes place according to the conditions required.

The National Geodetic Survey (NGS) commented that geodetic survey markers still present in the area could be disturbed by the proposed abandonment and provided a link to its web-based program that contains a searchable data base and map of geodetic marker locations.⁵ OEA searched the data base and found that there could be geodetic station markers within the rail line right-of-way proposed for abandonment. Accordingly, OEA is recommending a consultation condition with the NGS Regional Geodetic Advisor prior to beginning salvage activities. OEA is also providing a copy of this EA to NGS for review and comment.

The Natural Resources Conservation Service (NRCS) had not responded to the railroad's environmental report at the time this EA was prepared. OEA is providing a copy of this EA to NRCS – California State Conservationist for review and comment.

The U.S. Army Corps of Engineers, Los Angeles District (USACE) stated that permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) and Section 10 of the Rivers and Harbor Act of 1899 (33 U.S.C. § 403) would only be required if there would be a discharge of dredged or fill material into waters of the United States or work in navigable waters of the United States (Corps File No. SPL-2019-00363-REG). BNSF stated its understanding that neither Section 404 nor Section 10 permits would be required for the proposed abandonment. OEA is providing a copy of this EA to the USACE for review and comment.

In an email dated April 16, 2019, the U.S. Fish and Wildlife Service, Carlsbad Office (USFWS) referred BNSF to a USFWS-maintained website that generates automated species list (<https://ecos.fws.gov/ipac/location/index>). OEA searched the website using a corridor containing the Line's 30-foot-wide right-of-way. The search identified two species that could be potentially affected by the proposed abandonment: the Coastal California gnatcatcher (*Polioptila californica californica*) and Western snowy plover (*Charadrius nivosus nivosus*). The search did not identify any critical habitat at this location. However, because the Line is in a highly urbanized and densely developed area of south-central Los Angeles, OEA has determined that

⁵ National Geodetic Survey Data Explorer <https://geodesy.noaa.gov/NGSDDataExplorer/> (last visited July 11, 2019).

the proposed abandonment would not adversely impact federally listed threatened or endangered species protected under the Endangered Species Act (16 U.S.C. § 1531 et seq.). Nevertheless, OEA is providing a copy of this EA to the USFWS for review and comment.

BNSF stated that the Line is not located within a designated coastal zone. The California Coastal Commission (Commission) manages the California Coastal Zone Management Program (CZMP) in southern California. OEA reviewed the Commission's website (https://www.coastal.ca.gov/fedcd/ccmp_description.pdf), and concurs with BNSF's conclusion that the Line is not located in the California Coastal Zone Management Area. According to the Commission, the coastal zone generally extends 1,000 yards inland from the mean high tide line, and in developed urban areas, the boundary is generally less than 1,000 yards. The Line is located several miles from the coast; and therefore, is readily beyond the geographic limits of the regulated coastal zone.

The U.S. Environmental Protection Agency, Region 9 (USEPA) had not responded to BNSF's environmental report at the time this EA was prepared. OEA is providing a copy of this EA to the USEPA for review and comment.

HISTORIC REVIEW

BNSF submitted a historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and provided a copy to the California State Parks, Office of Historic Preservation (i.e., State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).⁶ As part of its public outreach, BNSF also placed a notice of the proposed abandonment in the Daily Breeze on June 14, 2019 and notified local governments of the proposed abandonment. Both the historic report and this EA are available on the Board's website, and OEA is providing the SHPO with a copy of this EA.

BNSF did not specify when the Line was constructed; however, it identified five culverts as being 50 years old or older, and stated that the oldest culvert dates to 1923. The SHPO had not responded to BNSF's historic report at the time this EA was prepared. Therefore, OEA has not been able to consider the SHPO's opinion before determining if the Line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, OEA is recommending a condition requiring BNSF and LACTMA to retain their interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures

⁶ 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).

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 <http://www.stb.dot.gov/stb/environment/preservation.html>.

OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool at <https://egis.hud.gov/tdat/>, to identify federally recognized tribes that may have ancestral connections to the project area. The databases identified two tribes for Los Angeles County (search date of June 28, 2019):

- Soboba Band of Luiseno Indians, California, and
- Torres Martinez desert Cahuilla Indians, California.

OEA is providing these tribes with a copy of this EA for review and comment.

CONDITIONS

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

- BNSF Railway Company and the Los Angeles County Metropolitan Transportation Authority shall consult with the National Geodetic Survey (NGS) Regional Geodetic Advisor and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
- BNSF Railway Company (BNSF) and the Los Angeles County Metropolitan Transportation Authority (LACTMA) shall retain their 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 and LACTMA shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the California State Parks, Office of Historic Preservation (State Historic Preservation Office or SHPO) and the public. BNSF may not file its consummation notice and LACMTA may not initiate any salvaging 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 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 and no salvage activities), 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 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 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 the time specified in the Federal Register notice. 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 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, D.C. 20423.

COMMENTS

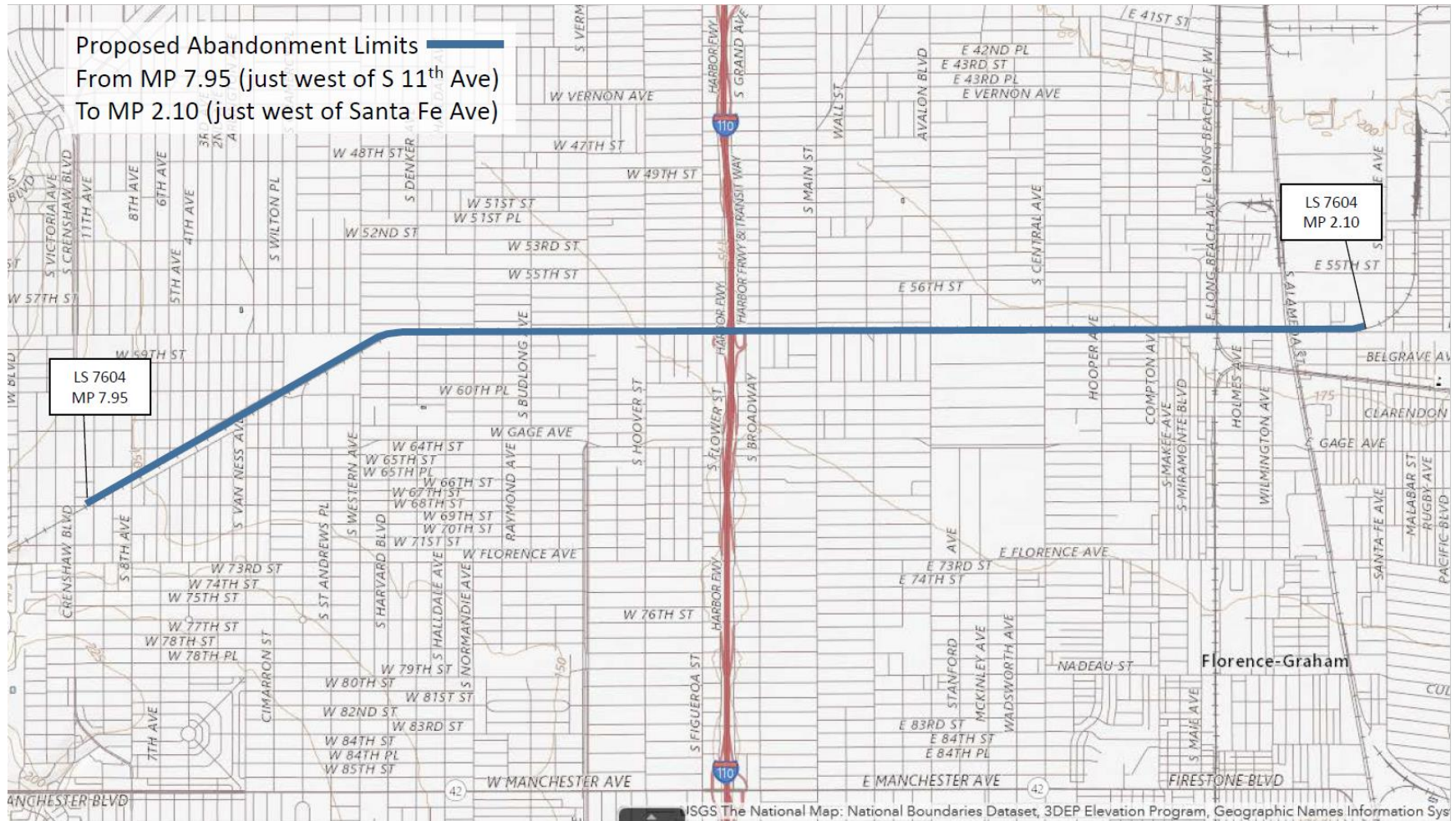
If you wish to file comments regarding this EA, please send your written comments to Surface Transportation Board, Washington, D.C. 20423, to the attention of Dave Navecky, who prepared this document. Environmental comments may also be filed electronically on the Board's website, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 6 (Sub-No. 499X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Dave Navecky, the environmental contact for this case, by phone at 202-245-0294 or e-mail at david.navecky@stb.gov.

Date made available to the public: July 19, 2019.

Comment due date: August 2, 2019.

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

Attachment



Environmental Assessment
 STB Docket No. AB 6 Sub-No. 499X)
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In Los Angeles County, Cal.
 Decision ID No. 47094