

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-6 (Sub-No. 465X)]

**BNSF Railway Company—
Abandonment Exemption—in King
County, WA**

On August 11, 2008, BNSF Railway Company (BNSF) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 12.55-mile line of railroad extending from milepost 11.25 near Wilburton to milepost 23.80 in Woodinville, King County, WA. The line traverses United States Postal Service Zip Codes 98004, 98005, 98011, 98033, 98034, and 98072.

In addition, BNSF seeks exemption from the offer of financial assistance (OFA) and public use provisions at 49 U.S.C. 10904 and 49 U.S.C. 10905, respectively. In support, BNSF contends that an exemption from these provisions is necessary to permit conveyance of the line and its physical assets to the Port of Seattle (Port).¹ BNSF has also agreed to rail bank the line with King County which will serve as interim trail user. These additional exemption requests will be addressed in the final decision.

The segment proposed to be abandoned is part of a rail line that is currently the subject of three separate proceedings. *In The Port of Seattle—Acquisition Exemption—Certain Assets of BNSF Railway Company*, STB Finance Docket No. 35128 (STB served June 20, 2008), the Port filed a notice of exemption to acquire from BNSF the right-of-way, track, and other property and physical assets located on the line between milepost 23.80 and milepost 38.25. A portion of that segment, between milepost 38.01 and milepost 38.25, was included in a notice of exemption filed in *The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Snohomish County, WA*, STB Docket No. AB-6 (Sub-No. 422X) (STB served July 2, 2004), in which BNSF sought authorization to abandon and discontinue service over the line of railroad between milepost 38.01 and

milepost 39.00. By decision served on December 18, 2007, the consummation deadline for BNSF's abandonment of the line at issue in that proceeding was extended until December 31, 2008. By letter received on July 21, 2008, BNSF advised the Board that it had consummated the abandonment between milepost 38.25 and milepost 39.00, and that the remainder of the line, between milepost 38.01 and milepost 38.25, would be retained for railroad purposes. Lastly, in *GNP Rly Inc.—Modified Rail Certificate—in Snohomish County, WA*, STB Finance Docket No. 35151 (STB served Aug. 13, 2008), the Board granted GNP Rly Inc.'s application for a modified certificate of public convenience and necessity to lease and operate a segment of the line in Snohomish County, WA, extending from milepost 39.1 to milepost 39.3.

Based on the connection of the line at issue in this proceeding with the line segments discussed above, BNSF, the Port, and King County, as well as other interested persons, are requested to submit additional information to clarify their arrangements and intentions regarding future service on these line segments. BNSF states in its petition that an agreement has been entered into to convey the line at issue here to the Port. However, BNSF does not explain how this agreement would allow BNSF to enter into an agreement with King County for King County to serve as interim trail user. Further, it is unclear what rail service, if any, is anticipated or would be provided and whether the above-mentioned line segments would remain sufficiently connected to allow for any freight or passenger rail service.

The line does not contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 28, 2008.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption, unless the Board grants the requested exemption from the OFA process. Each OFA must be accompanied by a \$1,500 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Unless the Board grants the requested exemption from the public use provisions, any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than September 18, 2008. Each trail use request must be accompanied by a \$200 filing fee. See 49 CFR 1002.2(f)(27)(i).

All filings in response to this notice must refer to STB Docket No. AB-6 (Sub-No. 465X) and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001; and (2) Kristy Clark, BNSF Railway Company, 2500 Lou Menk Drive, AOB-3, Fort Worth, TX 76131. Replies to the petition are due on or before September 18, 2008.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at "<http://www.stb.dot.gov>."

Decided: August 25, 2008.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Anne K. Quinlan,
Acting Secretary.

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¹ BNSF and the Port have entered into an agreement pursuant to which BNSF will donate to the Port the right-of-way, track, and other property and physical assets located on the line between milepost 11.25 and milepost 23.45. Pursuant to a separate agreement, BNSF will sell to the Port the right-of-way, track, and other property and physical assets located on the line between milepost 23.45 and milepost 23.80.