



NATIVE ENDANGERED & THREATENED SP. HABITAT
CONSERVATION PLAN

Permit Number: **ESPER7407136**

Version Number: 0

Effective: 02/12/2025 Expires: 02/12/2032

Issuing Office:

Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

ES Lakewood Permit Office

P.O.Box 25486

Lakewood, Colorado 80225-0489

permitsR6ES@fws.gov

Digitally signed by

Permittee:

BNSF Railway Company

2301 Lou Menk Drive; Attn: Ann Lawler

Fort Worth, Texas 76131

U.S.A.

Name and Title of Principal Officer:

Kathryn Farmer President and CEO

Authority: Statutes and Regulations: 16 U.S.C. 1539 (a), 16 U.S.C. 1533 (d), 16 U.S.C 703-712 50 CFR 17.22, 50 CFR 17.32, 50 CFR 21.23, 50 CFR 21.27, 50 CFR 13

Location where authorized activity may be conducted:

See terms and conditions for location.

Reporting requirements:

Report Due March 31 Annually.

Authorizations and Conditions:

A. General conditions set out in Subpart D of 50 CFR 13, and specific conditions contained in Federal regulations cited above, are hereby made a part of this permit. All activities authorized herein must be carried out in accordance with and for the purposes described in the application submitted. Continued validity, or renewal of this permit is subject to complete and timely compliance with all applicable conditions, including the filing of all required information and reports.

B. The validity of this permit is also conditioned upon strict observance of all applicable Foreign, State, Local, Tribal, or other Federal law.

C. Valid for use by permittee named above.

**SPECIAL TERMS AND CONDITIONS FOR
PERMIT ESPER7407136-0**

Species: **Grizzly bear** (*Ursus arctos horribilis*)

This permit authorizes BNSF Railway Company (Permittee) and its authorized officers, employees, contractors, and agents conducting covered activities to incidentally take grizzly bears while conducting activities associated with all BNSF operations, construction, mechanical, and maintenance activities in the right-of-way within the Permit Area, in accordance with BNSF Railway Grizzly Bear Habitat Conservation Plan (GBHCP).

This permit is valid for 7 years from the effective date.

The authorization granted through this permit, under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended, is subject to the following conditions:

- D. All sections and provisions of Title 50 Code of Federal Regulations, Parts 13, 17.32 are conditions of this permit. The entity named on the face of this permit is responsible to ensure that the activities carried out under authority of this permit by the Permittee under the GBHCP are in compliance with the terms and conditions of this permit.
- E. Terms and conditions of the permit are inclusive; take resulting from any activity not specifically covered is prohibited.
- F. The continued validity of this permit is subject to full and complete compliance with, and implementation of the GBHCP. This document is herein incorporated by reference. These permit terms and conditions supersede and take precedence over any provisions in the GBHCP or other associated documents that are inconsistent with this permit. This permit and the GBHCP are binding upon the Permittee, and any authorized officer, employee, contractor, or agent conducting covered activities in the covered area as described in the GBHCP.
- G. Disposition of threatened or endangered species that are dead, injured, or sick. The Permittee will implement notification measures MN-1 or MN-2 for any incident involving bear species. The Permittee is not responsible for distinguishing between black or grizzly bear species. Upon locating any other dead, injured, or sick animals the Permittee reasonably believes to be an endangered or threatened species the Permittee will contact the USFWS Field Supervisor of the Montana Ecological Services Field Office and Special Agent identified in the List of Contacts below for care and disposition instructions. The Permittee is under no obligation to handle injured or dead animals, but handling may be necessary in some cases for safety or continuity of BNSF Operations. Use extreme care when handling sick or injured individuals to ensure effective and proper treatment. Also take care in handling dead specimens to preserve biological materials in the best possible state for an analysis of cause of death. Along with the care of sick or injured endangered/threatened species, or preservation of biological materials from a dead specimen, the Permittee is responsible for ensuring that evidence intrinsic to

the specimen is not unnecessarily disturbed.

Incidental Take

- H. This permit authorizes the incidental take of grizzly bears in the course of otherwise lawful conduct of covered Project activities, as described in GBHCP section 2.2, *BNSF Covered Activities in the Permit Area* in areas described in GBHCP section 1.4.1, Permit Area:

The “HCP Permit Area” includes approximately 206 miles of railroad right-of-way between Brimstone West, Montana (RR Milepost 1253.8) to the west and Shelby, Montana (RR Milepost 1066) to the east, including the spur line that extends southwest to Valier.

Authorized take is limited to:

19 grizzly bears, of which 9 may be female grizzly bears.

The estimated take of grizzly bears is described in the *Amount or Extent of Take Anticipated* section of the U.S. Fish and Wildlife Service (USFWS) Biological Opinion (2024).

The Permittee shall verify the take authorized by this permit will not be exceeded and that the avoidance, minimization, and mitigation measures described in the GBHCP shall be fully implemented. The Permittee will ensure compliance with this permit’s take authorization as directed in the GBHCP’s section 6.0 *Reporting Requirements and Monitoring Measures*. The Permittee shall submit an annual report to the USFWS Montana Field Office, by March 31 of each year during the life of this permit.

- I. In the event that more than the authorized take of this permit occurs, the USFWS Field Supervisor of the Montana Ecological Services Field Office and Special Agent (see List of Contacts below) must be contacted within 24 hours of the occurrence of maximum take.

Coverage under this permit is provisional under the following restrictions:

- The Permittee must understand and agree to abide by 50 CFR Parts 13 for general permit regulations and 50 CFR 17.32 for threatened species permit regulations, as applicable.
- This permit does not grant the right of trespass. Such permission must be obtained from private landowners or the land management agency.
- If the GBHCP is successfully implemented for its 7-year duration, we may consider renewing the GBHCP and this permit, if necessary, with appropriate analyses and compliance with the ESA section 10 and other required regulations.

List of Contacts:

Amity Bass, Field Supervisor, U.S. Fish and Wildlife Service, Montana Ecological Services Field Office, 585 Shephard Way, Suite 1, Helena, Montana, 59601; mobile work: (406) 422-3163. Main office telephone (406) 449-5225

Mona Iannelli, Special Agent, US Fish & Wildlife Service, Office of Law Enforcement, P.O. Box 8184, Missoula, MT 59807; mobile work: 406-591-1512; Office telephone 406-329-3000

Kate Novak, Permit Coordinator, Ecological Services, P.O. Box 25486-DFC, Denver, Colorado 80225; telephone (801) 239-0566