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SERVICE DATE – JANUARY 8, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 424X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN DAWSON
AND McCONE COUNTIES, MT

Decided: January 5, 2007

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 43.41-mile line of railroad extending between milepost 7.00 near Glendive and milepost 50.41 in Circle, in Dawson and McCone Counties, MT. Notice of the exemption was served and published in the Federal Register on November 5, 2004 (69 FR 64631). The exemption became effective on December 7, 2004.

By decision served on December 6, 2004, the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA) and the exemption was made subject to the conditions that BNSF: (1) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470(f); (2) contact the Montana Department of Environmental Quality to evaluate any storm water discharge permitting requirements prior to the commencement of any salvage activities; and (3) notify the National Geodetic Survey 90 days prior to salvage activities to plan for relocation of the 11 geodetic station markers identified on the line. The section 106 historic preservation condition was removed, at the request of SEA, by decision served on December 14, 2005.

In the November 5, 2004 notice, the Board stated that, if consummation had not been effected by BNSF's filing of a notice of consummation by November 5, 2005, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. At the request of BNSF, the deadline to file a notice of consummation was extended until June 1, 2006, by decision served on November 4, 2005, and further extended until June 1, 2007, by decision served on May 31, 2006.

By letter filed on November 9, 2006, BNSF requests authority only to discontinue service over the subject line, rather than authority to abandon the line. BNSF states that it now intends to use portions of the line for car storage. The Board's grant of regulatory approval through a carrier's filing of a notice of exemption permits, but does not require, the transaction to proceed. BNSF's request for modification that narrows the authorization it previously received is reasonable and will be granted. Because BNSF will no longer have authorization to abandon this line, it will no longer be permitted to conduct salvage operations on it. Thus, the remaining environmental conditions, imposed in the December 6, 2004 decision in this proceeding, will be

removed because they apply to salvage operations. Should BNSF wish to abandon the line at a later date, it must seek appropriate Board authority and comply with all applicable environmental regulations.

This action will not significantly affect either the quality of human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. BNSF's request for modification of the authority previously granted in this proceeding is granted and BNSF may therefore discontinue service over, but not abandon, the subject line.
3. The remaining environmental conditions (relating to salvage operations), imposed in the decision served on December 6, 2004, are removed.
4. This decision is effective 30 days after the service date of this decision.

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

Vernon A. Williams
Secretary