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SERVICE DATE – SEPTEMBER 28, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 442X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN BOULDER  
COUNTY, CO

Decided: September 27, 2006

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 1.13-mile line of railroad extending between milepost 36.72 and milepost 35.59, near Longmont, in Boulder County, CO. Notice of the exemption was served and published in the Federal Register on August 31, 2006 (71 FR 51886). The exemption is scheduled to become effective on September 30, 2006.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on September 5, 2006. In the EA, SEA notes that the National Geodetic Survey (NGS) has identified one geodetic station marker that may be affected by the proposed abandonment. Therefore, SEA recommends that BNSF be required to notify NGS at least 90 days prior to beginning salvage activities so that plans can be made for the possible relocation of the geodetic station marker.

SEA also notes in the EA that the U.S. Fish and Wildlife Service (USFWS) submitted information indicating that there are 11 Federally listed threatened or endangered species in the area of the proposed abandonment. USFWS states that it does not have site-specific information available and recommends that a knowledgeable consultant be contacted to conduct habitat assessments, trapping studies, or provide other recommendations pursuant to the provisions of the Endangered Species Act (ESA). Therefore, SEA recommends that before beginning salvage activities, BNSF consult with USFWS regarding its recommendations and report the results of these consultations to SEA in writing.

SEA further noted in the EA that the Colorado Historical Society (State Historic Preservation Officer or SHPO) had conducted a search of the Colorado Inventory of Cultural Resources and identified 12 sites and three surveys in the vicinity of the proposed abandonment. According to SEA, the SHPO recommended that a professional survey be conducted. Because consultation with the SHPO was still ongoing, SEA recommended in the EA that a condition be imposed requiring BNSF to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places, until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. SEA also recommended that BNSF be required to report back to SEA regarding the results of any consultation with the SHPO and any

other party consulted in the section 106 process, and that BNSF not be allowed to consummate the abandonment or initiate any salvage activities related to abandonment until the section 106 process is completed.

Comments to the EA were due by September 20, 2006. Concerning the section 106 condition, BNSF submitted to SEA a copy of a letter from the SHPO, stating that the proposed abandonment would have no effect on historic properties or cultural resources within the area of the proposed abandonment. Therefore, based on the SHPO's letter, SEA now recommends that no historic condition be imposed.

The conditions recommended by SEA will be imposed. Based on SEA's recommendations, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption for abandonment of the line described above is subject to the conditions that BNSF shall: (1) notify NGS at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of the geodetic station marker identified by NGS; and (2) consult with USFWS prior to beginning salvage activities regarding its recommendations for conducting habitat assessments, trapping studies, or provide other recommendations pursuant to the provisions of the ESA, and report the results of these consultations to SEA in writing.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary