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SERVICE DATE - NOVEMBER 10, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-307 (Sub-No. 4X)

WYOMING AND COLORADO RAILROAD COMPANY, INC.–ABANDONMENT
EXEMPTION–IN ALBANY COUNTY, WY

Decided: November 7, 2003

Wyoming and Colorado Railroad Company, Inc. (WYCO) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 1.12-mile line of railroad extending from milepost 0.19 to milepost 1.31 in the City of Laramie, Albany County, WY. Notice of the exemption was served and published in the Federal Register on October 10, 2003 (68 FR 58749). The exemption is scheduled to become effective on November 12, 2003.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on October 17, 2003. In the EA, SEA recommends that the following conditions be imposed on any decision granting abandonment authority. First, SEA notes that the National Geodetic Survey (NGS) has advised it that one geodetic station marker has been identified that may be affected by the proposed abandonment. Therefore, SEA recommends a condition requiring WYCO to notify NGS 90 days prior to salvage activities in order to plan the relocation of the marker. Second, SEA states that the State of Wyoming, Department of Environmental Quality in Cheyenne, WY (WYDEQ-Cheyenne) has indicated that the proposed abandonment would not require permitting under section 402 of the Clean Water Act as long as there is no disturbance of land. However, WYDEQ-Cheyenne also indicated that, if the abandonment involves the disturbance of more than one acre of land, a stormwater permit will be required. Accordingly, if the abandonment involves the disturbance of more than one acre of land, SEA recommends the imposition of a consultation condition requiring that WYCO contact WYDEQ-Cheyenne prior to commencement of any salvage activities on this project to discuss stormwater permitting requirements.

Third, SEA states that the United States Department of the Interior, Fish and Wildlife Service in Cheyenne (USFWS-Cheyenne) has indicated that, based on the project description and location, it appears that this project will not adversely affect any federally listed endangered species. USFWS-Cheyenne further stated that the project, as proposed, is unlikely to result in the take of migratory birds and, therefore, is not likely to result in a violation of the Migratory Bird Treaty Act. However, if any raptor nests are located within 0.5 mile of the project site (or within 1 mile for bald eagles and ferruginous hawks), SEA recommends a consultation condition requiring that WYCO contact USFWS-Cheyenne prior to commencement of any salvage activities on this project to evaluate

potential impacts to these species.

Finally, SEA notes that the Wyoming Department of State Parks and Cultural Resources, State Historic Preservation Office's (SHPO) research shows that the bridge located at milepost 0.71 has already been extensively modified and incorporated into the walking/biking path in the City of Laramie greenbelt; that most of the rail line has already been removed, with portions of the old railroad grade incorporated into the greenbelt; and that, because there is no evidence that the bridge was ever evaluated for its eligibility for listing in the National Register of Historic Places prior to becoming part of the greenbelt, the undertaking constitutes an adverse effect. As such, the SHPO indicated that consultation is necessary in order to discuss ways to reduce or eliminate the adverse effects; that if a means to mitigate or avoid the adverse effects cannot be found, further consultation with the Advisory Council on Historic Preservation may be required; and that appropriate mitigation by WYCO may be the installation of an interpretive sign at the site of the bridge describing the history of the Laramie-Hahn's Peak rail line. Therefore, SEA recommends a condition that, pending resolution of the issues raised by the SHPO, WYCO retain its interest in and take no steps to alter the historic integrity of the property until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

Comments to the EA were due by November 3, 2003. No comments were received by the due date. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

As conditioned, this decision 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 of the abandonment of the line described above is subject to the following conditions: (1) WYCO shall notify NGS 90 days prior to salvage activities in order to plan relocation of the one geodetic station marker identified by NGS that may be affected by the proposed abandonment; (2) if the proposed abandonment will involve the disturbance of more than one acre of land, WYCO shall, prior to any salvage activities, consult with WYDEQ-Cheyenne to discuss stormwater permitting requirements; (3) if any raptor nests are located within 0.5-mile of the proposed abandonment (or within 1 mile for bald eagles and ferruginous hawks), WYCO shall, prior to any salvage activities, consult with USFWS-Cheyenne to evaluate potential impacts to these species; and (4) pending resolution of the issues raised by SHPO, WYCO shall retain its interest in and take no steps to alter the historic integrity of the property until completion of the section 106 process of the NHPA.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary