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SERVICE DATE – LATE RELEASE DECEMBER 1, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-872X

GREAT NORTHWEST RAILROAD, INC.—ABANDONMENT EXEMPTION—
IN CLEARWATER COUNTY, ID

Decided: December 1, 2005

By petition filed on July 14, 2004, Great Northwest Railroad, Inc. (GNR) sought an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a line of railroad extending from milepost 3.5 at Orofino, to milepost 31.0 near Jaype, a total distance of 27.5 miles, in Clearwater County, ID. Notice of the filing was served and published in the Federal Register on August 3, 2004 (69 FR 46624).

By decision and notice of interim trail use or abandonment served on November 1, 2004, the Board granted the petition for exemption, subject to trail use, public use, and standard employee protective conditions. At the recommendation of the Board's Section of Environmental Analysis (SEA), the exemption was also made subject to seven environmental conditions requiring GNR: (1) to notify the National Geodetic Survey 90 days prior to salvage activities that may disturb or destroy the geodetic station markers located on the line to plan for their relocation; (2) to submit the results of its archaeological and historical surveys of the line to both the Idaho Historical Society (SHPO) and the Nez Perce Tribe for review and comment, and 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. 470f; (3) to consult with the U.S. Army Corps of Engineers, Walla Walla District, prior to commencement of any salvage activities to determine if permits are required under section 404 of the Clean Water Act (33 U.S.C. 1344), and report the results of this consultation to SEA; (4) to consult with the U.S. Environmental Protection Agency, Region 10, and the Idaho Department of Environmental Quality (IDEQ) prior to commencement of any salvage activities to ensure compliance with National Pollution Discharge Elimination System permitting requirements; (5) to consult with the Idaho Department of Water Resources regarding protocol regulations and the potential need for any permits prior to commencement of any salvage activities, and report the results of this consultation to SEA; (6) to contact IDEQ prior to commencement of any salvage activities to address the concerns raised by IDEQ regarding water quality protection, specifically Idaho's Water Quality Standards and Wastewater Treatment Requirements under Idaho Administrative Rules 50.01.02; the removal and salvage methods to be used by GNR during the proposed abandonment;

sediment and erosion control; bridge and culvert maintenance; procedures to prevent leaching of wood preservatives from treated wood surfaces; procedures to identify and clean up debris and contaminated areas; and a hazardous material contingency plan that includes IDEQ notification, in the event hazardous substances are discovered during salvage activities, and report the results of this consultation to SEA; and (7) to contact the Board of Clearwater County Commissioners, the Orofino Chamber of Commerce, IDEQ, and the Idaho Department of Lands prior to commencement of salvage activities to discuss local concerns regarding the safety and condition of the bridges and railroad trestles on Orofino Creek.

In a letter to SEA dated October 14, 2005, GNR states that it has reached a Work Plan agreement with IDEQ that divides the project into two phases. The first phase would involve: (1) removal of rail, ties, and track materials, (2) removal, repair or stabilization of failed structures and embankments along the line, and (3) revegetation of all disturbed areas. According to GNR, phase one will not include any in-stream work or alteration of bridge structures. The second phase would involve: (1) evaluation of bridges and culverts along the line, and (2) preparation and implementation of a long-range plan for the maintenance of the bridges and culverts in conjunction with the rail banking of the line.

GNR also states that it provided the SHPO and the Nez Perce Tribe with a Heritage Resources Assessment, a professional historical survey, for review. GNR includes a copy of an October 6, 2005 letter from the SHPO, in which the latter indicates that the “salvage of the rails and ties will not adversely affect the characteristics that qualify the railroad for inclusion in the National Register, provided the bridges will not be altered by the activities.” GNR also includes a copy of a letter dated October 20, 2005, from the Nez Perce Tribe that states that the tribe has no objection to the removal of rail materials.

Finally, GNR also requests the removal of the six remaining environmental conditions imposed in the November 1 decision. GNR submitted information in its letter indicating that it has complied with those conditions, attaching letters in support. GNR asks that the Board remove or modify the conditions as expeditiously as possible, so that it may salvage the rails, ties, and track materials.

SEA states that, based on the information submitted by GNR, it recommends that the section 106 condition be modified to read as follows:

In discussions with the Idaho State Historical Society (State Historic Preservation Office or SHPO) and the Nez Perce Tribe, the Board’s Section of Environmental Analysis has determined that GNR may remove rail, ties, and other track materials without affecting the historic integrity of the line. However, GNR still must comply with the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, and shall retain its interest in and take no further steps that

might alter the historic integrity of the line in its entirety until completion of the section 106 process.

In the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during the railroad's salvage activities, the railroad will immediately cease all work and notify SEA, the SHPO, and the Nez Perce Tribe. SEA shall then consult with the SHPO, the Nez Perce Tribe, and the railroad to determine whether any mitigation measures are necessary.

Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be modified pursuant to SEA's recommendation.

Finally, because GNR has complied with the remaining environmental conditions, they will be removed.

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 section 106 historic preservation condition imposed in the November 1, 2004 decision is modified to read as follows:

In discussions with the Idaho State Historical Society (State Historic Preservation Office or SHPO) and the Nez Perce Tribe, the Board's Section of Environmental Analysis has determined that GNR may remove rail, ties, and other track materials without affecting the historic integrity of the line. However, GNR still must comply with the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, and shall retain its interest in and take no further steps that might alter the historic integrity of the line in its entirety until completion of the section 106 process.

In the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during the railroad's salvage activities, the railroad will immediately cease all work and notify SEA, the SHPO, and the Nez Perce Tribe. SEA shall then consult with the SHPO, the Nez Perce Tribe, and the railroad to determine whether any mitigation measures are necessary.

3. Upon reconsideration, the six remaining environmental conditions imposed in the November 1, 2004 decision are removed.

4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary