

43515  
DO

SERVICE DATE – LATE RELEASE JANUARY 22, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 337 (Sub-No. 7X)

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION—ABANDONMENT  
EXEMPTION—IN SCOTT COUNTY, IOWA

Decided: January 22, 2014

Dakota, Minnesota & Eastern Railroad Corporation d/b/a Canadian Pacific (DM&E) filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—Exempt Abandonments to abandon a 0.66-mile line of railroad referred to as Blackhawk Spur, between milepost 0.33+/- and milepost 0.99 +/- in Scott County, Iowa (the Line). Notice of the exemption was served and published in the Federal Register on December 24, 2013 (78 Fed. Reg. 77,791). The exemption is scheduled to become effective on January 23, 2014.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on December 27, 2013, recommending that two conditions be imposed on any decision granting abandonment authority. In the EA, OEA states that the Iowa Department of Natural Resources (DNR) has indicated that unavoidable adverse impacts to waters of the United States (including wetlands) should be minimized to the extent practicable, and has asked that DM&E use Best Management Practices to control erosion and protect water quality near the project. DM&E has indicated that it will use Best Management Practices during salvage activities to prevent any impact on water quality. DNR also has indicated that several air quality programs it administers may apply to the proposed abandonment and related salvage activities. Therefore, OEA recommends that, prior to conducting any salvage activities, DM&E be required to consult with DNR to address DNR's concerns about the use of Best Management Practices to protect water quality and to determine the applicability of DNR's air quality program requirements.

OEA also states in the EA that the DM&E has served an historic report on the Iowa Department of Cultural Affairs, State Historic Preservation Office (SHPO) pursuant to 49 C.F.R. § 1105.8(c). OEA notes that the SHPO has indicated that it needs additional information on sites, buildings, structures, and objects within the right-of-way before it can make any recommendations on whether there appears to be any potential that the undertaking would encounter or adversely impact historic properties that may be eligible for listing in the National Register of Historic Places (National Register). Therefore, OEA recommends that DM&E be required to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register until completion of the Section 106 process of the National Historic Preservation Act (NHPA), 16

U.S.C. § 470f. OEA also recommends that DM&E be required to report back to OEA regarding any consultations with the SHPO and the public, and that DM&E be prohibited from filing its consummation notice or initiating any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

No comments to the EA were received by the January 13, 2014 due date. Accordingly, the two conditions recommended by OEA in the EA will be imposed.

Based on OEA's recommendation, 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 notice served and published in the Federal Register on December 24, 2013, exempting the abandonment of the line described above is subject to the conditions that DM&E shall: (1) prior to conducting any salvage activities, consult with DNR to address DNR's concerns about the use of Best Management Practices to protect water quality and to determine the applicability of DNR's air quality program requirements; and (2) (a) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register until completion of the Section 106 process of the NHPA; (b) report back to OEA regarding any consultations with the SHPO and the public, and (c) be prohibited from filing its consummation notice or initiating any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.