

41144
DO

SERVICE DATE – OCTOBER 12, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 445X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN CASCADE
COUNTY, MONT.

Decided: October 8, 2010

BNSF Railway Company (BNSF) filed a notice of exemption under 49 C.F.R. § 1152 Subpart F—Exempt Abandonments to abandon approximately 1.67 miles of railroad between milepost 194.61 and milepost 196.28, near Great Falls, in Cascade County, Mont. Notice of the exemption was served and published in the Federal Register on October 6, 2006 (71 Fed. Reg. 59,196-97). The exemption became effective on November 8, 2006.

In the October 6, 2006 notice, the Board stated that, if consummation had not been effected by BNSF's filing of a notice of consummation by October 6, 2007, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause, file a request for an extension of time to file a notice of consummation in abandonment proceedings. By a series of decisions, the most recent served on October 5, 2009, the Board granted BNSF's requests for extensions until October 6, 2010, of the time to file its notice of consummation in this proceeding.

On October 1, 2010, BNSF requested a further extension, until April 6, 2011, of the time to consummate the abandonment. In support, BNSF states that it is still trying to resolve an outstanding historic condition.¹ BNSF has shown good cause to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding. Accordingly, the request will be granted.

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

It is ordered:

1. BNSF's request for an extension of time to consummate the abandonment is granted.

¹ By decision served on November 7, 2006, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to three environmental conditions — the historic condition and two self-executing conditions.

2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before April 6, 2011.

3. This decision is effective on its date of service.

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