

35334
DO

SERVICE DATE - DECEMBER 6, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 424X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY—ABANDONMENT EXEMPTION—IN DAWSON AND
McCONE COUNTIES, MT

Decided: December 3, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments to abandon a 43.41-mile line of railroad extending between milepost 7.00 near Glendive and milepost 50.41 in Circle, in Dawson and McCone Counties, MT. Notice of the exemption was served and published in the Federal Register on November 5, 2004 (69 FR 64631). The exemption is scheduled to become effective on December 7, 2004.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on November 12, 2004. In the EA, SEA indicates that the Montana Historical Society (SHPO) stated that, according to the SHPO's records, there have been several previously recorded historic or archaeological sites within the designated project area. The SHPO recommends that a cultural resource inventory be conducted prior to any ground disturbance to determine whether such sites exist. According to the SHPO, BNSF is retaining a qualified consultant to perform a survey and will provide the information to the Board and the SHPO as soon as the survey is available. SEA, therefore, recommends that BNSF 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 (NHPA).

SEA also indicates that the Montana Department of Environmental Quality (MT DEQ) in Helena, MT, has advised the Board that storm water discharges are permitted under the Montana Pollutant Discharge Elimination System. Coverage under a general permit is necessary for storm water discharges if the project results in ground disturbance totaling one or more acres that is part of a larger common plan of development or sale, and if there are storm water discharging pollutants to surface waters. MT DEQ indicates that there appears to be the potential for pollutant (such as disturbed sediment) discharge to nearby surface waters as the proposed rail line appears to be parallel to or cross over some surface waters and recommends that permit coverage be obtained. Accordingly, SEA recommends that a condition be imposed requiring that BNSF shall, prior to the commencement of any salvage activities, contact MT DEQ to evaluate any storm water discharge permitting requirements.

Finally, SEA states that the U.S. Department of Commerce, National Geodetic Survey (NGS), has identified 11 geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends that BNSF notify NGS 90 days prior to salvage activities to plan for their relocation.

Comments to the EA were due by November 29, 2004. 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 rail line described above is subject to the conditions that BNSF: (1) 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 NHPA; (2) contact MT DEQ to evaluate any storm water discharge permitting requirements prior to the commencement of any salvage activities; and (3) notify NGS 90 days prior to salvage activities to plan for relocation of the 11 geodetic station markers identified on the line.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary