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SERVICE DATE - MARCH 24, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 410X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—
IN THURSTON COUNTY, WA¹

Decided: March 23, 2005

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon and discontinue service over a 5.80-mile line of railroad between milepost 3.27 in Quadlock and milepost 9.07 in Olympia, in Thurston County, WA. Notice of the exemption was served and published in the Federal Register on April 26, 2004 (FR 69 22594-95).

On May 24, 2004, a decision and notice of interim trail use or abandonment was served that reopened the proceeding to implement interim trail use/rail banking for a portion of the right-of-way between milepost 3.27 at Quadlock near Union Mills Road and milepost 6.73 near Fones Road under 49 CFR 1152.29 and the National Trails System Act, 16 U.S.C. 1247(d), and provided a 180-day period for the City of Lacey and the City of Olympia (Cities) to negotiate an interim trail use/rail banking agreement with BNSF for that portion of the right-of-way involved in this proceeding. In the same decision, the exemption was made subject to the conditions that BNSF: (1) notify the National Geodetic Survey at least 90 days prior to salvage activities to plan for the relocation of the ten geodetic station markers that may be affected by the abandonment; (2) consult with the U.S. Army Corps of Engineers - Seattle District (USACE) prior to commencement of any salvage activities, to determine whether a Department of the Army permit under section 404 of the Clean Water Act (33 U.S.C. 1344) would be required; (3) consult with the City of Lacey's water resources engineer, Eric Hielema, P.E., prior to salvage activities; (4) prior to conducting any salvage activities, consult with the United States Department of the Interior, Fish and Wildlife Service, Western Washington Field Office, concerning the potential impacts on the bald eagle (Haliaeetus leucocephalus), the mazama pocket gopher (Thomomys mazama) and the species of concern that have been documented in Thurston County to identify the appropriate mitigation measures that may be warranted and evaluate any possible impacts on the mazama pocket gopher; (5) contact the State of Washington, Department of Fish and Wildlife Habitat Program Manager for Thurston County, Steve Kalinowski, 360-249-4628, prior to commencement of any salvage activities; and (6) if any archaeological or historical materials are discovered during the project activities, discontinue work in the immediate vicinity, secure

¹ Effective January 20, 2005, The Burlington Northern and Santa Fe Railway Company changed its name to BNSF Railway Company.

the area, and notify both the State of Washington's Office of Community Development, Office of Archaeology and Historic Preservation (SHPO), and the concerned tribes.²

The Board's Section of Environmental Analysis (SEA) states that, in a telephone conversation with BNSF and Jim Greene with the United States Army Corps of Engineers (USACE), it has been concluded that the abandonment would not involve the discharge of fill material in waters of the United States and that a USACE permit under section 404 of the Clean Water Act would not be required. Therefore, based on the information provided, SEA recommends that the section 404 condition be removed. Accordingly, the proceeding will be reopened and the previously imposed section 404 condition will be removed.³

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 404 condition imposed in the May 24, 2004 decision is removed.
3. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary

² The May 24 decision stated that the Cities and BNSF had 180 days from the May 26, 2005 effective date of the exemption (until November 22, 2004) to reach an interim trail use/rail banking agreement. On November 23, 2004, BNSF notified the Board that it and the Cities had consummated a trail use agreement on November 22, 2004, for the portion of the right-of-way between milepost 3.27 and milepost 6.73. Also, in a letter dated December 15, 2004, BNSF notified the Board that it had consummated the abandonment for the remainder of the line between milepost 6.73 and milepost 9.07.

³ The five other environmental conditions imposed in the May 24, 2004 decision remain in effect.