

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 440X)

BNSF RAILWAY COMPANY–ABANDONMENT EXEMPTION–IN
THURSTON COUNTY, WA

Decided: May 12, 2006

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 0.23-mile line of railroad between BNSF Engineering Station 521 + 42 and BNSF Engineering Station 533 + 65, in Olympia, Thurston County, WA. Notice of the exemption was served and published in the Federal Register on April 14, 2006 (71 FR 19617). The exemption is scheduled to become effective on May 16, 2006.

The Board’s Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on April 21, 2006. In the EA, SEA states that the Washington Department of Ecology Watershed Resources Unit (WDOE) has indicated that this project may need an “NPDES Construction Stormwater” permit if the project will disturb one acre or more and discharge to surface waters. If the project will not disturb more than one acre, then Best Management Practices must be used to ensure there is not a discharge of contaminated stormwater or other polluting material from the site. Therefore, SEA recommends that BNSF be required, prior to commencement of any salvage activities, to consult with the WDOE concerning its Watershed Resources requirements and shall comply with WDOE’s reasonable requirements.

SEA also states in the EA that the City of Olympia Public Works Department (OPWD) has indicated that the proposed abandonment crosses the 100-year floodplain. Therefore, to ensure that the 100-year floodplain is not adversely affected, SEA recommends that BNSF be required, prior to commencement of any salvage activities, to consult with OPWD regarding potential impacts to the floodplain and comply with the reasonable requirements of OPWD.

SEA further states in the EA that, the Washington State Coastal Zone Management Program applies to Thurston County. Therefore, SEA recommends that BNSF be required, prior to beginning any salvage activities, to consult with the Washington Department of Ecology, Office of Shorelands and Environmental Assistance Coastal Zone Management Program to determine whether coastal zone management consistency certification is required. If consistency certification is required, BNSF is prohibited from performing any salvage activities until it obtains such certification, and it

should then notify SEA of that certification, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 et seq., and the Board's environmental regulations at 49 CFR 1105.9.

Additionally, SEA states in the EA that the U.S. Department of Interior, Fish and Wildlife Service, Western Washington Fish and Wildlife Office (USFWS) has indicated that there are several Federally listed and proposed endangered and threatened species and candidate species which may be in or near the project area which may require specific protective measures in accordance with the Endangered Species Act. Federally listed species include the Bald Eagle (*Haliaeetus leucocephalus*), Bull trout (*Salvelinus confluentus*), Marbled murrelets (*Brachyramphus marmoratus*), Northern spotted owls (*Strix occidentalis caurina*), and the Golden paintbrush (*Castilleja levisecta*). Therefore, to address these concerns, SEA recommends that BNSF be required, prior to commencement of salvage activities, to consult with USFWS to determine possible impacts to species of Federal concern and report the results of this consultation to SEA.

SEA also states in the EA that the Washington Department of Fish and Wildlife (WDFW) has indicated that there are species and/or habitat locations deemed sensitive by WDFW which may be present in the vicinity of the project area. Therefore, SEA recommends that BNSF be required, prior to commencement of salvage activities, to consult with WDFW concerning potential impacts to species of concern to WDFW.

Finally, SEA notes in the EA that the Washington Office of Archaeology and Historic Preservation (SHPO) has concerns that salvage operations could harm cultural materials found on the right-of-way. Therefore, SEA recommends that, in the event any cultural materials are discovered during salvage operations, BNSF be required to halt work immediately, contact SEA, interested Federally recognized tribes, and the SHPO. SEA shall then consult with the SHPO, interested Federally recognized tribes, and BNSF to determine whether any mitigation measures are necessary.

No comments to the EA were received by the May 8, 2006 due date. Accordingly, the conditions recommended by SEA in the EA will be imposed. Based on SEA's recommendations, 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 exemption of the abandonment of the rail line described above is subject to the conditions that BNSF shall: (1) prior to commencement of any salvage activities, consult with WDOE concerning its Watershed Resources requirements and shall comply with WDOE's reasonable requirements; (2) prior to commencement of any salvage activities, consult with OPWD regarding potential

impacts to the floodplain and comply with the reasonable requirements of OPWD; (3) prior to beginning any salvage activities, consult with the Washington Department of Ecology, Office of Shorelands and Environmental Assistance Coastal Zone Management Program to determine whether coastal zone management consistency certification is required. If consistency certification is required, BNSF is prohibited from performing any salvage activities until it obtains such certification, and it should then notify SEA of that certification, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 et seq., and the Board's environmental regulations at 49 CFR 1105.9; (4) prior to commencement of any salvage activities, consult with USFWS to determine possible impacts to species of Federal concern and report the results of this consultation to SEA; (5) prior to commencement of any salvage activities, consult with WDFW concerning potential impacts to species of concern to WDFW; and (6) in the event any cultural materials are discovered during salvage operations, halt work immediately, contact SEA, interested Federally recognized tribes, and the SHPO. SEA shall then consult with the SHPO, interested Federally recognized tribes, and BNSF to determine whether any mitigation measures are necessary.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary