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SERVICE DATE – LATE RELEASE OCTOBER 27, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 444X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN FLATHEAD
COUNTY, MT

Decided: October 27, 2006

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a .42-mile rail line extending between Engineering Station 189 + 36 and Engineering Station 167 + 00, near Kalispell in Flathead County, MT. Notice of the exemption was served and published in the Federal Register on September 28, 2006 (71 FR 57019-20). The exemption is scheduled to become effective on October 28, 2006.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on October 3, 2006. In the EA, SEA notes that the Montana Department of Environmental Quality, Water Protection Bureau (MDEQ) is unable to determine what, if any, permits are necessary for the proposed abandonment. The Montana Water Quality Act (MWQA) prohibits the discharge of sewage, industrial or other wastes, including sediment, into state waters without a current permit from MDEQ. Therefore, SEA recommends that BNSF contact MDEQ prior to beginning salvage activities regarding MDEQ's requirements under the MWQA.

Comments to the EA were due by October 18, 2006. SEA received comments from the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation, Montana (Tribes). The Tribes suggested that, should there be massive excavation or earth movement, a Cultural Resources Inventory be done. According to SEA, the abandonment would not involve massive excavation or earth movement. No new conditions are recommended by SEA as a result of the Tribes' comments.

The condition 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 for abandonment of the line described above is subject to the condition that BNSF shall contact MDEQ prior to beginning salvage activities regarding MDEQ's requirements under the MWQA.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary