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SERVICE DATE – SEPTEMBER 3, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 469X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN PIERCE COUNTY,
WASH.

Decided: September 2, 2010

BNSF Railway Company (BNSF) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 1.56-mile line of railroad between milepost 0.59 and milepost 2.15, in Tacoma, Pierce County, Wash. Notice of the exemption was served and published in the Federal Register on October 22, 2009 (74 Fed. Reg. 54,620-21). The exemption became effective on November 21, 2009.

The Board's Section of Environmental Analysis (SEA)¹ served an environmental assessment (EA) in this proceeding on October 27, 2009. By decision served on November 20, 2009, the proceeding was reopened at the request of SEA and the exemption was made subject to the conditions that BNSF shall, prior to beginning any salvage activities, or consummation of the abandonment if salvage does not occur: (1)(a) consult with the City of Tacoma, Community and Economic Development Department (City) to determine if the proposed abandonment is consistent with the City's proposed multi-use trail/park in the Union Station Conservation District as envisioned in its comprehensive plan, and (b) report the results of the discussions back to SEA in writing; and (2)(a) consult with the Washington State Department of Ecology, Shoreland and Coastal Zone Management Program (WDE S&CZMP) to determine whether state coastal management consistency certification is required; (b) if such a certification is required, be prohibited from performing any salvage activities until it obtains consistency certification; and (c) notify SEA, pursuant to the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq. and the Board's environmental regulations at 49 C.F.R. § 1105.9.

SEA received an e-mail dated June 30, 2010, from BNSF indicating that the WDE S&CZMP has determined that coastal zone review would not be required for the salvage activities associated with the proposed abandonment. The WDE S&CZMP cautioned that any activity outside the salvage process – those that would require other federal approvals or use federal funding – could trigger the need for WDE S&CZMP review. Because these potential triggers do not apply to the proposed abandonment here, SEA has determined that the coastal zone consultation process has been completed and, therefore, recommends that the coastal zone condition be removed. Accordingly, the proceeding will be reopened and the previously

¹ As of September 1, 2010, SEA is now the Office of Environmental Analysis (OEA).

imposed coastal zone condition will be removed. The condition regarding consultation with the City remains a condition of the abandonment.

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 condition that BNSF shall, prior to beginning any salvage activities, or consummation of the abandonment if salvage does not occur: (a) consult with the WDE S&CZMP to determine whether state coastal management consistency certification is required; (b) if consistency certification is required, be prohibited from performing any salvage activities until it obtains consistency certification; and (c) notify SEA 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, is removed.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.