

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 432X)

BNSF RAILWAY COMPANY–ABANDONMENT EXEMPTION–IN WALSH COUNTY, ND

Decided: February 24, 2006

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 7.12-mile line of railroad between milepost 144.21 at Grafton, and milepost 137.09, near Voss, in Walsh County, ND. Notice of the exemption was served and published in the Federal Register on January 26, 2006 (71 FR 4397-98). The exemption is scheduled to become effective on February 25, 2006.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in the proceeding on January 31, 2006, setting forth environmental concerns and recommending that conditions be imposed on any decision granting abandonment authority. In the EA, SEA states that the North Dakota Parks and Recreation Department (NDPRD) has recommended that any areas impacted by salvage activities be revegetated with species native to the project area. Accordingly, SEA recommends that BNSF revegetate areas impacted by salvage activities with species native to the area.

SEA also notes in the EA that the North Dakota State Water Commission (NDSWC) has indicated that, because the proposed project is located in a 100-year floodplain, BNSF should apply for a non-building floodplain permit prior to the proposed abandonment. NDSWC has also stated that all waste materials associated with the proposed project should be disposed of properly and not placed in identified floodway areas. Accordingly, SEA recommends that BNSF consult with NDSWC regarding potential impacts to the 100-year floodplain and comply with the reasonable requirements of NDSWC to mitigate any potential impacts.

SEA further notes in the EA that the U.S. Army Corps of Engineers' Omaha District (Corps) has stated that the proposed project could involve jurisdictional waters of the United States and a Department of Army permit may be required. SEA therefore recommends that BNSF consult with the Corps regarding potential impacts to waters of the United States, including wetlands, and comply with the reasonable requirements of the Corps.

In the EA, SEA states that the Natural Resource Conservation Service (NRCS) has recommended that, to the extent possible, all natural drainage patterns be maintained and that land use that may be affected during the abandonment be returned to the original land use cover. Also, NRCS has recommended that waste material not be placed in wetlands or natural

watercourses, and erosion control measures should be in effect during all periods of bridge and track removal activities. Therefore, SEA recommends that prior to the commencement of any salvage activities, BNSF consult with NRCS regarding the abovementioned recommendations.

SEA also states in the EA that the North Dakota Department of Health's Environmental Health Section (NDDH) has recommended that BNSF follow Best Management Practices during salvage activities to prevent dirt, debris, and waste material from entering a storm drainage system or water body. NDDH has further requested that BNSF report any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment. Lastly, NDDH has recommended that all solid waste materials be managed and transported in accordance with the State's solid and hazardous waste rules, and has encouraged BNSF to reduce, reuse, or recycle waste materials. SEA accordingly recommends that BNSF consult with NDDH prior to the commencement of any salvage materials and comply with NDDH's abovementioned requests

Lastly, SEA states in the EA that in the event that any archaeological sites, human remains, funerary items, or associated artifacts are discovered during salvage operations, BNSF shall immediately cease all work and notify SEA, the State Historical Society of North Dakota (SHPO), and interested Federally recognized tribes. BNSF shall then consult with these entities to determine whether any mitigation measures are necessary.

Comments to the EA were due February 15, 2006. No comments to the EA were received. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

Based on SEA's recommendation, 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 the abandonment of the line described above covered by the notice served and published in the Federal Register on January 26, 2006, is subject to the conditions that BNSF shall: (1) revegetate areas impacted by salvage activities with species native to the area; (2) prior to commencement of any salvage activities, consult with NDSWC regarding potential impacts to the 100-year floodplain and comply with the reasonable requirements of NDSWC to mitigate any potential impacts; (3) prior to commencement of any salvage activities, consult with the Corps regarding potential impacts to waters of the United States, including wetlands, and comply with the reasonable requirements of the Corps; (4) prior to commencement of any salvage activities, consult with NRCS with regard to maintaining, to the extent possible, all natural drainage patterns and returning land use to the original land use cover; avoiding the placement of waste materials in wetlands or natural watercourses; and employing erosion control measures during all periods of bridge and track removal; (5) follow Best Management Practices during salvage activities to prevent dirt, construction debris, and

waste material from entering a storm drainage system or water body; report to NDDH any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment; and prior to commencement of any salvage activities, consult with NDDH regarding solid waste materials and comply with its reasonable requirements; and (6) immediately cease all work and notify SEA, the SHPO, and interested Federally recognized tribes, in the event that any archaeological sites, human remains, funerary items, or associated artifacts are discovered during salvage operations, and consult with these entities 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