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SERVICE DATE – FEBRUARY 10, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 473X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN ROLETTE AND
TOWNER COUNTIES, N.D.

Decided: February 9, 2011

BNSF Railway Company (BNSF), filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments, to abandon 17.75 miles of rail line between milepost 30.00, north of Bisbee and milepost 47.75 at Rolla, in Rolette and Towner Counties, N.D. Notice of the exemption was served on January 12, 2011, and published in the Federal Register on January 13, 2011 (76 Fed. Reg. 2,445-46). The exemption is scheduled to become effective on February 11, 2011.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on January 14, 2011. In the EA, OEA states that by letter dated December 15, 2010, the U.S. Fish and Wildlife Service Ecological Services Office (USFWS) made the following observations: (1) USFWS has property interests located in or near the proposed abandonment and recommends that all property interests within the National Wildlife Refuge System be avoided; (2) the following are endangered or candidate species found in Rolette and Towner Counties (a) the endangered whooping crane (*grus americana*) and the gray wolf (*canis lupus*), and (b) the candidate sprague's pipit (*anthus spragueii*) and the Dakota Skipper (*herperia dacotae*); and (3) review of the national wetland inventory maps and photographs indicate that several wetland basins lie adjacent to the proposed abandonment. To minimize disturbance to fish and wildlife habitat, USFWS provided the following recommendations: (1) install and maintain appropriate erosion control measures to reduce sediment transport to, and water quality degradation of, wetlands and streams near the proposed abandonment; (2) make no stream alterations or changes in drainage patterns; (3) defer the timing of the abandonment related activities until after July 15, 2011, so as not to disrupt waterfowl or other wildlife during the nesting season and to avoid high water conditions; and (4) reseed disturbed areas with a mixture of native grasses and forbs. Accordingly, OEA recommends that a condition be imposed requiring that, prior to commencement of any salvage activities, BNSF shall consult with Mr. Jeffrey Towner, Field Supervisor, USFWS (701-250-4481) regarding potential impacts from salvage activities to federally listed threatened and endangered species that may occur near the line. BNSF shall report the results of these consultations in writing to OEA prior to the onset of salvage operations.

OEA states that by letter dated December 8, 2010, the U.S. Army Corps of Engineers, St. Paul, Minn., District (Corps) indicated that no real estate, completed projects, or ongoing

projects would be affected by the proposed project. The Corps also noted that, although the proposed abandonment is located within the St. Paul District's civil works boundaries, the project area is within the Omaha, Neb., District's regulatory jurisdiction. Accordingly, OEA recommends that a condition be imposed requiring that, prior to commencement of any salvage activities, BNSF shall consult with Mr. Daniel Cimarosti of the Corps' Bismarck, N.D., Regulatory Office, regarding the Corps' requirements and, if applicable, shall comply with the reasonable requirements of the Corps.

Comments to the EA were due by January 31, 2011. OEA states in its final EA that one comment was received. OEA states that, in an e-mail dated January 21, 2011, the National Geodetic Survey (NGS) stated that approximately 15 geodetic station markers may be located in the area proposed for abandonment. Accordingly, OEA recommends that a condition be imposed requiring BNSF to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

OEA recommends that the two conditions previously recommended in the EA, as well as the additional condition, be imposed upon any decision granting abandonment authority. Accordingly, the conditions recommended by OEA will be imposed. Based on OEA'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 notice served on January 12, 2011, and published in the Federal Register on January 13, 2011, exempting the abandonment of the line described above is subject to the conditions that, prior to commencement of any salvage activities, BNSF shall: (1)(a) consult with Mr. Jeffrey Towner, Field Supervisor, USFWS (701-250-4481) regarding potential impacts from salvage activities to federally listed threatened and endangered species that may occur near the line, and (b) report the results of these consultations in writing to OEA prior to the onset of salvage operations; (2) consult with Mr. Daniel Cimarosti of the Corps' Bismarck, N.D., Regulatory Office, regarding the Corps' requirements and, if applicable, shall comply with the reasonable requirements of the Corps; and (3) consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.