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SERVICE DATE – NOVEMBER 26, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 341X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
POLK COUNTY, IOWA

Decided: November 26, 2013

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 0.6 miles of non-contiguous rail line segments in Des Moines, Polk County, Iowa, as follows: (1) approximately 0.3 miles of rail line extending between milepost SD 336.8 at SE 26th Ct. and milepost SD 337.1 at Scott Ave. (the eastern segment); and (2) approximately 0.3 miles of rail line extending between milepost SD 339.3 at E. 6th Street and milepost SD 339.6 near E. 1st Street and the Des Moines River (the western segment).¹ Notice of the exemption was served and published in the Federal Register on September 19, 2013 (78 Fed. Reg. 57,681). The exemption was scheduled to become effective on October 19, 2013. However, by decision served October 18, 2013, the Board determined that the abandonment authority in this proceeding would not become effective until completion of the environmental review process and further order of the Board. The environmental review process now has been completed.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on September 27, 2013. In the EA, OEA has recommended that two environmental conditions be imposed on any decision granting abandonment authority. First, OEA states that the Iowa Department of Natural Resources (IDNR) has submitted comments listing a number of issue areas that may be of concern during salvage operations. Specifically, IDNR notes that various contaminated sites are present in the project area and that permits and/or additional reviews may be required regarding air pollutants, open burning, fugitive dust and opacity (visible emissions). Therefore, OEA recommends that, prior to salvage activities, NSR be required to consult with IDNR to determine what, if any, permits are needed and to comply with their reasonable requirements, if applicable.

Second, OEA states in the EA that the Iowa Department of Natural Resources, Conservation and Recreation Division (IDNR CRD), has submitted comments stating that no site-specific records of rare species or significant natural communities would be impacted by the proposed abandonment. OEA also states that IDNR CRD has indicated that a Sovereign Lands

¹ According to NSR, the line segments are part of the same rail line but are separated by an approximately 2.0-mile middle line segment, which will not be abandoned and which will continue to connect with other rail lines.

Construction Permit pursuant to Chapter 461A of the Iowa Code would be required if construction extends below the ordinary high water line of the Des Moines River. Accordingly, OEA recommends that, prior to salvage activities, NSR be required to consult with IDNR CRD to determine if a Sovereign Lands Construction Permit would be required and, if applicable, to comply with its reasonable requirements.

Pursuant to the Board's October 18 decision, comments on the EA were due by October 24, 2013. No comments were received. Accordingly, the two environmental conditions previously recommended by OEA in the EA will be imposed. Because this action completes the environmental review process, the abandonment exemption in this proceeding will be made effective on the service date of this decision.

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 and published in the Federal Register on September 19, 2013, exempting the abandonment of the line segments described above, is subject to the conditions that NSR shall: (1) prior to salvage activities, consult with IDNR to determine what, if any, permits are needed and, if applicable, to comply with their reasonable requirements; and (2) prior to salvage activities, consult with IDNR CRD to determine if a Sovereign Lands Construction Permit would be required and, if applicable, to comply with its reasonable requirements.
3. The abandonment exemption in this proceeding will become effective on November 26, 2013.
4. This decision is effective on its service date.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.