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SERVICE DATE – AUGUST 7, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 448X)

BNSF RAILWAY COMPANY–ABANDONMENT EXEMPTION–IN
THURSTON COUNTY, WA

Decided: August 6, 2007

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 0.86-mile line of railroad that extends between Engineering Station 476+09 and Engineering Station 521+42 near Olympia, in Thurston County, WA. Notice of the exemption was served and published in the Federal Register on March 16, 2007 (72 FR 12673-74). The exemption became effective on April 17, 2007.

By decision served April 16, 2007 (April 2007 decision), the proceeding was reopened at the request of the Board’s Section of Environmental Analysis (SEA). The exemption was made subject to four environmental conditions and a condition requiring that BNSF retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or are listed in the National Register of Historic Places (National Register) (generally, 50 years old or older) until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed, report back to SEA regarding any consultations with the Washington Department of Archaeology and Historic Preservation (SHPO) and any other section 106 consulting parties, and not file its consummation notice or initiate any further salvage activities related to abandonment until the section 106 process has been completed and the Board has removed this condition.

SEA states in its Post Post Environmental Assessment that it received a copy of a report of an Archaeological Survey for the BNSF Olympia Abandonment Project, Olympia, WA, which was submitted to the SHPO on June 28, 2007. The SHPO reviewed the report and advised SEA that cultural resources within the Area of Potential Effect (the rail line right-of-way) were eligible for inclusion in the National Register, but that no historic properties would be affected by the project as currently proposed. However, the SHPO requested that, if the nature of the project changes or if any archaeological resources are uncovered during salvage activities, Native American Tribes and the SHPO be contacted for further consultation. Based on the information provided, SEA has determined that the section 106 process has been completed and recommends that the section 106 historic preservation condition imposed in the April 2007 decision be removed.

In a Revised Post Post Environmental Assessment, SEA has recommended the imposition of a new condition to address the concerns of the SHPO regarding the discovery of

archaeological materials during salvage. The new condition would require, in the event that any unanticipated archeological sites, human remains, funerary items or associated artifacts are discovered during the railroad's salvage activities, that BNSF will immediately cease all work and notify SEA, interested Federally recognized tribes, and the SHPO pursuant to 36 CFR 800.13(b). SEA will then consult with the SHPO, interested Federally recognized tribes, BNSF, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

Accordingly, the proceeding will be reopened, and the previously imposed historic preservation condition will be removed, and the recommended new condition will be imposed.¹

It is ordered:

1. This proceeding is reopened.

2. Upon reconsideration, the section 106 historic preservation condition imposed in the April 2007 decision is removed, and the exemption of the abandonment of the rail line described above is subject to the new condition that BNSF shall, in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during the railroad's salvage activities, BNSF will immediately cease all work and notify SEA, interested Federally recognized tribes, and the SHPO pursuant to 36 CFR 800.13(b). SEA shall then consult with the SHPO, interested Federally recognized tribes, BNSF, and any other consulting parties, if any, to determine whether appropriate 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

¹ The environmental conditions imposed in the April 2007 decision remain in effect.