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SERVICE DATE – NOVEMBER 7, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 445X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN CASCADE
COUNTY, MT

Decided: November 6, 2006

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 1.67 miles of railroad between milepost 194.61 and milepost 196.28, near Great Falls, in Cascade County, MT. Notice of the exemption was served and published in the Federal Register on October 6, 2006 (71 FR 59196-97). The exemption is scheduled to become effective on November 8, 2006.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on October 13, 2006. In the EA, SEA indicates that the U.S. Army Corps of Engineers (Corps) has stated that the proposed abandonment would not likely require a permit from the Corps based on the limited information provided by BNSF. The Corps added that, if BNSF identifies waterways and/or wetlands along the line and these areas would be disturbed by salvaging activities, then BNSF should contact the Corps to determine the necessity of obtaining a Corps permit. Because uncertainties remain on whether waterways and/or wetlands are present on the line, SEA recommends a condition for further consultation pending additional field review by BNSF.

SEA indicates that the Montana Department of Environmental Quality (DEQ) stated that it was unable to determine what permits would be necessary for the proposed abandonment based on the limited information provided by BNSF. Accordingly, SEA recommends a condition for further consultations with DEQ to clarify permitting requirements for the proposed abandonment.

Finally, SEA states that BNSF submitted a historic report as required by the Board's rules at 49 CFR 1105.8(a) and served a copy of the report on the Montana Historical Society (SHPO), pursuant to 49 CFR 1105.8(c). SEA states that the SHPO replied that there are a few previously designated sites within the project area including Site 24FH0350, which is the right-of-way of the historic Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MT SHPO Ref.: 2006051510). The SHPO added that this railroad is eligible for listing in the National Register of Historic Places, and that the proposed abandonment and removal of track materials may have an adverse effect on the

historic site. SEA states that, according to comments received from the City of Great Falls, BNSF may have already removed most of the track materials. Nonetheless, SEA recommends a condition that would prohibit BNSF from conducting any further abandonment or salvage activities until completion of the section 106 process under the National Historic Preservation Act (16 U.S.C. 470f).

Comments to the EA were due by October 27, 2006. No comments were received. Accordingly, the 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 notice served and published in the Federal Register on October 6, 2006, exempting the abandonment of the lines described above is subject to the following conditions: (1) prior to any remaining salvage activities, BNSF shall determine if waters of the United States, including wetlands, are present on the line proposed for abandonment. If waters of the United States are present and these areas would be disturbed by the proposed abandonment activities, BNSF shall consult with the Corps regarding potential permitting requirements under section 404 of the Clean Water Act, 33 U.S.C. 1344; (2) prior to any remaining salvage activities, BNSF shall consult with DEQ to determine potential permitting requirements for the proposed abandonment; and (3) BNSF shall 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 have been listed in the National Register of Historic Places (generally, sites, buildings, or structures 50 years old or older) until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. BNSF shall report to SEA regarding any consultations with DEQ and any other section 106 consulting parties. BNSF may not file its consummation notice or initiate any salvage activities related to the proposed abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed the condition.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary