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SERVICE DATE - JUNE 21, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No 415X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY  
–ABANDONMENT EXEMPTION–IN CAVALIER COUNTY, ND

Decided: June 17, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 20.93-mile line of railroad between BNSF milepost 74.07 near Langdon and milepost 95.00 near Hannah, in Cavalier County, ND. Notice of the exemption was served and published in the Federal Register on May 21, 2004 (69 FR 29348). The exemption is scheduled to become effective on June 22, 2004.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on May 28, 2004. In the EA, SEA states that the National Geodetic Survey (NGS) has advised that one geodetic station marker has been identified that may be affected by the proposed abandonment and requested 90 days' notification in advance of any activities that may disturb or destroy the marker. Therefore, SEA recommends that BNSF be required to consult with NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station markers.

SEA states that the Natural Resources Conservation Service (NRCS) has advised that there are areas of prime farmland and wetlands along the right-of-way of the proposed abandonment. NRCS recommends that BNSF should attempt to minimize adverse impacts if these areas are to be disturbed. If these areas are disturbed, NRCS recommends that BNSF should make an effort to protect the areas from soil erosion by wind or water and minimize the impacts to potential wetland areas as much as possible. NRCS also recommends that BNSF should take precautions to prevent damage to the cover on fields in the area that are enrolled in the Conservation Reserve Program. NRCS advises that, if the cover on these fields is damaged, BNSF would need to work with the local Farm Service Agency Office. Therefore, SEA recommends that BNSF be required to consult with NRCS prior to beginning salvage activities regarding measures to minimize impacts to prime farmlands and wetlands.

SEA also states that The North Dakota Parks and Recreation Department recommends that any area that is impacted by salvage activities be revegetated with species native to the

project area. Therefore, SEA recommends that BNSF be required to revegetate areas that are impacted by salvage activities with species native to the area..

SEA further states that the North Dakota Department of Health, Environmental Health Section (NDDH) states that, even though a North Dakota Pollution Discharge Elimination System permit would not be required, NDDH recommends that BNSF follow Best Management Practices during salvage activities to prevent dirt, construction debris and waste material from entering a storm drainage system or water body. Accordingly, SEA recommends that, during salvage activities, BNSF follow Best Management Practices to prevent dirt, construction debris and waste material from entering a storm drainage system or water body.

Finally, SEA states that, at the time the environmental assessment was prepared, the State Historical Society of North Dakota (the State Historic Preservation Office or SHPO) had not completed its review of the proposed abandonment. According to BNSF, there are three bridges in the area that are 50 years old or older. The SHPO has requested BNSF to prepare a Class I Cultural Resources Inventory of the Area of Potential Effect and submit it to its office for consultation. The SHPO also recommends that the three bridges be recorded and evaluated by a state-permitted cultural resource firm. Therefore, SEA has recommended in the EA that BNSF retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f .

Comments to the EA were due and received on June 14, 2004.

Following the receipt of additional comments from BNSF and the SHPO, SEA has determined that the previously recommended historic preservation condition is no longer necessary. But, because the SHPO still requests submission of site forms for the three bridges and the final cultural resources report. SEA recommends that, prior to beginning salvage activities, BNSF be required to submit site forms for the three bridges and the final cultural resources report to the SHPO.

The conditions recommended by SEA will be imposed. As conditioned, this decision 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 of the abandonment of the line described above is subject to the conditions that BNSF: (1) consult with NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station markers; (2) prior to beginning any

salvage activities, consult with NRCS regarding measures to minimize impacts to prime farmlands and wetlands; (3) revegetate areas impacted by salvage activities with species native to the area; (4) during salvage activities, follow Best Management Practices to prevent dirt, construction debris and waste material from entering a storm drainage system or water body; and (5) prior to beginning salvage activities, submit site forms for the three bridges and the final cultural resources report to the SHPO.

3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary