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SERVICE DATE – DECEMBER 1, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-391 (Sub-No. 10X)

RED RIVER VALLEY & WESTERN RAILROAD COMPANY
–ABANDONMENT EXEMPTION–
IN FOSTER AND WELLS COUNTIES, ND

Decided: November 29, 2004

The Red River Valley & Western Railroad Company (RRVW) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon approximately 27.76 miles of rail line from approximately milepost 21.4 in or near Carrington, ND, to the end of the line at approximately milepost 29.16 in or near Bowdon, ND. Notice of the exemption was served and published in the Federal Register on November 3, 2004 (69 FR 64131-32). The exemption is scheduled to become effective on December 3, 2004.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on November 8, 2004. In the EA, SEA states that the Natural Resources Conservation Service (NRCS) has submitted comments stating that, although important farmlands are in the area, the proposed abandonment would have minimal impacts on those farmlands and no significant impact on existing soil and water conservation practices in the area. NRCS recommends that, to the extent possible, all natural drainage patterns be maintained and that land use affected during salvage should be returned to the original land use cover. NRCS also states that, if the railroad road bed is removed, spoil should not be placed in wetlands or natural watercourses and that erosion control measures should be in effect during these removal activities. Therefore, SEA recommends that RRVW be required to consult with NRCS prior to beginning salvage activities regarding its recommendations for maintenance of natural drainage patterns, returning land use affected during salvage to the original land use cover, the placement of spoil from railroad road bed removal, and erosion control measures.

SEA also states that the National Geodetic Survey (NGS) has submitted comments stating that 13 geodetic station markers have been identified that may be affected by the proposed abandonment and requesting 90 days' notification in advance of activities that could disturb or destroy these markers. Therefore, SEA recommends that RRVW be required to consult with NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station markers.

SEA further states that the U.S. Army Corps of Engineers, North Dakota Regulatory Office (Corps-Regulatory) has orally informed RRVW that a Corps permit pursuant to section 404 of the

Clean Water Act may be required for removal of the bridges on the line. RRVW states that it will work with Corps-Regulatory to obtain any necessary permit in connection with the proposed abandonment. Therefore, SEA recommends that RRVW be required to consult with Corps-Regulatory regarding its permitting requirements prior to beginning salvage activities.

SEA indicates that the North Dakota Department of Health, Environmental Health Section (NDDH) has submitted comments stating that the environmental impacts from the proposed abandonment would be minor and has recommended the following: follow Best Management Practices during salvage activities to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body; report any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during abandonment and salvage operations, to NDDH; and avoid spills of any materials that may have an adverse effect on groundwater quality, report all spills to NDDH, and take remedial action to clean up any spills. NDDH also notes that the line proposed for abandonment overlies the Carrington aquifer. Therefore, SEA recommends that RRVW be required to consult with NDDH prior to beginning salvage activities regarding the following recommendations: follow Best Management Practices during salvage activities to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body; report any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during abandonment and salvage operations, to NDDH; and avoid spills of any materials that may have an adverse effect on groundwater quality, report all spills to NDDH, and take remedial action to clean up any spills.

SEA also indicates that the North Dakota State Water Commission (NDSWC) has submitted comments recommending that all waste material associated with the proposed abandonment be disposed of properly and not be placed in identified floodway areas. Therefore, SEA recommends that RRVW be required to consult with NDSWC regarding its recommendations for waste material disposal prior to beginning salvage activities.

Finally, SEA states that the State Historical Society of North Dakota (the State Historic Preservation Officer or SHPO), at the time the EA was prepared, had not completed its assessment of the proposed abandonment. The SHPO has requested that additional information from RRVW, including a Class I Cultural Resources Inventory¹ of the Area of Potential Effect (APE), be prepared and submitted to its office for consultation. Therefore, SEA recommends that a condition be imposed

¹ For the Class I Cultural Resources Inventory, RRVW must perform a files search and submit the results of the files search in: (1) a short report detailing all cultural resources (including potential or actual historic properties) in the legal sections of the APE; and (2) 7.5' topographic maps with the cultural resource locations and previously inventoried areas plotted and marked.

requiring RRVW to 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 (NHPA).

Comments to the EA were due by November 22, 2004. No comments were received by the due date. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

As conditioned, this action 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 RRVW: (1) consult with NRCS prior to beginning salvage activities regarding its recommendations for maintenance of natural drainage patterns, returning land use affected during salvage to the original land use cover, the placement of spoil from railroad road bed removal, and erosion control measures; (2) consult with NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station markers; (3) consult with Corps-Regulatory regarding its permitting requirements prior to beginning salvage activities; (4) consult with NDDH prior to beginning salvage activities regarding its recommendations to (a) follow Best Management Practices during salvage activities to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body, (b) report any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during abandonment and salvage operations, to NDDH, and (c) avoid spills of any materials that may have an adverse effect on groundwater quality, report all spills to NDDH, and take remedial action to clean up any spills; (5) consult with NDSWC regarding its recommendations for waste material disposal prior to beginning salvage activities; and (6) 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 NHPA.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary