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SERVICE DATE - AUGUST 14, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 390X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY–  
ABANDONMENT EXEMPTION–BETWEEN LOVING AND PECOS JUNCTION, NM,  
AND BETWEEN PECOS JUNCTION, NM, AND RUSTLER SPRINGS, TX

Decided: August 9, 2002

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 line of railroad between BNSF milepost 196.00 near Loving, NM, and milepost 217.20 near Pecos Junction, NM, and between milepost 0.00 near Pecos Junction, NM, and milepost 25.34 near Rustler Springs, TX, a total distance of 46.54 miles. Notice of the exemption was served and published in the Federal Register on December 28, 2001 (66 FR 67363-64).

By decision served January 28, 2002, the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA), and the exemption was made subject to several environmental conditions, including the condition that BNSF retain its interest in and take no steps to alter the historic integrity of all sites or structures on the right-of-way until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA). In a decision served March 22, 2002, the historic condition was limited to the portion of right-of-way located within New Mexico.<sup>1</sup>

SEA has forwarded to the Board a copy of a letter from BNSF and the State of New Mexico Office of Cultural Affairs, Historic Preservation Division (NMSHPO), indicating that the condition requiring compliance with the section 106 process has been fulfilled. According to SEA, NMSHPO has determined that, subject to BNSF's satisfaction of certain salvage conditions recommended in the field study entitled A Class III Cultural Resource Survey for the Abandonment of the Burlington Northern and Santa Fe Railroad South of Loving, New Mexico, the proposed abandonment of the rail line extending south of Loving, NM, will have no adverse effect upon historic properties. SEA adds that BNSF has indicated concurrence with those conditions. SEA therefore recommends that the

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<sup>1</sup> A second environmental condition, relating to storm water discharge, was modified in the same manner.

section 106 condition imposed in the January 28, 2002 decision, and modified in the March 22, 2002 decision, be removed.

Accordingly, the proceeding will be reopened and the previously imposed historic condition will be removed.

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 section 106 condition imposed in the decision served January 28, 2002, and modified in the decision served March 22, 2002, is removed.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary