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SERVICE DATE - FEBRUARY 10, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-597X

BUTTE-SILVER BOW COUNTY—ABANDONMENT EXEMPTION—  
IN SILVER BOW COUNTY, MT

Decided: February 6, 2003

On June 18, 2002, Butte-Silver Bow County (BSB)<sup>1</sup> filed a petition for an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon approximately 11 miles of railroad known as the Missoula Gulch and Butte Hill (MGBH) line in and near Butte, in Silver Bow County, MT. The MGBH line extends from milepost 0.0 at Rocker, west of Butte, to milepost 4.40 at the Butte Hill Yard (Missoula Gulch segment), and also extends north and east from milepost 0.0 at the Butte Hill Yard to milepost 3.69 near the Badger Mine (Butte Hill segment).<sup>2</sup> Notice of the filing was served and published in the Federal Register on June 28, 2002 (67 FR 43698), and a decision granting the abandonment exemption was served on October 4, 2002.<sup>3</sup>

The grant was subject to the imposition of public use, trail use, and eight environmental conditions. Condition number seven required that BSB “retain its interest in the line and maintain it unaltered until completion of the section 106 process of the National Historic Preservation Act.”

By memorandum dated January 13, 2003, SEA forwarded to the Board a December 18, 2002 letter from the Montana State Historic Preservation Officer (SHPO) concerning the section 106 historic preservation condition. The letter indicates that the effects of the abandonment upon historic properties, including the MGBH line itself, have been and will continue to be addressed in conformance with the Programmatic Agreement Regarding the Implementation of the CERCLA<sup>4</sup> Related Elements of

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<sup>1</sup> BSB is a consolidated city-county government authorized under Montana law.

<sup>2</sup> On June 25, 2002, BSB filed requests for issuance of a notice of interim trail use for the Missoula Gulch segment and for imposition of a public use condition for the Butte Hill segment.

<sup>3</sup> Therein, the Board also granted a BSB request for an exemption from 49 U.S.C. 10904 governing offers of financial assistance.

<sup>4</sup> Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601

(continued...)

the Upper Clark Fork Basin Regional Historic Preservation Plan, to which SHPO is a signatory, and in compliance with section 106 of the National Historic Preservation Act. With the concurrence of SHPO, SEA therefore recommends that the section 106 historic preservation condition be removed.

Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.<sup>5</sup>

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 historic preservation condition, imposed in the decision served on October 4, 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

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<sup>4</sup>(...continued)  
et seq.

<sup>5</sup> The other conditions imposed on the grant remain in effect.