

32732
DO

SERVICE DATE - MAY 3, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-391 (Sub-No. 8X)

RED RIVER VALLEY & WESTERN RAILROAD COMPANY--ABANDONMENT
EXEMPTION--IN DICKEY COUNTY, ND AND BROWN COUNTY, SD

Decided: April 30, 2002

Red River Valley & Western Railroad Company (RRVW) filed a notice of exemption under 49 CFR 1152 Subpart F-- Exempt Abandonments to abandon approximately 18.3 miles of rail line from milepost 134.65 in or near Oakes, in Dickey County, ND, to milepost 116.3 in or near Hecla, in Brown County, SD.¹

By decision served October 5, 2001, the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA) and the exemption was made subject to the condition that RRVW retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line until completion of section 106 of the National Historic Preservation Act, 16 U.S.C. 470f.

SEA indicates that the Advisory Counsel on Historic Preservation, on March 28, 2002, signed and accepted the Memorandum of Agreement (MOA) developed to mitigate the adverse effects of this proceeding on historic properties. SEA states that the acceptance of the MOA completes the section 106 process. SEA therefore, recommends that the section 106 condition imposed in the October 5, 2001 decision be removed.

Accordingly, the proceeding will be reopened and the previously imposed historic condition will be removed.²

¹ Notice of the exemption was served and published in the Federal Register on September 7, 2001 (66 FR 46863).

² The October 5 decision imposed three other conditions that required RRVW to: (1) consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station markers; (2) consult with the Corps of Engineers, Omaha District (Corps), to determine if permits are required under section 404 of the Clean Water Act, 33 U.S.C. 1344, and under section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. 401 et seq.; and (3) prior to any salvage, consult with the North Dakota Department of Health, Environmental Health Section, South Dakota Departmental and Natural Resources, and North Dakota Office of the State Engineer. Those conditions remain.

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 October 5, 2001, is removed.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams
Secretary