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SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 427X)

BNSF RAILWAY COMPANY¹—ABANDONMENT EXEMPTION—IN
BARNES COUNTY, ND

Decided: February 22, 2005

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon and discontinue service over an 8.00-mile line of railroad between milepost 0.00 near Sanborn, and milepost 8.00 near Rogers, in Barnes County, ND. Notice of the exemption was served and published in the Federal Register on January 24, 2005 (70 FR 3434). The exemption is scheduled to become effective on February 23, 2005.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on January 28, 2005. In the EA, SEA states that the National Geodetic Survey (NGS) has identified seven geodetic station markers that may be affected by the proposed abandonment and requests 90 days' notification in advance of any activities that may disturb these markers. Therefore, SEA recommends that BNSF be required to notify NGS at least 90 days prior to salvage activities to plan for the possible relocation of the markers by NGS.

SEA states that the North Dakota Parks and Recreation Department (NDPRD) indicated that the proposed project will not affect any state parks lands or Land Water Conservation fund recreational projects that they coordinate or that are within their purview. However, Kathy Duttonhefner of the NDPRD has indicated that there are occurrences of native flora that could be impacted by the project and recommends that areas impacted as a result of the proposed abandonment be revegetated with natives species. Therefore, SEA recommends that BNSF be required to consult with NDPRD (Kathy Duttonhefner, at (701) 328-5370) regarding the vegetation of native flora in areas that may be impacted by the proposed abandonment activities.

SEA also states that the U.S. Army Corps of Engineers (USACOE) has indicated that the project is located within unnamed tributaries of the Sheyenne River and associated wetlands, which they have identified as jurisdictional waters of the United States protected under section 404 of the Clean Water Act, 33 U.S.C. 1344. USACOE has indicated to BNSF that the proposed

¹ Effective January 20, 2005, the name of "The Burlington Northern and Santa Fe Railway Company" was changed to "BNSF Railway Company."

project may have impacts on these waterways. Therefore SEA recommends, that BNSF consult with USACOE, Omaha District (William A. May, at (701) 255-0015), regarding the project's potential impacts on jurisdictional waters of the United States protected under section 404 of the Clean Water Act, 33 U.S.C. 1344, and comply with any reasonable requirements thereof, prior to abandonment activities.

Finally, SEA states that the North Dakota Department of Health, Environmental Health Section (NDDHEHS), has indicated that activities associated with the proposed abandonment will likely have only minor environmental impacts within the project area. However, the agency asks that BNSF be required to follow best management practices to prevent dirt and debris from entering any storm draining system or water body and requests that any pollutants that enter waters under their jurisdiction be reported to them. Therefore, to address the concerns raised by NDDHEHS, SEA recommends that BNSF consult with NDDHEHS (L. David Glatt, at (701) 328-5150), regarding the use of best management practices to prevent debris from entering a storm drain system or water body, and regarding the potential release of hazardous materials, prior to salvage activities.

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 rail line described above is subject to conditions requiring that BNSF: (1) notify NGS at least 90 days prior to the onset of salvage activities to plan for the possible relocation of the geodetic station markers by the NGS; (2) consult with the NDPRD (Kathy Duttonhefner, at (701) 328-5370) regarding the vegetation of native flora in areas that may be impacted by the proposed abandonment activities; (3) consult with the USACOE, Omaha District (William A. May, at (701) 255-0015), prior to salvage activities, regarding the project's potential impacts on jurisdictional waters of the United States protected under section 404 of the Clean Water Act, 33 U.S.C. 1344, and comply with any reasonable requirements thereof prior to abandonment activities; and (4) consult with the NDDHEHS (L. David Glatt, at (703) 328-5150), prior to salvage activities, regarding the use of best management practices to prevent debris from entering a storm drain system or water body, and regarding the potential release of hazardous materials.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary