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SERVICE DATE – APRIL 6, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 463X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN KING COUNTY, WA

Decided: April 3, 2009

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 7.30-mile rail line located between milepost 0.0 at Woodinville and milepost 7.30 at Redmond, King County, WA. Notice of the exemption was served and published in the Federal Register on September 26, 2008 (73 FR 55899). The exemption became effective on October 28, 2008.

By decision served on October 27, 2008 (October 2008 decision), 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 BNSF shall: (1) prior to beginning salvage activities, (a) consult with Washington Department of Energy regarding possible impacts of abandonment activities on wetlands located along the line and to ensure compliance with the Clean Water Act's National Pollution Discharge Elimination System permitting requirements and, (b) consult with the U.S. Army Corps of Engineers (Corps) regarding possible impacts of abandonment activities to water bodies and wetlands, and to ensure compliance with Corps permitting requirements; and (2) retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the proposed abandonment's right-of-way that are eligible for listing or are listed in the National Register of Historic Places (National Register) until the section 106 process has been completed, report back to SEA regarding any consultations with the Washington Department of History and Archaeology (SHPO) or the public regarding this matter, and be prohibited from filing a consummation notice or initiating any salvage activities until the section 106 process has been completed and the Board has removed this condition.

SEA received a letter via e-mail from the SHPO dated November 10, 2008. In this correspondence, the SHPO indicates that the proposed abandonment of the BNSF right-of-way between Woodinville and Redmond will have no adverse effect on historic properties or cultural resources listed in or eligible for inclusion in the National Register. SEA states that it concurs with the SHPO, and, therefore, recommends that the section 106 historic preservation condition be removed.

In its letter, the SHPO also requests that BNSF contact the SHPO and any appropriate tribes in the event that archaeological resources are inadvertently identified during salvage activities. Therefore, SEA recommends imposition of a new condition: that, in the event that

any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during the salvage activities, BNSF shall immediately cease all work and notify SEA, interested Federally recognized tribes, and the SHPO pursuant to 36 CFR 800.13(b). SEA states that it will then consult with the SHPO, interested Federally recognized tribes, BNSF, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary. Also, condition 1(a) and (b), as originally imposed in the October 2008 decision, remains in effect.

Accordingly, the proceeding will be reopened and the previously imposed section 106 condition will be removed, and the new condition recommended by SEA will be imposed.

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 section 106 condition imposed in the October 2008 decision is removed. Condition 1(a) and (b) remains in effect.
3. Upon reconsideration, the exemption of the abandonment of the line described above is also subject to the condition that, in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, BNSF shall immediately cease all work and notify SEA, interested Federally recognized tribes, and the SHPO, pursuant to 36 CFR 800.13(b). SEA shall then consult with the SHPO, interested Federally recognized tribes, BNSF, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.
4. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary