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SERVICE DATE - AUGUST 16, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 401X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY –
ABANDONMENT EXEMPTION – IN POLK COUNTY, IA

Decided: August 16, 2004

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 1.88-mile line of railroad, extending from milepost 67.38 to milepost 1.45, near Des Moines, in Polk County, IA. Notice of the exemption was served and published in the Federal Register on July 16, 2004 (69 FR 42803-04). The exemption is scheduled to become effective on August 17, 2004.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on July 23, 2004. In the EA, SEA states that, although the Iowa Department of Natural Resources, Conservation and Recreation Division (DNRCD), has not found site-specific records of rare species or significant natural communities in the area of the right-of-way, DNRCD's records are not the result of thorough field surveys. Accordingly, it recommends that BNSF contact DNRCD to discuss additional studies and/or mitigation measures to be implemented if such species or communities are found during salvage activities.

Also, SEA states that the Iowa Department of Natural Resources, Water Quality Bureau (DNRWQB), has indicated that the line crosses the Des Moines and the Raccoon Rivers and that the bed and banks of the rivers are owned by the state. Accordingly, SEA recommends that BNSF consult with DNRWQB prior to commencement of any salvage activities in case permits are required prior to salvage.

Finally, SEA states that the State Historical Society of Iowa (SHPO) has determined that the line may have historical significance, and, therefore, the SHPO has requested additional information regarding the Area of Potential Effect (APE). Specifically, SHPO seeks information regarding the types of cultural resources and the significance of historic properties that may be located in the APE. While its preliminary review indicates the existence of one previously recorded archaeological site, 13PK61, which includes a prehistoric Oneonta component, the remains of Fort Des Moines II, and the remains of the early town of Des Moines, other, less well-defined historic components, may also be affected by the proposed abandonment activities. Accordingly, SEA recommends that a condition be imposed requiring BNSF to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

Comments on the EA were due by August 9, 2004. No comments were received. Accordingly, the conditions recommended by SEA in the EA 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 line described above is subject to the conditions that BNSF: (1) contact DNRCRD to discuss additional studies and/or possible mitigation measures to be implemented if rare species or significant natural communities are found during salvage activities; (2) consult with DNRWQB prior to commencement of any salvage activities on the line regarding possible permitting requirements; and (3) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the NHPA.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary