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SERVICE DATE – MARCH 26, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 465X)

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

Decided: March 25, 2009

By petition filed on August 11, 2008, BNSF Railway Company (BNSF) sought an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 12.55-mile rail line that extends from milepost 11.25, near Wilburton, to milepost 23.80, in Woodinville, King County, WA (the line). Notice of the filing was served and published in the Federal Register on August 29, 2008 (73 FR 51047).

By decision and notice of interim trail use or abandonment served on November 28, 2008 (November 2008 decision), BNSF was exempted from the prior approval requirements of 49 U.S.C. 10903 for the abandonment of the above-described line, subject to employee protective conditions, and subject to the conditions that BNSF shall: (1) 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 project right-of-way that are eligible for listing or listed in the National Register of Historic Places (National Register) until the completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA); (2) report back to the Board's Section of Environmental Analysis (SEA) regarding any consultations with the Washington Department of Archaeology and Historic Preservation (SHPO) and the public; (3) be prohibited from filing its consummation notice or initiating any salvage activities related to abandonment (including removal of track and ties) until the section 106 process has been completed and the Board has removed this condition; and (4) be required to consult with the Washington Department of Fish and Wildlife (WDFW) and the Muckleshoot Indian Tribe Fisheries Division regarding the fish barriers.

SEA has received an e-mail with an attached letter, from the SHPO, both dated February 6, 2009. In this correspondence, the SHPO reiterates its belief that the proposed abandonment of the BNSF right-of-way between Woodinville and Wilburton will have no adverse effect on historic properties or cultural resources listed in or eligible for inclusion in the National Register. Therefore, based on the information provided, SEA recommends that the section 106 condition be removed. Accordingly, the proceeding will be reopened and the previously imposed section 106 condition will be removed. The condition regarding tribal concerns over fish passage barriers remains a condition of the abandonment.

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 November 2008 decision is removed.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary