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SERVICE DATE - SEPTEMBER 9, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 384X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY--
ABANDONMENT EXEMPTION--IN MINNEHAHA COUNTY, SD

Decided: September 8, 1999

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 2.98-mile line of its railroad between milepost 147.15 and milepost 150.13 near Sioux Falls, in Minnehaha County, SD. Notice of the exemption was served and published in the Federal Register on August 11, 1999 (64 FR 43813-14). The exemption is scheduled to become effective on September 10, 1999.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on August 16, 1999. In the EA, SEA states that the National Geodetic Survey (NGS) has identified one geodetic station marker that may be affected by the proposed abandonment. NGS requests that it be notified 90 days in advance of any activities that may disturb or destroy this marker to plan for its relocation. Therefore, SEA recommends that a condition be imposed requiring BNSF to consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic marker.

Additionally, based upon comments to the EA, SEA advised that the South Dakota State Historical Society (SHPO) states that the entire line could be eligible for listing in the National Register of Historic Places under the context of multiple property listing of historic railroads in South Dakota. SHPO also states that the line is part of the original Great Northern rail line built between 1888 and 1893 and appears to maintain integrity because the grade has not been altered. Therefore, SEA recommends that BNSF consult with SHPO to aid the Board in meeting its responsibilities under the National Historic Preservation Act. SEA states that the purpose of this consultation is to: (1) determine whether the rail line segment is potentially eligible for inclusion in the National Register of Historic Places; and (2) determine ways to avoid or reduce any adverse impacts associated with abandonment if the line is eligible for inclusion. Therefore, pending resolution of this issue, SEA recommends that BNSF be required to retain its interest in and take no steps to alter the historic integrity of the line segment until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

On August 23, 1999, The National ESA and Wetland Coalition (NEWC) filed a letter stating that the federally endangered species Eskimo curlew (*Numenius borealis*), the Least tern (*Sterna antillarum*), and the Piping plover (*Charadrius melodus*) are in the immediate vicinity of the proposed abandonment. NEWC further states that a survey of the Sioux Falls quadrangle of the National Wetlands Inventory of the U.S. Fish and Wildlife Service (FWS) shows two class one

wetlands on both sides of the right-of-way. NEWC requests that, prior to salvage operations, BNSF consult with the South Dakota Department of Natural Resources for ESA compliance and the U.S. Corps of Engineers (Corps) for wetlands compliance to determine if permits are required. In the correspondence from FWS and the Corps included in the notice of exemption submitted by BNSF, FWS and the Corps specified that the proposed project as described will have no significant impact on the fish and wildlife resources and habitats and that an individual Department of the Army permit pursuant to section 404 of the Clean Water Act is not required for the project area. Under the circumstances, SEA does not recommend that any further conditions be imposed based on NEWC's comments and the request will be denied.

The NGS and the section 106 conditions 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. NEWC's request will be accepted into the record and placed in the public docket.
3. Upon reconsideration, the exemption of the abandonment of the line described above is subject to the conditions that BNSF: (1) consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station marker; and (2) retain its interest in and take no steps to alter the historic integrity of the line in its entirety until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary