

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1026X

BELLINGHAM INTERNATIONAL RAILROAD, LLC—ABANDONMENT EXEMPTION—  
IN WHATCOM COUNTY, WA

Decided: February 6, 2009

Bellingham International Railroad, LLC (BIR), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 2-mile line of railroad between milepost 2.98 and milepost 4.98 in Bellingham, Whatcom County, WA.<sup>1</sup> Notice of the exemption was served and published in the Federal Register on January 8, 2009 (74 FR 847-48). The exemption is scheduled to become effective on February 7, 2009.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on January 13, 2009, setting forth environmental concerns and recommending that conditions be imposed on any decisions granting abandonment authority. In the EA, SEA recommends four conditions. SEA indicates that the line is within a designated coastal county and that it crosses the Squalicum Creek at one location. SEA notes in the EA that the Washington State Department of Ecology (WADEQ) indicated that consistency with its Coastal Management Program is required. Accordingly, SEA recommends that, prior to commencement of any salvage activities, BIR be required to consult with WADEQ (Jessica Moore, 360-407-7421, [jemo461@ecy.wa.gov](mailto:jemo461@ecy.wa.gov)) to determine whether state coastal management consistency certification would be required. If consistency certification would be required, SEA recommends that BIR be prohibited from performing any salvage activities until it obtains consistency certification and be required to notify SEA, pursuant to the Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 et seq., and the Board's environmental regulations at 49 CFR 1105.9.

SEA also indicates in the EA that WADEQ recommended that BIR contact WADEQ's Northwest Regional Office regarding applicable requirements under section 401 of the Clean Water Act (CWA) (Rebekah Padgett, 425-649-7129, [rpad461@ecy.wa.gov](mailto:rpad461@ecy.wa.gov)) and section 402 of the CWA (Jerry Shervey, 425-649-7215, [gshe461@ecy.wa.gov](mailto:gshe461@ecy.wa.gov)). Thus, SEA recommends conditions requiring BIR, prior to beginning salvage operations, to consult with WADEQ and the

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<sup>1</sup> In 1998, BIR acquired the exclusive rail service easement over the line and all track, track materials, and related structures. See Bellingham International Railroad LLC—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company, STB Finance Docket No. 33635 (STB served Aug. 4, 1998).

persons noted above regarding any reasonable requirements for compliance with sections 401 and 402 of the CWA.

Finally, SEA notes in the EA that the U.S. Army Corps of Engineers (Corps) has indicated that the proposed abandonment project may contain wetlands and has recommended that BIR hire a qualified biologist if there is some question regarding the presence of wetlands. The Corps has requested additional information regarding the project area, including a more detailed explanation of the proposed salvage work and further details regarding the disposition of the two bridges located on the line,<sup>2</sup> so that it can determine whether authorization under section 404 of the CWA is needed for the proposed abandonment. Accordingly, SEA recommends that, prior to commencement of any salvage activities, BIR consult with the Corps regarding potential impacts to waters of the United States, including wetlands, and comply with the reasonable requirements of the Corps.

Comments to the EA were due by January 28, 2009. No comments were received by the due date. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

Based on SEA's recommendation, the proposed abandonment, if implemented as conditioned, 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 for abandonment of the line described above is subject to the conditions that, prior to commencement of any salvage activities, BIR shall: (1) consult with WADEQ (Jessica Moore, 360-407-7421, [jemo461@ecy.wa.gov](mailto:jemo461@ecy.wa.gov)) to determine whether state coastal management consistency certification would be required and, if so, refrain from performing any salvage activities until any necessary certification has been obtained and notify SEA, pursuant to the CZMA, 16 U.S.C. 1451 *et seq.*, and the Board's environmental regulations at 49 CFR 1105.9; (2) consult with WADEQ's Northwest Regional Office (Rebekah Padgett, 425-649-7129, [rpad461@ecy.wa.gov](mailto:rpad461@ecy.wa.gov)) regarding any reasonable requirements for compliance with section 401 of the CWA; (3) consult with WADEQ's Northwest Regional Office (Jerry Shervey, 425-649-7215, [gshe461@ecy.wa.gov](mailto:gshe461@ecy.wa.gov)) regarding any reasonable requirements for compliance with section 402 of the CWA; and (4) consult with the Corps

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<sup>2</sup> SEA notes that BIR states that, to the best of BIR's knowledge, the owner of the land underlying the line, BNSF Railway Company, has no plans to remove the two bridges located along the line or to disturb the underlying roadbed.

regarding potential impacts to waters of the United States, including wetlands, and comply with the reasonable requirements of the Corps.

3. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary