

34913
DO

SERVICE DATE - AUGUST 3, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 420X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY—ABANDONMENT EXEMPTION—IN MERCER COUNTY, ND

Decided: July 30, 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 and discontinue service over a 3.36-mile line of railroad between milepost 77.14 near Antelope Valley Station and milepost 80.50 near Zap, in Mercer County, ND. Notice of the exemption was served and published in the Federal Register on June 4, 2004 (69 FR 31656). The exemption became effective on July 6, 2004.

By decision and notice of interim trail use or abandonment (NITU) served on July 2, 2004, the proceeding was reopened and the exemption was made subject to interim trail use/rail banking, and the conditions that BNSF: (1) during salvage activities, shall revegetate areas impacted by salvage activities with species native to the areas; (2) during salvage activities, shall follow Best Management Practices to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body; (3) shall ensure that salvage activities associated with the proposed abandonment do not impact safety by affecting any 100-year floodplains during salvage activities and shall (a) leave the roadbed along the drainage culverts and structures in place, and (b) if the wood timber bridge spanning Spring Creek within the City is removed, (i) remove components to ground level above the water line and to the stream bed below the water line, and (ii) leave no bridge components in place that may catch ice or debris, or that may in any manner restrict the natural flow of the stream; (4) prior to beginning salvage activities, shall submit site forms for the bridges and any historical sites and the final cultural resources report to the State Historical Society of North Dakota; and (5) shall provide the National Geodetic Survey (NGS) with 90 days' notice prior to disturbing or destroying any identified geodetic station markers, and shall consult with NGS to plan for their relocation. A 180-day period (until January 2, 2005) was authorized to permit the City of Zap to negotiate an interim trail use/rail banking agreement with BNSF for the entire line, pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d).

The Board's Section of Environmental Analysis (SEA) states that, on July 12, 2004, a comment was received from the North Dakota Department of Health, Environmental Health Section (NDDH), stating that, in addition to the Best Management Practices condition that it had

previously sought, it requests a condition regarding any release of petroleum products, hazardous materials, or chemicals that may impact human health or environment, which are known to have occurred in the past or are discovered in the project area during abandonment and salvage operations. Therefore, based on this letter comment, SEA recommends that BNSF shall consult with the NDDH regarding the release of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during salvage activities.

The recommended condition 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 abandonment of the rail line described above is subject to the following additional environmental condition: BNSF shall consult with the NDDH regarding any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during salvage.
3. All other provisions and environmental conditions imposed in the July 2, 2004 decision in this proceeding will remain in effect.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary