

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 468X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—
IN KOOTENAI COUNTY, IDAHO

Decided: December 14, 2010

By decision served on November 27, 2009, the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903, the abandonment by BNSF Railway Company (BNSF) of a 6.23-mile rail line between milepost 6.10, near Port Falls, and milepost 12.33, at Coeur d'Alene, in Kootenai County, Idaho. The exemption was subject to environmental and standard employee protective conditions.

The environmental conditions required that BNSF: (1) prior to the commencement of any salvage activities, consult with U.S. Department of Interior, Fish and Wildlife Service, Idaho Field Office (USFWS), to assess potential impacts to the Bull trout (*Salvelinus confluentus*), a Federally listed threatened species, and identify any appropriate mitigation measures that may be warranted, and to report the results of the USFWS consultations to the Board's Section of Environmental Analysis (SEA)¹ in writing prior to the onset of salvage operations, (2) prior to the commencement of any salvage activities, consult with Idaho Department of Environmental Quality, Remediation Section, to ensure that any concerns regarding potential contamination of the right-of-way are addressed, and report the results of these consultations in writing to SEA prior to the onset of salvage operations; (3) notify U.S. Department of Commerce, National Geodetic Survey, at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of 5 station markers; and (4) (a) 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 (Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed, (b) report to SEA regarding any consultations with the Idaho State Historical Society, Historic Preservation Office (SHPO) and the public, and (c) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed the condition.²

¹ Effective September 1, 2010, SEA became the Office of Environmental Analysis (OEA).

² By decision served on March 11, 2010, the proceeding was reopened and the Section 106 historic preservation condition was removed.

In the November 27 decision, the Board stated that, if consummation had not been effected by BNSF's filing of a notice of consummation by November 27, 2010, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause, file a request for an extension of time to file a notice of consummation in abandonment proceedings.

On November 19, 2010, BNSF filed a request to extend, for 1 year (until November 27, 2011), the time to file its notice of consummation. BNSF states that it is still in the process of resolving an outstanding environmental condition. The request to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. BNSF's request for an extension of time to consummate the abandonment is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before November 27, 2011.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.