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SERVICE DATE – JULY 28, 2015

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 6 (Sub-No. 489X)]

BNSF Railway Company—Abandonment Exemption—in Kane County, Ill.

BNSF Railway Company (BNSF) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 0.43 miles of rail line between milepost 4.0 and milepost 3.57 in North Aurora, Kane County, Ill. (the Line).¹ The Line traverses United States Postal Service Zip Code 60542.

BNSF has certified that: (1) no local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R.

¹ BNSF states that the rail line between milepost 3.57 and milepost 3.53 was abandoned in 2007 to accommodate a highway expansion project, leaving the Line as “an island,” i.e., severing it from the national rail system. In addition, BNSF says that the Line was inadvertently salvaged as part of the expansion project. It should not have required the passage of 8 years and the occasion of the Line’s sale to the Village of North Aurora to bring those actions to the Board’s attention.

§ 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 27, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),³ and interim trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by August 7, 2015. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by August 17, 2015, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

³ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to applicant's representative: Karl Morell, Karl Morell & Associates, Suite 225, 655 Fifteenth St., N.W., Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void ab initio.

BNSF has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by July 31, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by filing of a notice of consummation by July 28, 2016, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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Decided: July 23, 2015.

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