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SERVICE DATE – JULY 3, 2018

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 496X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN THE CITY OF DES
MOINES, POLK COUNTY, IOWA

Docket No. AB 290 (Sub-No. 400X)

NORFOLK SOUTHERN RAILWAY COMPANY—DISCONTINUANCE OF SERVICE
EXEMPTION—IN THE CITY OF DES MOINES, POLK COUNTY, IOWA

Decided: July 2, 2018

BNSF Railway Company (BNSF) and Norfolk Southern Railway Company (NSR) jointly filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Services for BNSF to abandon, and for NSR to discontinue service over, approximately 0.45 miles of rail line between milepost 67.38 and milepost 66.93 in the City of Des Moines, Polk County, Iowa (the Line). Notice of the exemption was served and published in the Federal Register on June 5, 2018 (83 Fed. Reg. 26,139). The exemption is scheduled to become effective on July 5, 2018.

The Board's Office of Environmental Analysis (OEA) served an Environmental Assessment (EA) on May 25, 2018, recommending that one condition be imposed on any decision granting abandonment and discontinuance authority. In the EA, OEA noted that BNSF and NSR served a historic report on the State Historical Society of Iowa (SHPO), pursuant to 36 C.F.R. § 800.4(d)(1), but that the SHPO to date had not commented on the proposed abandonment and discontinuance. OEA concluded that the proposed abandonment and discontinuance would have no effect on historic properties listed in or eligible for listing in the National Register, pursuant to Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108. To allow the SHPO sufficient time to review and comment on this finding, OEA recommended a historic preservation condition requiring BNSF to 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 rail right-of-way that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the NHPA has been completed. OEA also recommended that BNSF be required to report back to OEA regarding any consultations with the SHPO, any other Section 106 consulting parties, and the public, and that BNSF not be permitted to 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 this condition.

OEA issued its Final EA on June 14, 2018, noting that no comments on the EA were received by the June 11, 2018 due date. OEA states that the SHPO to date has not commented on OEA's finding of no historic properties affected and that, to allow the SHPO sufficient time to review and comment on OEA's finding, OEA recommends that the historic condition previously recommended in the EA be imposed upon any decision granting abandonment authority in this case.¹ Accordingly, based on OEA's recommendation, the historic preservation condition proposed in the EA and Final EA will be imposed.

This decision, and 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 notice served and published in the Federal Register on June 5, 2018, exempting the abandonment and discontinuance of the Line described above, is subject to the condition that BNSF shall 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 rail right-of-way that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the NHPA has been completed. BNSF shall report back to the OEA regarding any consultations with the SHPO, any other Section 106 consulting parties, and the public and shall not file its consummation notice or initiate any salvage activities related to the abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

¹ The EA and the Final EA state that, if the SHPO does not object to OEA's finding within 30 days of receipt of the EA, OEA will issue a Supplemental Final EA recommending that the historic preservation condition be removed.