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SERVICE DATE - OCTOBER 5, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-391 (Sub-No. 8X)

RED RIVER VALLEY & WESTERN RAILROAD COMPANY--ABANDONMENT
EXEMPTION--IN DICKEY COUNTY, ND AND BROWN COUNTY, SD

Decided: October 3, 2001

Red River Valley & Western Railroad Company (RRVW) filed a notice of exemption under 49 CFR 1152 Subpart F-- Exempt Abandonments to abandon approximately 18.3 miles of rail line from milepost 134.65 in or near Oakes, in Dickey County, ND, to milepost 116.3 in or near Hecla, in Brown County, SD. Notice of the exemption was served and published in the Federal Register on September 7, 2001 (66 FR 46863). The exemption is scheduled to become effective on October 9, 2001.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on September 14, 2001. In the EA, SEA indicated that the National Geodetic Survey (NGS) has identified 16 geodetic station markers that may be affected by the abandonment. Therefore, SEA recommends that RRVW be required to notify NGS 90 days prior to salvage activities to plan the relocation of the markers.

SEA states that the South Dakota State Historical Society has determined that all railroads within the State of South Dakota are eligible for listing in the National Register of Historic Places. Therefore, SEA recommends that, pending resolution of these issues, RRVW be required to retain its interest in and take no steps to alter the historic integrity of all sites and structures on that segment of the line located in South Dakota until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

SEA also states that the U. S. Army Corps of Engineers, Omaha District (Corps), North Dakota and South Dakota District Regulatory Offices, have determined that the project area contains jurisdictional waters of the United States. Therefore, SEA recommends that, prior to engaging in any salvage operations, RRVW be required to consult with the Corps, to determine if permits are required under section 404 of the Clean Water Act, 33 U.S.C. 1344, and under section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. 401 et seq.

Finally, SEA states that the North Dakota Department of Health, Environmental Health Section (NDDSH), the South Dakota Departmental and Natural Resources (SDENR), and the North Dakota Office of the State Engineer (NDSE) have raised concerns about the proposed abandonment. Therefore, in response to their concerns, SEA recommends that RRVW consult with the NDDSH, SDENR, and NDSE prior to salvage activities to address their concerns.

The recommended conditions 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 exemption of the abandonment of the line described above is subject to the conditions that prior to salvage operations, RRVW shall: (a) consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station markers; (b) retain its interest in and take no steps to alter the historic integrity of all sites and structures on that segment of the line located in South Dakota until completion of the section 106 process of the NHPA; (c) consult with the Corps, to determine if permits are required under section 404 of the Clean Water Act, 33 U.S.C. 1344, and under section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. 401 et seq.; and (d) prior to any salvage, consult with the NDDSH, SDENR, and NDSE to address their concerns.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary