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SERVICE DATE – APRIL 25, 2019

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 6 (Sub-No. 498X)]

BNSF Railway Company—Abandonment Exemption—in Pawnee County, Okla.

BNSF Railway Company (BNSF) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 0.74 miles of Line Segment 1047 (formerly 7401), track 5403 between milepost 6.47 and milepost 7.21 in Pawnee County, Okla. (the Line). The Line traverses U.S. Postal Service Zip Code 74058.

BNSF has certified that: (1) no local traffic has moved over the Line since prior to 2008; (2) there is no overhead traffic on the Line; (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 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. § 1105.12 (newspaper publication), 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies), and 49 C.F.R. §§ 1105.7 and 1105.8 (environment and historic report), 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)¹ has been received, this exemption will be effective on May 25, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues² must be filed by May 3, 2019. Formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),³ and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by May 6, 2019. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by May 15, 2019, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with Board should be sent to BNSF's representative,

¹ The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly available information. See Offers of Financial Assistance, EP 729 (STB served June 29, 2017); 82 Fed. Reg. 30,997 (July 5, 2017).

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 \$1,800. See 49 C.F.R. § 1002.2(f)(25).

Peter Denton, Steptoe & Johnson LLP, 1330 Connecticut Ave., N.W., Washington, DC 20036.

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 potential effects of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by April 30, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service 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 BNSF's filing a notice of consummation by April 25, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

Decided: April 22, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.