

41333

SERVICE DATE – JANUARY 12, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 6 (Sub-No. 473X)]

BNSF Railway Company—Abandonment Exemption—in Rolette and Towner Counties, N.D.

BNSF Railway Company (BNSF), filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 17.75 miles of rail line between milepost 30.00, north of Bisbee and milepost 47.75 at Rolla, in Rolette and Towner Counties, N.D.¹ The line traverses United States Postal Service Zip Codes 58317, 58363, and 58367.

BNSF has certified that: (1) no local traffic has moved over the line for at least 2 years;² (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 with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 C.F.R. § 1105.7 (environmental report), 49 C.F.R. § 1105.8 (historic report),

¹ On December 23, 2010, the Rollo Job Development Authority (RJDA) filed a letter in opposition. While the Board will not delay service and publication of this notice based on that letter alone, RJDA has a number of post-publication/service options available to it, as set forth in this notice, should it choose to pursue the matter further.

² BNSF states that the line was embargoed on March 29, 2007 due to soft track conditions and sub-grade issues and the subsequent destruction by fire of two bridges.

49 C.F.R. § 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 February 11, 2011, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by January 24, 2011. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by February 1, 2011, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

³ 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.

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 C.F.R. § 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to BNSF's representative: Karl Morell, 1455 F St., N.W., Suite 225, 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 which addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by January 14, 2011. 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 1 800-877-8339. 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 of a notice of consummation by January 12, 2012, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: January 10, 2011.

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