

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

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-416 (Sub-No. 3X)]

San Bernardino Associated Governments—Abandonment Exemption—in San Bernardino County, CA

Consistent with the Surface Transportation Board's decision in *Orange County Transportation Authority, Riverside County Transportation Commission, San Bernardino Associated Governments, San Diego Metropolitan Transit Development Board, North San Diego County Transit Development Board—Acquisition Exemption—The Atchison, Topeka and Santa Fe Railway Company*, Finance Docket No. 32173 *et al.* (STB served Mar. 12, 1997) (*Transit Agencies*), San Bernardino Associated Governments (SANBAG) has filed a verified notice of exempt abandonment, and information otherwise required under 49 CFR 1152 Subpart F—*Exempt Abandonments*, to abandon any residual common carrier obligation on a 1.92-mile line of railroad, formerly operated by The Burlington Northern and Santa Fe Railway Company (BNSF), between milepost 9.48 and milepost 11.40 in Redlands, San Bernardino County, CA. The line traverses United States Postal Service Zip Code 92374.

In *Transit Agencies*, the Board granted SANBAG and several other California transit agencies an exemption from 49 U.S.C. Subtitle IV. The Board also adopted the agencies' proposal that they file a notice, reciting the labor protection the Board is required to impose and adopting the environmental and historic reports filed by the rail carrier (here BNSF) discontinuing service over the line, to meet the agencies' obligations in fully abandoning the subject rail lines. SANBAG has provided that information

and has adopted the environmental and historic reports for this line submitted by BNSF in its notice of abandonment exemption in *The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in San Bernardino County, CA*, STB Docket No. AB-6 (Sub-No. 398X) (STB served Dec. 12, 2002, and consummated Apr. 1, 2003).

Also, consistent with the requirements of 49 CFR part 1152 subpart F, SANBAG has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (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 Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period;¹ and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication),² and 49 CFR 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 R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). This exemption will be effective on November 26, 2003, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 6, 2003. Petitions to

¹ SANBAG indicates that its certification is also based on the information provided by BNSF in its abandonment notice of exemption.

² In compliance with 49 CFR 1105, SANBAG is relying on the environmental documentation provided by BNSF in its abandonment notice of exemption pursuant to the Board's decision in *Transit Agencies*.

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service 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.

reopen must be filed by November 17, 2003, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Charles A. Spitulnik, McLeod, Watkinson & Miller, One Massachusetts Avenue, NW., Suite 800, Washington, DC 20001.

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

SANBAG is relying on BNSF's environmental report, which addressed the abandonment's effects, if any, on the environment or historic resources. SEA will issue an environmental assessment (EA) by October 31, 2003. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [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, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), SANBAG 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 SANBAG's filing of a notice of consummation by October 27, 2004, and there are no legal or regulatory barriers to consummation, the authority to abandon under this notice will automatically expire.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: October 20, 2003.

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

Vernon A. Williams,
Secretary.

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