

37673  
SEA

SERVICE DATE – JANUARY 19, 2007

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-6 (Sub-No. 446X)**

**BNSF Railway Company - Abandonment Exemption - in Beltrami County, MN**

**BACKGROUND**

In this proceeding, BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152.20 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Beltrami County, Minnesota (MN). The rail line proposed for abandonment extends approximately 5.29 miles including 4.28 miles from Milepost 90.87 to Milepost 95.15, and a 1.01-mile depot spur between Milepost 94.78 and Milepost 93.77 (collectively, “the Line”). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA). BNSF states that it removed the track material in 2001, sold the right-of-way (ROW), but retains easements for rail operations on the Line. If the notice becomes effective, the railroad would have the authority to consummate the abandonment after complying with any imposed conditions; and thereby, extinguishing its common carrier obligations on the Line.

**DESCRIPTION OF THE LINE**

The Line generally runs north to south and is largely located within the city limits of Bemidji, MN, which has a population of approximately 13,000. Land uses in the vicinity of the Line include residential, commercial, and industrial. The ROW of the Line is generally 100 feet wide. The southern portion of the ROW has been converted to a recreational trail and the commercial development has been planned for the northern portion.

According to BNSF, there are two bridges on the Line. A bridge at Milepost 92.59 is approximately 135 feet long and was constructed in 2001. A bridge located at Milepost 94.60 is approximately 196 feet long and was constructed in 1941.

Much of the ROW was originally acquired by the Northern Pacific Railway (NP) between 1899 and 1902. The NP merged with other railroads in 1970 to become the Burlington Northern Railroad (BN). In 1995, BN merged with the Atchison, Topeka and Santa Fe Railway Company to become The Burlington Northern and Santa Fe Railway Company. The Burlington Northern and Santa Fe Railway Company changed its name to BNSF Railway Company in 2005.

BNSF has provided a verified statement indicating that no local traffic has moved on the Line for at least two years and that there is no overhead traffic handled on the Line to be rerouted. Accordingly, the proposed abandonment would not result in the diversion of rail traffic to other modes. BNSF is not aware of any hazardous waste sites or sites where there have been known hazardous materials spills on the ROW.

## **ENVIRONMENTAL REVIEW**

BNSF submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities. BNSF served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis reviewed and investigated the record in this proceeding.

Because there is no rail traffic on the Line, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

BNSF states that the proposed abandonment should not be inconsistent with local or regional land use plans. The MN Department of Transportation noted that the sale of the ROW occurred before the agency had an opportunity to review the proposed abandonment and consider filing a Notice of Interim Trail Use (NITU) with the Board. BNSF noted in its environmental report that it has recently established procedures to ensure that the sale of active ROW does not take place until after a line is abandoned.

The Natural Resources Conservation Service stated that the proposed abandonment would not permanently affect agricultural lands. Therefore, the proposed abandonment does not involve the Federal Farmland Protection Policy Act (7 U.S.C. 4201).

The U.S. Fish and Wildlife Service (USFWS) commented that it had no concerns regarding real estate matters in the proposed abandonment. USFWS offered no conclusions regarding any adverse impacts to Federally listed threatened or endangered species. Because the land uses in the vicinity of the Line are largely urban, and any remaining salvage activities would be temporary in nature, SEA believes that potential impacts to any such species could be appropriately mitigated through consultations with the USFWS pursuant to Section 7 of the Endangered Species Act (ESA) (16 USC 1535). Therefore, SEA recommends a condition that prohibits BNSF from conducting any remaining salvage activities and consummating abandonment until completion of the Section 7 process. The railroad shall report the results of

this consultation to SEA in writing. Should any potential impacts be identified, the railroad shall consult with SEA and USFWS to develop appropriate mitigation measures.

The National Park Service reviewed the proposed abandonment and identified no conflicts with the Land and Water Conservation Fund and the Urban Park and Recreation Recovery programs. The Bureau of Land Management (BLM) noted that there are no BLM-administered lands along the Line.

The U.S. Army Corps of Engineers (Corps) stated that the proposed abandonment would not require a Section 10 permit under the Rivers and Harbors Act (33 U.S.C. 403). The Corps noted that if BNSF would like to place dredge or fill material into waters of the United States, that activity would require a permit under Section 404 of the Clean Water Act (33 U.S.C. 1344). However, BNSF no longer owns the ROW and any BNSF-sponsored activity that could require a Section 404 permit is not anticipated.

The U.S. Environmental Protection Agency, Region 5 (USEPA) noted that there was insufficient information in BNSF's environmental report to provide comment on potential impacts and deferred any additional comments to the next level of documentation for the proposed abandonment. A copy of this EA has been provided to USEPA for review and comment.

The MN Department of Natural Resources noted that special flood hazard areas have not been identified in the vicinity of the Line.

## **HISTORIC REVIEW**

BNSF submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Montana Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c).

The SHPO replied that the Line appeared to part of the Northern Pacific Railway. The SHPO also noted that the southern portion of the Line may have been constructed by the Brainerd and Northern Minnesota Railway Company in 1897, and the northern portion constructed by the Minnesota and International Railway Company in 1901 and 1902. However, the SHPO concluded that the information in BNSF's historic report was not sufficient to conclusively assess whether the Line may meet National Register criteria, but the Line's position as an important link to International Falls and the border suggest that it has the potential for eligibility and merits further evaluation. If it is determined eligible, the SHPO stated that abandonment could constitute an adverse effect. Therefore, SEA recommends a condition that prohibits BNSF from conducting any remaining salvage activities and consummating abandonment until completion of the Section 106 process under the National Historic Preservation Act (16 U.S.C. 470f).

SEA conducted a search of the Native American Consultation Database at [www.cast.uark.edu/other/nps/nacd/](http://www.cast.uark.edu/other/nps/nacd/) to identify Federally recognized tribes that may have ancestral connections to the project area. The database identified the following five tribes within Beltrami County that may have an interest in the proposed abandonment:

- Leech Lake Band of the Minnesota Chippewa Tribe,
- Mille Lacs Band of the Minnesota Chippewa Tribe,
- Minnesota Chippewa Tribe,
- Red Lake Band of Chippewa Indians, and
- White Earth Band of Minnesota Chippewa Tribe.

A copy of this EA has been provided to all five tribes for review and comment.

## **CONDITIONS**

In order to mitigate the potential environmental impacts from the proposed abandonment, SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. BNSF Railway Company shall contact the U.S. Fish and Wildlife Service (USFWS) prior to completing any remaining salvage activities and consummating abandonment to discuss potential impacts to any Federally listed endangered or threatened species. The railroad shall report the results of this consultation to the Board's Section of Environmental Analysis (SEA) in writing. Should any potential impacts be identified, the railroad shall consult with SEA and USFWS to develop appropriate mitigation measures.
2. BNSF Railway Company shall retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places (generally, 50 years old or older) until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. BNSF Railway Company shall report back to the Section of Environmental Analysis regarding any consultations with the Minnesota Historical Society and any other Section 106 consulting parties. BNSF Railway Company may not initiate any remaining salvage activities related to abandonment (including removal of the tracks and ties) or file its consummation notice until the Section 106 process has been completed and the Board has removed this condition.

## **CONCLUSIONS**

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations and no salvage activities), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the ROW may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within the time specified in the Federal Register notice. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at 202-565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this Environmental Assessment, please send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Dave Navecky, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub-**

**No. 446X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Dave Navecky, the environmental contact for this case, by phone at 202-565-1593, fax at 202-565-9000, or e-mail at naveckyd@stb.dot.gov.

Date made available to the public: January 19, 2007.

**Comment due date: February 2, 2007.**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams  
Secretary

Attachment