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SEA

SERVICE DATE – DECEMBER 4, 2009

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-1041X

**Dakota Northern Railroad, Inc. - Abandonment Exemption - in Walsh and Pembina
Counties, ND**

BACKGROUND

In this proceeding, Dakota Northern Railroad, Inc. (DN or railroad) filed a petition 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 Walsh and Pembina counties, North Dakota (ND). The rail line proposed for abandonment extends approximately 18.12 miles from Milepost 42.08, near Grafton, to Milepost 60.2, near Glasston (the Line). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA). If the petition becomes effective, the railroad would be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

The Line is located in northeastern North Dakota. The right-of-way is approximately 100 feet wide. According to DN, the Line has been embargoed since March 18, 2009, because of an unsafe bridge at Milepost 41.36. At the time of the embargo, there were two active shippers on the Line at St. Thomas, ND.

There are nine bridges on the Line. Although the ages of the structures are not known to DN, it believes they are all more than 50 years of age or older. The Line was originally part of the Great Northern Railway (GNR) between Grand Forks, ND, and Gretna, Manitoba.

DN is not aware of any known hazardous waste sites on the Line.

ENVIRONMENTAL REVIEW

DN submitted an environmental report that concludes the quality of the human environment would not be affected significantly because of the abandonment or any post-abandonment activities. DN 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)).¹ The Board's Section of Environmental Analysis (SEA) reviewed and investigated the record in this proceeding.

Diversion of Traffic

There are two active shippers on the Line: ADM and Agriliance. Both shippers are located near St. Joseph, ND. ADM shipped from 36 to 44 railcars of edible beans annually on the Line from 2006 through 2009. Through March 18, 2009, three cars were moved for ADM. During this same period, Agriliance shipped 8 to 28 railcars of fertilizer per year. Agriliance had no rail activity on the Line in 2009. Using the maximum total number of railcars moved annually for these two shipper (i.e., 72 railcars in 2007), and a railcar to truck ratio of 1:4, shipping this material by truck rather than railcar would generate approximately 288 truck trips per year (i.e., 576 roundtrips), or less than a dozen truck trips per week. This very limited increase in truck traffic would result in negligible impacts to air quality or the local or regional transportation networks. The proposed abandonment would also not adversely impact the development, use and transportation of energy resources or recyclable commodities; or transportation of ozone-depleting materials.

Salvage Activities

DN intends to remove the track materials from the Line. DN does not intend to disturb the sub-surface of the right-of-way. Thirty-three public at-grade road crossings would be eliminated, according to DN. Any debris would be transported away from the right-of-way and properly disposed.

DN believes that the proposed abandonment would not be inconsistent with local or regional land use plans.

The Natural Resources Conservation Service (NRCS) had not responded to the railroad's environment report at the time this EA was prepared. However, impacts to prime agricultural soils are not expected given the scope of DN's proposed salvage activities (i.e., no disturbance of the railbed and sub-grade). Therefore, the proposed abandonment does not involve the Federal Farmland Protection Policy Act (7 U.S.C. 4201).

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-1041X.

The U.S. Fish and Wildlife Service (USFWS) had not responded to the railroad's environmental report regarding impacts to threatened and endangered species at the time this EA was prepared. However, because DN's salvage activities would be limited in scope, SEA would not expect the proposed abandonment to adversely affect any Federally listed or proposed threatened or endangered species that may occur in the project area. Nevertheless, a copy of this EA has been provided to the USFWS for review and comment.

The U.S. Army Corps of Engineers (Corps) stated that a permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) could be required depending on the nature of DN's salvaging activities (Corps Ref.: NWO-2009-02088-BIS). Therefore, SEA has recommended a condition that would require DN to consult with the Corps on Section 404 permitting requirements. SEA has also provided a copy of this EA to the Corps for review and comment.

The National Geodetic Survey (NGS) has advised SEA that one geodetic station marker has been identified that may be affected by the proposed abandonment. Accordingly, SEA recommends a condition that requires DN to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that would disturb or destroy the geodetic station marker.

The North Dakota Department of Health concluded that potential impacts from the proposed abandonment would be minor if standard best management practices are followed.

HISTORIC REVIEW

The railroad 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 State Historical Society of North Dakota (the State Historic Preservation Offices or SHPO), pursuant to 49 CFR 1105.8(c). In a September 1, 2009 reply (ND SHPO Ref.: 09-1425), the SHPO concluded that no historic properties would be affected by the proposed abandonment.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 CFR 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

SEA conducted a search of the Native American Consultation Database at 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 two tribes within Walsh and Pembina counties:

- Red Lake Band of Chippewa Indians, Minnesota
- Turtle Mountain Band of Chippewa Indians of North Dakota

A copy of this EA has been provided to each tribe for review and comment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Dakota Northern Railroad, Inc. shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers.
2. Prior to commencement of any salvage activities, Dakota Northern Railroad, Inc. shall consult with the U.S. Army Corps of Engineers (Corps) regarding potential impacts to waters of the United States, including wetlands, and shall comply with the reasonable requirements of the Corps.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions were 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 right-of-way 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 Assistance, Governmental Affairs, and Compliance (OPA) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPA directly at 202-245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, please send an **original and one copy** 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, by clicking on the "E-FILING" link. **Please refer to STB Docket No. AB-1041X 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 202-245-0294, fax at 202-245-0454, or e-mail at naveckyd@stb.dot.gov.

Date made available to the public: December 4, 2009.

Comment due date: January 4, 2010.

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

Attachment