

32104

SERVICE DATE - SEPTEMBER 14, 2001

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

DOCKET NO. AB-391 (Sub-No. 8X)

Red River Valley and Western Railroad Company - Abandonment Exemption - In Dickey County, North Dakota and Brown County, South Dakota

BACKGROUND

In this proceeding, the Red River Valley and Western Railroad Company (RRVW) has filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of approximately 18.3 miles of a branch rail line extending from milepost 134.65 near Oakes, North Dakota proceeding generally south to milepost 116.3 near Hecla, South Dakota. The line is located primarily in Dickey County, ND, but with a short section of line, approximately 4.7 miles, located in Brown County, SD. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to RRVW, there has been no local traffic on the line for two years. The line does not contain Federally granted rights-of-way. The line is a stub-ended branch line and consequently there is no overhead traffic. The commodities most recently transported were corn and fertilizer. Cessation of common carrier rail service over the line will result in the elimination of a number of grade crossings and the associated risks of automobile-train and pedestrian-train accidents. As the line is located in a farming and ranching area, the cessation of rail service will also reduce the risk of harm to livestock. RRVW plans to hire a contractor to remove the rail and other track materials from a portion of the line and perform related cleanup. RRVW intends to recycle materials where possible. It is intended that any bridges, culverts or other support structures along the right-of-way will be left in place.

ENVIRONMENTAL REVIEW

RRVW submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. RRVW served

the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The National Geodetic Survey has advised us that sixteen geodetic station markers have been identified that may be affected by the proposed abandonment.

The South Dakota State Historical Society, Department of Education and Cultural Affairs (SD SHPO) has advised us that “All railroads within the state of South Dakota have been determined ELIGIBLE for listing in the National Register of Historic Places for their importance in the settlement and history of South Dakota. The removal of crossings, ties, ballast, structures, and associated features would constitute an ADVERSE EFFECT”. The SD SHPO has requested that we notify the Advisory Council on Historic Preservation of the adverse effect and determine their participation in the resolution of the adverse effect pursuant to 36 CFR part 800.6. We will begin consultation with the SD SHPO to determine ways of resolving the adverse effect.

The Department of the Army, Corps of Engineers, Omaha District, North Dakota and South Dakota Regulatory Offices, have advised us that the project area contains jurisdictional waters of the United States and a Department of the Army permit will likely be required for any proposed work associated with the rail line abandonment and reclamation.

The North Dakota Department of Health, Environmental Health Section has indicated that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods.

The South Dakota Department of Environment and Natural Resources (DENR) has indicated that the environmental impacts from the project will be minor and should not cause violation of any statutes or rules administered by the DENR.

The North Dakota Office of the State Engineer has indicated concern about the culvert crossings in the embankment, as improper maintenance could result in flooding impacts to private property.

CONDITIONS

We recommend that the following six environmental conditions, addressing the environmental concerns discussed above, be placed on any decision granting abandonment authority:

1. The National Geodetic Survey (NGS) has identified sixteen geodetic station markers that may be affected by the proposed abandonment. Therefore, RRVW shall notify NGS 90 days prior to salvage activities in order to plan their relocation.

2. The South Dakota State Historical Society has determined that all railroads within the state of South Dakota are eligible for listing in the National Register of Historic Places. Pending resolution of these issues, RRVW shall retain its interest in and take no steps to alter the historic integrity of all sites or structures on that segment of the line located in South Dakota until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.
3. Because the Corps of Engineers, Omaha District, North Dakota and South Dakota Regulatory Offices have determined that the project area contains jurisdictional waters of the United States, RRVW shall, prior to any salvage, consult with the U.S. Army Corps of Engineers, Omaha District to determine if permits are required under Section 404 of the Clean Water Act, 33 U.S.C. 1344, and under Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. 401 et seq.
4. To address the concerns raised by the North Dakota Department of Health, Environmental Health Section, RRVW shall, prior to any salvage, consult with the North Dakota Department of Health, Environmental Health Section.
5. To address concerns raised by the South Dakota Department of Environment and Natural Resources (DENR), RRVW shall, prior to any salvage, consult with the South Dakota DENR.
6. To address the concerns raised by the North Dakota Office of the State Engineer, RRVW shall, prior to any salvage, consult with the North Dakota Office of the State Engineer.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed and subject to the recommended mitigation measures, abandonment of the line will 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), 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

If abandonment and salvage of the rail line does take place, 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 Surface Transportation 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 Surface Transportation Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. However, the Board will accept late-filed requests as long as it retains jurisdiction to do so. 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 the Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Vernon A. Williams, Office of the Secretary, Washington, DC 20423, to the attention of Kenneth Blodgett, who prepared this environmental assessment. **Please refer to Docket No. AB-391 (Sub No. 8X) in all correspondence addressed to the Board. Questions regarding this environmental assessment should be referred to Kenneth Blodgett at (202) 565-1554.**

Date made available to the public: September 14, 2001.

Comment due date: **September 28, 2001 (15 days).**

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

Vernon A. Williams
Secretary

Attachment

MAP TO BE SCANNED