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SERVICE DATE – LATE RELEASE MAY 15, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 438X)

BNSF RAILWAY COMPANY–ABANDONMENT EXEMPTION–IN  
MORRISON COUNTY, MN

Decided: May 15, 2006

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 0.58-mile line of railroad that extends between BNSF’s milepost 113.44 and milepost 114.02, near Camp Ripley in Morrison County, MN. Notice of the exemption was served and published in the Federal Register on April 14, 2006 (71 FR 19616). The exemption is scheduled to become effective on May 16, 2006.

The Board’s Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on April 21, 2006. In the EA, SEA noted that BNSF had stated that it intended to salvage the rail, ties, and track materials from the line and to take precautions during salvage operations to ensure public safety. Therefore, SEA recommended that BNSF be required to conduct salvage activities by taking precautions during salvage operations to ensure public safety (Condition 1).

SEA also stated that the Natural Resource Conservation Service (NRCS) had indicated that, if impacts to wetlands owned or operated by participants of the Wetlands Reserve Program (WRP) are anticipated, BNSF should contact the county Farm Service Agency office (FSA) to consider an application for third party exemption.<sup>1</sup> Therefore, SEA recommended that BNSF be required to contact the Morrison County FSA prior to commencement of any salvage activities regarding potential impacts to wetlands owned or operated by participants of the WRP and to comply with its reasonable requirements (Condition 2).

SEA further stated that the U.S Environmental Protection Agency, Region 5 (USEPA), had stated that railroad ties treated with creosote should be buried in a non-hazardous waste landfill unless otherwise required by the State of Minnesota. USEPA also stated that, if rail steel, electrical and signal housings, bridge work, and other materials were to be removed from the proposed project site, recycling of these materials should be addressed and documented. To

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<sup>1</sup> NRCS administers the WRP, which is a voluntary program to restore and protect wetlands on private property. See Natural Resources Conservation Service, Wetlands Reserve Program at [www.nrcs.usda.gov/PROGRAMS/wrp](http://www.nrcs.usda.gov/PROGRAMS/wrp).

address the concerns raised by USEPA, SEA recommended that BNSF be required to contact USEPA prior to commencement of any salvage activities on this project regarding rail removal and salvage activities (Condition 3).

SEA indicated that the Minnesota Pollution Control Agency (MPCA) had reviewed the proposed project and had recommended a number of mitigation measures. To avoid possible impacts to area streams, rivers and wetlands from erosion and stormwater runoff, MPCA had recommended that BNSF: (1) mulch, seed, and/or sod during salvage activities to establish permanent ground cover and stabilize soils; (2) develop a site erosion plan to prevent sediment runoff; and (3) pursuant to the Clean Water Act, apply for a section 402 National Pollutant Discharge Elimination System Permit (NPDES) if the proposed project would disturb one or more acres of land. Accordingly, SEA recommended that BNSF be required to contact MPCA prior to commencement of any salvage activities on this project concerning erosion and stormwater runoff mitigation practices to be utilized during salvage activities. To ensure appropriate consideration of the NPDES requirements, SEA also recommended that BNSF be required to consult with MPCA prior to commencement of any salvage activities and to comply with the reasonable NPDES requirements (Conditions 4 and 5).

SEA stated that MPCA also had expressed concerns regarding salvage and disposal of the line and recommended that any removed railroad ties and other demolition debris be reused or disposed of in accordance with state rules for disposal of solid and hazardous waste. SEA noted that MPCA also had recommended an inspection and evaluation of any maintenance yards, switching areas or other such facilities in the project area for possible oil spills, and, in the event a release is discovered, compliance by BNSF with Minnesota Statute 115.061 and notification to MPCA. Accordingly, SEA recommended that BNSF be required to contact MPCA prior to commencement of salvage activities regarding state regulations for disposal of salvaged materials, as well as any spills such as oil spills, and to comply with the reasonable requirements thereof; in the event an oil release is discovered, SEA recommended that BNSF immediately contact MPCA and SEA (Condition 6).

Finally, SEA stated that the Minnesota Historical Society (the State Historic Preservation Office or SHPO) had indicated that the line was eligible for inclusion in the National Register of Historic Places. Accordingly, SEA recommended that BNSF be required to 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 are listed in the National Register of Historic Places (National Register) (generally, 50 years old or older) until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA). SEA also recommended that BNSF be required to report back to SEA regarding the results of any consultations with the SHPO and any other section 106 consulting parties, and that BNSF not be allowed to consummate the abandonment or initiate any salvage activities related to abandonment until the Board removes this condition (Condition 7).

Comments to the EA were due by May 8, 2006. In light of new information received from BNSF, SEA now recommends that the conditions proposed in its EA served on April 21, 2006, be changed to reflect that the Minnesota Department of Transportation has purchased the right-of-way for a road improvement project, that BNSF has already salvaged the track materials,

and that NRCS has notified SEA that there are no wetlands present in the area of the project. Instead of the conditions proposed in its EA, SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority: (1) BNSF shall consult with USEPA Region 5 regarding the details of the rail removal and salvage methods that have occurred and what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; (2) BNSF shall contact MPCA concerning the details of what erosion and stormwater runoff mitigation practices were utilized during salvage activities and what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; (3) NSF shall contact the MPCA to ensure that it gave proper consideration to the National Pollutant Discharge Elimination System (NPDES) requirements and what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; (4) BNSF shall contact MPCA regarding the details of the disposal of salvaged materials, as well as any spills such as oil spills, and determine what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; and (5) BNSF 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 are listed in the National Register (generally, 50 years old or older) until the section 106 process of the NHPA has been completed, report back to SEA regarding any consultations with the SHPO and any other section 106 consulting parties, and not file its consummation notice or initiate any further salvage activities related to abandonment until the section 106 process has been completed and the Board has removed this condition.

The environmental conditions as now recommended by SEA will be imposed. As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the rail line described above is subject to the conditions that BNSF shall: (1) consult with USEPA Region 5 regarding the details of the rail removal and salvage methods that have occurred and what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; (2) contact MPCA concerning the details of what erosion and stormwater runoff mitigation practices were utilized during salvage activities and what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; (3) contact the MPCA to ensure that it gave proper consideration to the National Pollutant Discharge Elimination System (NPDES) requirements and what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; (4) contact MPCA regarding the details of the disposal of salvaged materials, as well as any spills such as oil spills, and determine what mitigation, if any, would be appropriate, and notify SEA of the results of this consultation; and (5) 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 are listed in the National Register (generally, 50 years old or older) until the section 106 process of the NHPA has been completed, report back to SEA regarding any consultations with the SHPO and any other section 106 consulting parties, and not file its

consummation notice or initiate any further salvage activities related to abandonment until the section 106 process has been completed and the Board has removed this condition.

3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary