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SERVICE DATE - LATE RELEASE JUNE 12, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 387X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY--  
ABANDONMENT EXEMPTION--IN STEARNS COUNTY, MN

Decided: June 12, 2000

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 4.89-mile line of its railroad between milepost 81.11 near St. Joseph and milepost 86.00 near Collegetown, in Stearns County, MN. Notice of the exemption was served and published in the Federal Register on May 12, 2000 (65 FR 30668). The exemption is scheduled to become effective on June 13, 2000.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on May 19, 2000. In the EA, SEA states that the National Geodetic Survey (NGS) has identified three geodetic station markers that may be affected by the proposed abandonment. NGS requests that it be notified 90 days in advance of any activities that may disturb or destroy these markers to plan for their relocation. Therefore, SEA recommends that a condition be imposed requiring BNSF to consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers.

SEA also states that the Minnesota Historical Society has not completed the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, but has concluded that the entire line is eligible for listing in the National Register of Historic Places. Therefore, SEA recommends that a condition be imposed requiring BNSF to retain its interest in and take no steps to alter the historic integrity of the line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

SEA also indicated that the right-of-way may be suitable for other public use following abandonment. By petition filed May 23, 2000, Stearns County Parks (SCP) filed a request for issuance of a notice of interim trail use (NITU) for the entire line under the National Trails System Act, 16 U.S.C. 1247(d), and for a public use condition under 49 U.S.C. 10905, in order to negotiate with BNSF for acquisition of the right-of-way for use as a recreational trail. On May 30, 2000, St. Joseph Economic Development

Authority (St. Joseph) filed a request for a NITU and a public use condition.<sup>1</sup> Also on May 30, 2000, the Minnesota Department of Transportation (MnDot) filed a request for a 180-day public use condition for the line under 49 U.S.C. 10905. MnDot states that at a recent meeting, it was determined that several agencies are considering acquiring the right-of-way for alternative transportation and transmission usages. MnDot further states that the full 180-day period is needed so that it and the other agencies may have the necessary time to study alternative transportation usages, obtain right-of-way appraisals, and to negotiate with BNSF.<sup>2</sup>

SCP, St. Joseph and MnDot submissions meet the requirements for a public use condition prescribed at 49 CFR 1152.28(a)(2) by specifying: (i) the condition sought; (ii) the public importance of the condition; (iii) the period of time for which the condition would be effective; and (iv) justification for the imposition of the period of time requested. Accordingly, the requested public use condition will be imposed. A public use condition is not imposed for the benefit of any one potential purchaser, but rather to provide an opportunity for any interested person to acquire the right-of-way that has been found suitable for public purposes.<sup>3</sup>

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. The requests for imposition of a public use condition are granted. The exemption of the abandonment of the 4.89-mile segment is subject to the condition that

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<sup>1</sup> By facsimile received on June 5, 2000, St. Joseph clarified that the purpose of its request was to ensure public use, and on June 6, 2000, SCP filed a letter stating that it is interested only in a public use condition.

<sup>2</sup> BNSF filed a letter on June 1, 2000, stating that it has no objection to the issuance of a NITU, subject to SCP's filing a sufficient Statement of Willingness to Assume Financial Responsibility for the right-of-way. Because SCP and St. Joseph have subsequently stated that they are not seeking a NITU, there is no request for a NITU before the Board.

<sup>3</sup> Under 49 U.S.C. 10906, the Board may prohibit the disposal of rail properties that are proposed for abandonment and are suitable for public purposes for a period of not more than 180 days after the effective date of the decision approving or exempting the abandonment.

BNSF leave intact all of the right-of-way underlying the tracks, including bridges, trestles, culverts and tunnels (but not track, ties and signal equipment), for a period of 180 days from the June 13, 2000 effective date of the abandonment exemption (until December 10, 2000), to enable any State or local government agency, or other interested person to negotiate the acquisition of the line for public use.

3. The exemption of the abandonment is further subject to the conditions that BNSF shall: (a) consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers; and (2) retain its interest in and take no steps to alter the historic integrity of the line in its entirety until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed.

4. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary