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SERVICE DATE – LATE RELEASE FEBRUARY 14, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 446X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN BELTRAMI  
COUNTY, MN

Decided: February 14, 2007

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 5.29-mile line of railroad between milepost 90.87 and milepost 95.15, including the 1.01-mile depot spur between milepost 94.78 and milepost 93.77, near Bemidji in Beltrami County, MN. Notice of the exemption was served and published in the Federal Register on January 12, 2007. The exemption is scheduled to become effective on February 14, 2007.

The Board's Section of Environmental Analysis (SEA) issued an environmental assessment (EA) in this proceeding on January 19, 2007. SEA notes that the U.S. Fish and Wildlife Service (USFWS) commented that it had no concerns regarding real estate matters in the proposed abandonment and 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 USFWS pursuant to section 7 of the Endangered Species Act, 16 U.S.C. 1535. To address the concerns raised by USFWS, SEA recommends a condition prohibiting BNSF from conducting any remaining salvage activities and consummating abandonment until completion of the section 7 process, requiring BNSF to report the results of this consultation to SEA in writing, and, should any potential impacts be identified, requiring BNSF to consult with SEA and USFWS to develop appropriate mitigation measures.

Also, according to SEA, BNSF submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Minnesota Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). The SHPO replied that the line appeared to be 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. The SHPO concluded that the information in BNSF's historic report was not sufficient to conclusively assess whether the line may meet the National Register of Historic Places (National Register) criteria, but that the line's position as an important

link to International Falls and to the border suggests that it has the potential for eligibility and therefore merits further evaluation. The SHPO stated that abandonment could constitute an adverse effect if the line is determined eligible. Accordingly, SEA recommends that a condition be imposed prohibiting 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 (NHPA).

SEA received a comment to the EA from the National Geodetic Survey (NGS), which identified 10 geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends that a condition be imposed requiring BNSF to notify NGS at least 90 days prior to beginning any remaining salvage activities in order to plan for the possible relocation of the geodetic station markers by NGS.

Accordingly, the conditions recommended by SEA in the EA, as modified in this decision, 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 for abandonment of the line described above and covered by the notice served and published in the Federal Register on January 12, 2007, is subject to the conditions that BNSF shall: (1) prior to completing any remaining salvage activities and consummating abandonment, contact USFWS to discuss potential impacts to any Federally listed endangered or threatened species, report the results of this consultation to SEA in writing, and should any potential impacts be identified, consult with SEA and USFWS to develop appropriate mitigation measures; (2) 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 (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 Minnesota Historical Society and any other section 106 consulting parties, and 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; and (3) notify NGS at least 90 days prior to beginning any remaining salvage activities in order to plan for the possible relocation of the geodetic station markers by NGS.

3. The decision is effective on its service date.

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

Vernon A. Williams  
Secretary