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OEA

SERVICE DATE – OCTOBER 5, 2015

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 6 (Sub-No. 491X)

**BNSF Railway Company—Abandonment Exemption—
in Stearns County, Minn.**

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of an approximately 0.45 mile line of railroad located in Stearns County, Minnesota. The rail line proposed for abandonment extends from Milepost 80.66 to Milepost 81.11 in St. Joseph (the Line). A map depicting the Line in relation to the area served is appended to this Environmental Assessment (EA). According to BNSF, the proposed abandonment would allow for the extension of the Lake Wobegon Trail, a 62 mile long pedestrian and biking trail system that extends from St. Joseph to Osakis, Minnesota. If the notice of exemption becomes effective, BNSF intends to salvage track and ties before conveying the rail right-of-way to the Stearns County Park Department for incorporation into the trail system.

ENVIRONMENTAL REVIEW

BNSF submitted an Environmental Report concluding that the quality of the human environment would not be significantly affected as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BNSF served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

BNSF states that no local traffic has moved over the Line since prior to 2005. Accordingly, the proposed abandonment would not adversely impact the development, use and

¹ The 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 6 (Sub-No. 491X).

transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

If abandonment authority is granted in this proceeding, BNSF states that it intends to salvage rail and ties using specialized salvage equipment. BNSF has no plans to remove or alter railroad ballast or culverts. All salvage activities would take place within the rail right-of-way by experienced rail material salvage contractors.

Transportation and Safety

BNSF states and OEA review has confirmed that the Line does not cross any public or private roads. Therefore, the proposed abandonment would not result in the closure of any at-grade railroad crossings and would have no effect on transportation systems or public safety.

Land Use

Stearns County submitted comments on the proposed abandonment noting that the Line is located within the City of St. Joseph and is zoned by that city as Urban or Commercial land. Stearns County also notes that the County Comprehensive Plan identifies the project area as Urban Expansion. OEA understands that, following abandonment, the Line would be incorporated into the Lake Wobegon Trail system as part of a trail extension project funded by the Stearns County Parks Department, the Minnesota Department of Transportation, the U.S. Federal Highway Administration, and other partners. Because the trail extension project is supported by local governments in the project area, OEA believes that the proposed abandonment would be consistent with existing local land use plans.

Based on its review of the Minnesota Lake Superior Coastal Program boundaries, OEA concludes that the proposed abandonment is not located within a designated coastal zone. Accordingly, federal consistency with the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*) would not be required.²

BNSF requested comments from the U.S. Natural Resource Conservation Service (NRCS) regarding potential impacts of the proposed abandonment to agricultural land, but has received no response to date. Because the Line is located within a developed area that is zoned as industrial and commercial, OEA concludes that the proposed abandonment would have no effect on agricultural land.

² Minnesota Lake Superior Coastal Program, <http://www.dnr.state.mn.us/waters/lakesuperior/maps.html> (last visited September 18, 2015).

OEA conducted a search of the National Geodetic Survey (NGS) Data Explorer tool and identified one geodetic station marker (QP0171) that may be located within the rail right-of-way.³ Accordingly, OEA is recommending a condition requiring BNSF to consult with NGS at least 90 days prior to conducting any salvage activities in order to identify any station markers that could be disturbed or destroyed by salvage activities and to arrange for the possible relocation of any such station markers by NGS.

Water Resources

In its review of available data, OEA has determined that the Line does not cross areas containing wetlands and is not located within or adjacent to the 100 year floodplain.⁴ As described by BNSF, the proposed salvage activities would not result in the disturbance of any soils or vegetation that could adversely impact waterbodies or wetlands.

BNSF requested comments from the U.S. Army Corps of Engineers (the Corps) regarding the need for a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344). In response, the Corps submitted comments stating that a Corps permit may not be required for the proposed abandonment, based on the available information. In its comments, the Corps notes that a Corps permit would be required if the proposed abandonment involves the discharge of dredged or fill material into waters of the United States. Because the proposed salvage activities would not involve the discharge of dredged or fill material into any waterway or wetland, OEA believes that a Section 404 permit would likely not be required. OEA is sending a copy of this EA to the Corps for review and comment.

BNSF requested comments from the U.S. Environmental Protection Agency (USEPA) and regarding the need for a permit under Section 402 of the Clean Water Act (33 U.S.C. § 1342) and compliance with other applicable federal, state, and local water quality regulations. To date, USEPA has not submitted comments on the proposed abandonment. Because the proposed salvage activities would be confined to the existing rail right-of-way and would not disturb any soils, vegetation, or waterways, OEA believes that the proposed abandonment would not affect water quality. OEA notes that the National Pollutant Discharge Elimination System (NPDES) under Section 402 is administered in Minnesota by the Minnesota Pollution Control Agency (MPCA). Accordingly, OEA is sending a copy of this EA to MPCA for review and comment.

Hazardous Materials

BNSF states that there are no known hazardous waste sites or sites where hazardous material spills have occurred within or adjacent to the right-of-way. OEA review has confirmed

³ National Geodetic Survey Data Explorer, <http://www.ngs.noaa.gov/NGSDataExplorer/> (last visited September 18, 2015).

⁴ Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited September 18, 2015).

that there are no listed Superfund sites or brownfields in the vicinity of the Line.⁵ Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

Biological Resources

In its comments on the proposed abandonment, the United States Fish and Wildlife Service (USFWS) states that the northern long-eared bat (*Myotis septentrionalis*), a federally listed threatened species, may occur in or near the project area. According to USFWS species information, the major threat to the northern long eared bat is white-nose syndrome, a fungal disease that infects skin of the muzzle, ears, and wings of hibernating bats and leads to wasting and high levels of mortality. Other potential threats to the species include human impacts of the caves and mines in which the bats hibernate, the loss or degradation of summer habitat, and wind turbine operations.⁶

Based on OEA's desktop review of the project area, there are no caves, mines, or other suitable locations in the rail right-of-way where northern long-eared bats could hibernate. Because the Line is located within a developed area, it is also unlikely that the project area could serve as a major feeding ground for the northern long-eared bat. Should individual members of this species be temporarily present in the rail right-of-way, the proposed abandonment would be unlikely to affect these individuals because the proposed salvage activities would be temporary, confined to an existing rail corridor, and would have no permanent impacts on the local environment.

Therefore, pursuant to Section 7 of the Endangered Species Act at 50 C.F.R. § 402, OEA has determined that the proposed abandonment would have no effect on the northern long-eared bat or any other federally listed threatened or endangered species. In order to give USFWS opportunity to review and comment on this determination, OEA is sending a copy of this EA to USFWS and is recommending a condition requiring BNSF to consult with USFWS regarding potential impacts to the northern long-eared bat or other federally listed threatened or endangered species.

BNSF states, and OEA review has confirmed, that the Line does not cross and is not adjacent to any national, state, or local parks; wildlife refuges or sanctuaries; national forests; or other publicly managed lands. Accordingly, no mitigation regarding publicly managed lands is recommended.

⁵ Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited September 29, 2015).

⁶ U.S. Fish and Wildlife Service, Midwest Region, Section 7 Technical Assistance Website, <http://www.fws.gov/Midwest/endangered/section7/s7process/index.html> (last visited September 29, 2015).

Summary

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is sending a copy of this EA to the following agencies for review and comment: NGS, USFWS, MPCA, and the Corps.

HISTORIC REVIEW

According to BNSF, the rail right-of-way was acquired in 1876 by the Saint Paul and Pacific Railroad Company (SP&P), which was purchased by the Saint Paul, Minneapolis and Manitoba Railway Company (SPM&M) in 1879. SPM&M was sold to the Great Northern Railway (GN) in 1907. In 1970, GN merged with Northern Pacific Railway (NP), Spokane, Portland & Seattle Railway (SP&S), and the Chicago, Burlington and Quincy Railroad (CBQ) to become Burlington Northern Railroad (BN). BN merged with the Atchison, Topeka and Santa Fe Railway (ATSF) in 1996 to become the Burlington Northern and Santa Fe Railway, which changed its name in 2005 to BNSF Railway.

BNSF served the Historic Report on the Minnesota Historical Society (State Historic Preservation Officer or SHPO), pursuant to 49 C.F.R. § 1105.8(c) and Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108). In response, the SHPO has submitted comments stating that the Line is eligible for listing in the National Register of Historic Places (the National Register) as part of the Collegeville Segment of the Great Northern Railroad (Collegeville Segment). The SHPO also notes that it is unable to provide information regarding any other known historic properties in the absence of an Area of Potential Effect (APE) determination by OEA.

As noted above, the proposed abandonment would allow the Line to be incorporated into the Lake Wobegon Trail system. In its comments, the SHPO notes that a Section 106 review has recently been completed for the Lake Wobegon Trail extension project, which is funded in part by the Federal Highway Administration (FHWA). In the review of the trail extension project, the SHPO concurred with the FHWA and the Minnesota Department of Transportation (MDOT) that conversion of the Line into a trail would not adversely affect the Collegeville Segment provided that the new trail construction follow the historic rail corridor alignment as closely as feasible.

OEA does not generally consider the conversion of a rail line into a recreational trail to be an adverse effect on historic properties that are present in the project APE. The conversion of a rail line into a trail allows for historic structures, if any, to be preserved and for the right-of-way to remain intact. Further, many trails are managed with the specific objective of promoting knowledge of and appreciation for the history of the rail line. Therefore, after reviewing the available information in this proceeding, believe that the abandonment of the Line, including the removal of tracks and ties, would not adversely affect the Collegeville Segment. We are satisfied

that the conditions of the SHPO's concurrence with the no adverse effect determination made by FHWA and MDOT are adequate to prevent any adverse effect to this historic property.

OEA considers the APE in railroad abandonment cases to comprise the rail right-of-way, which in this case extends approximately 50 feet to either side of the centerline of the railroad. BNSF states and OEA review has confirmed that no structures are present within the rail right-of-way. In its review of the trail extension project, the SHPO notes that there are no known archaeological sites in the APE of that project, an area that includes the rail right-of-way, and that the potential for undiscovered sites is low. Based on this information, OEA has determined that, apart from the Collegeville Segment, no other historic properties listed in or eligible for listing in the National Register are present in the APE of the proposed abandonment.

Accordingly, pursuant to Section 106, OEA has determined that no known historic properties included in or eligible for inclusion in the National Register would be adversely affected within the APE of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 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 www.stb.dot.gov.

In order to allow adequate time for the SHPO to concur or object to OEA's finding of no adverse effect, OEA is recommending that a condition be imposed requiring BNSF to retain its interest in and take no steps to alter the historic properties within the project APE until completion of the Section 106 process. If the SHPO provides concurrence with OEA's finding of adverse effect during the comment period for this EA, then OEA will remove this condition in the Final EA.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.⁷ The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment:

- Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation in Wisconsin;
- Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe in Minnesota;
- Flandreau Santee Sioux Tribe of South Dakota;
- Fond du Lac Band of the Minnesota Chippewa Tribe in Minnesota;
- Grand Portage Band of the Minnesota Chippewa Tribe in Minnesota;

⁷ National Park Service, National NAGPRA Program Native American Consultation Database, <http://grantsdev.cr.nps.gov/Nagpra/NACD> (last visited September 30, 2015).

- Keweenaw Bay Indian Community in Michigan;
- Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin;
- Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan;
- Leech Lake Band of the Minnesota Chippewa Tribe in Minnesota;
- Lower Sioux Indian Community in the State of Minnesota;
- Mille Lacs Band of the Minnesota Chippewa Tribe in Minnesota;
- Minnesota Chippewa Tribe in Minnesota;
- Prairie Island Indian Community in the State of Minnesota;
- Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin;
- Santee Sioux Nation in Nebraska;
- Sisseton-Wahpeton Oyate of the Lake Traverse Reservation in South Dakota;
- Sokaogon Chippewa Community in Wisconsin;
- Spirit Lake Tribe in North Dakota;
- St. Croix Chippewa Indians of Wisconsin;
- Upper Sioux Community in Minnesota; and
- White Earth Band of Minnesota Chippewa Tribe in Minnesota

OEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

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

- 1. Prior to the commencement of any salvage activities, BNSF Railway Company (BNSF) shall consult with the National Geodetic Survey (NGS). If NGS identifies geodetic station markers that may be affected by the proposed abandonment, BNSF shall notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS.**
- 2. Prior to commencement of any salvage activities, BNSF Railway Company (BNSF) shall consult with the U.S. Fish and Wildlife Service (USFWS) to assess potential impacts to the northern long-eared bat (*Myotis septentrionalis*), or other federally listed threatened or endangered species and identify any appropriate mitigation measures that may be warranted.**
- 3. BNSF Railway Company (BNSF) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are**

eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act (54 U.S.C. § 306108) has been completed. BNSF shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Minnesota Historical Society (State Historic Preservation Officer or SHPO) and the public. BNSF may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, the proposed abandonment would not significantly affect the quality of the human environment.

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 would 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 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

Requests for a notice of interim trail use (NITU) are due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. 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 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office 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, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Josh Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket Number AB 6 (Sub-No. 491X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: October 5, 2015

Comment due date: October 20, 2015

By the Board, Victoria Rutson, Director, Office of Environmental Analysis