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SERVICE DATE – MAY 3, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 449X)

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

Decided: May 2, 2007

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a rail line between Engineering Stations 0 + 00 and 28 + 61, near Appleton, in Swift County, MN, a distance of 0.54 miles. Notice of the exemption was served and published in the Federal Register on April 4, 2007 (72 FR 16409). The exemption is scheduled to become effective on May 4, 2007.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on April 9, 2007. SEA states that by letter dated January 16, 2007, Mr. Kenneth Westlake, Chief, NEPA Implementation Section, U.S. Environmental Protection Agency, Region 5 (U.S. EPA), submitted the following comments: (1) all present and former pilings from the bridge over the Pomme de Terre River should be removed, not cut or broken off, to avoid the possibility of future accidents; (2) because the riverbanks on each side of the bridge are designated as a special floodplain, both banks should be returned to a natural aesthetic and functional state by removal of rail embankment fill material to re-establish a natural grading, followed by planting with appropriate species consistent with adjacent areas; and (3) the final disposition of crossties and pilings preserved with creosote should be buried in a non-hazardous waste landfill unless otherwise permitted and/or required by the State of Minnesota. Therefore, SEA recommends a condition requiring BNSF to comply with U.S. EPA's recommendations regarding salvage activities.

SEA further states that by letter dated October 5, 2006, Mr. Steven Colvin, Environmental Review Supervisor, Minnesota Department of Natural Resources (MN DNR), stated that a portion of the proposed abandonment would extend into a floodplain, and, accordingly, that salvage activities must comply with the floodplain ordinances administered by the City of Appleton.¹ SEA states that to ensure that the 100-year floodplain is not adversely affected, a condition should be imposed requiring BNSF to consult with the City of Appleton prior to initiating any salvage activities.

¹ According to SEA, Mr. Roman Fidler, Clerk/Treasurer of Appleton, provided BNSF with a copy of the City's Flood Plain Zoning Ordinances via e-mail dated November 30, 2006.

SEA further indicates that by letter dated January 24, 2007, Mr. Skip Wright, Area Hydrologist, MN DNR, stated that a Public Water Permit is not required, provided that the original cross-section and bed conditions are restored, and provided that the structure is completely removed, is not located on an officially designated trout stream, and does not function as a water level control device. SEA adds that MN DNR has requested a copy of BNSF's bridge removal and bank restoration plans. Therefore, SEA recommends a condition requiring BNSF to consult with Mr. Wright of MN DNR prior to initiating any salvage activities.

Finally, SEA states that by e-mail dated March 9, 2007, Mr. Simon Monroe, U.S. Department of Commerce, National Geodetic Survey (NGS), stated that two geodetic station markers may be located in the area proposed for abandonment. Accordingly, SEA recommends a condition requiring BNSF to notify NGS at least 90 days prior to the initiation of any salvage activities for the possible relocation of the markers.

Comments to the EA were due by April 24, 2007. No comments were received. Accordingly, the conditions recommended by SEA in the EA will be imposed. Based on SEA's recommendation, the proposed abandonment, if implemented as conditioned, 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 notice served and published in the Federal Register on April 4, 2007, exempting the abandonment of the line described above is subject to the conditions that BNSF shall: (1) comply with the recommendations of U.S. EPA Region 5 regarding (a) removal of all bridge pilings, (b) removal of railroad embankment and appropriate revegetation measures along the stream banks, and (c) proper disposal of all creosote treated materials; (2) consult with the City of Appleton regarding compliance with its Flood Plain Zoning Ordinances prior to initiation of any salvage activities regarding potential impacts to the 100-year floodplain and shall comply with all reasonable requirements; (3) consult with Mr. Skip Wright of MN DNR regarding bridge removal prior to initiation of any salvage activities and shall comply with all reasonable requirements; and (4) notify NGS at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of two identified geodetic station markers.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary