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SERVICE DATE - LATE RELEASE DECEMBER 29, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 381X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY--  
ABANDONMENT EXEMPTION--IN HENNEPIN AND RAMSEY COUNTIES, MN

Decided: December 28, 1998

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon 2.43 miles of rail line between milepost 0.00 near East Minneapolis and milepost 2.43 near Rollins Oil, in Hennepin and Ramsey Counties, MN. Notice of the exemption was served and published in the Federal Register on November 30, 1998 (63 FR 65865-66). The exemption is scheduled to become effective on December 30, 1998.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on December 8, 1998. In the EA, SEA indicates that the Minnesota Pollution Control Agency (MPCA) has expressed several concerns about possible impacts during salvage operations. MPCA states that BNSF should avoid possible impacts to streams, avoid using fertilizers containing phosphorus, implement a site erosion control plan, and provide information concerning the removal and disposal of railroad ties. Therefore, SEA recommends that a condition be imposed requiring BNSF to consult with the MPCA to address possible impacts resulting from salvage operations prior to engaging in any salvage activities. The condition will be imposed.

In the EA, SEA concluded that the right-of-way may be suitable for other public use following abandonment in this proceeding. On December 14, 1998, the Minnesota Department of Transportation (Mn/Dot) filed a request for a 180-day public use condition under 49 U.S.C. 10905. See Rail Abandonments--Use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 609 (1986).<sup>1</sup> Mn/Dot states that it and several agencies are considering to acquire the 2.43-mile rail line corridor for alternative transportation and transmission usages. Mn/Dot states that it and the other agencies need the 180-day period allowed to study alternative transportation usages, obtain right-of-way appraisals, and negotiate with BNSF.

Mn/Dot's submission meets 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

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<sup>1</sup> Under 49 U.S.C. 10905, 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.

for the imposition of the period of time requested. Accordingly, the requested 180-day 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.

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 request for imposition of a public use condition is granted. The exemption of the abandonment of the 2.43-mile segment is subject to the condition that 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 December 30, 1998 effective date of the abandonment exemption (until June 28, 1999), 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 subject to the condition that BNSF, prior to engaging in any salvage activities, consult with the MPCA to address possible impacts resulting from salvage operations.
4. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary