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OEA

SERVICE DATE – JUNE 20, 2011

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 101 (Sub-No. 18X)

**Duluth, Missabe and Iron Range Railway Company – Abandonment Exemption –
in St. Louis County, Minn.**

BACKGROUND

In this proceeding, Duluth, Missabe and Iron Range Railway Company (DMIR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a portion of rail line, in St. Louis County, Minnesota. The rail line proposed for abandonment extends approximately 1.96 miles from milepost 0.00, to milepost 1.96 in Duluth (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to DMIR, the Line served as a connection between DMIR and the Burlington Northern Railroad (before it became BNSF) to access their respective interchange yards. DMIR states that commerce was last conducted on the Line approximately 40 years ago. The Line contains two bridges, each built in the early 1900s. Should the Surface Transportation Board (Board) approve the abandonment, DMIR intends to sell its interest in the property, including the bridges, rails and related facilities, to the St. Louis and Lake Counties Regional Railroad Authority to preserve the corridor for possible future use as a Duluth-Minneapolis intercity passenger rail line.

ENVIRONMENTAL REVIEW

DMIR submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. DMIR 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)² has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to DMIR, no local traffic has moved over the Line for at least 2 years, and there is no overhead traffic to be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and 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 the Board grants abandonment authority, DMIR would have the right to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way, even though DMIR has indicated that it intends to sell the Line intact. Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

The Western Lake Superior Sanitary District (WLSSD) submitted informational, aerial photographs depicting the alignment of an in-service, ten inch diameter, ductile iron pressure forcemain sewer pipeline located relatively close to the proposed abandonment. WLSSD stated that it provided this information to ensure that its presence on the property is duly noted.

The City of Duluth, Chief Administrative Officer (the City), in a letter dated February 16, 2011, indicated that the proposed abandonment may have an adverse effect on local land use plans. In another letter, dated April 28, 2011, the City stated that City staff has worked with interested parties to explore the potential impact of the proposed abandonment and in doing so, the City has resolved any issues which may have any potential adverse effect on local land use

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 101 (Sub-No. 18X).

² OEA was formerly known as the Board's Section of Environmental Analysis (SEA). The name change from SEA to OEA became effective on September 1, 2010.

plans. The City further indicated that it was formally withdrawing its letter dated February 16, 2011.

The Minnesota Department of Transportation (MDOT), Duluth Office submitted comments stating that no MDOT permits would be required for the proposed abandonment. However, MDOT stated that it does have concerns about the future maintenance of culverts under the existing rail corridor. Specifically, MDOT questioned the plan for maintenance of the drainage after abandonment. Accordingly, we recommend that a condition be imposed upon any decision granting abandonment authority requiring DMIR to consult with MDOT about the maintenance plan for drainage.

The National Geodetic Survey did not identify any geodetic station markers in the area of the proposed abandonment. Accordingly, no mitigation regarding geodetic station markers is recommended.

The U.S. Department of Agriculture, Natural Resources Conservation Service indicated that it has no concerns or comments about the proposed abandonment.

The U.S. Fish and Wildlife Service, Division of Realty stated that it does not own any lands in the vicinity of the proposed abandonment and does not have any concerns regarding real estate matters.

The U.S. Army Corps of Engineers, Field Office in Two Harbors (Corps) contacted DMIR on February 3, 2011 by telephone and advised that the Corps does not have any issues with the proposed abandonment.

The U.S. Environmental Protection Agency's Region 5 Office (USEPA) has not submitted comments regarding the proposed abandonment. Accordingly, OEA will provide a copy of this EA to USEPA for its review and comment.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to MDOT and USEPA for their review and comment.

HISTORIC REVIEW

DMIR served the Historic Report on the Minnesota Historical Society (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). Based on available information, the SHPO submitted comments stating that one of the bridges on the Line (Bridge No. L6118) is eligible for listing on the National Register of Historic Places (National Register), and portions of the Line may be in the viewshed of part of the Morgan Park Historic District.

However, SHPO indicated that the proposed abandonment would have no adverse effect on the bridge or the historic district because the bridges, rails and related facilities will be sold intact and reused by another rail company if the Board approves the abandonment. The SHPO also requested that DMIR let the SHPO know if the project plans change or if the sale or reuse aspect of the proposal is not consummated.

Accordingly, pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. 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 <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify federally-recognized tribes which may have ancestral connections to the project area. The database indicated that the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin, the Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota, the Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota, the Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota, the Keweenaw Bay Indian Community, Michigan, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan, the Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota, the Minnesota Chippewa Tribe, and the White Earth Band of Minnesota Chippewa Tribe, Minnesota, may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way for the proposed abandonment. Accordingly, OEA is sending a copy of this EA to these tribes for their review and comment.

CONDITIONS

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

1. Prior to commencement of any salvage activities, Duluth, Missabe and Iron Range Railway Company shall consult with the Minnesota Department of Transportation, Duluth Office about maintenance of the culverts under the rail corridor and the plan for drainage.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

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 should 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 4-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

A request for a notice of interim trail use (NITU) is 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 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Danielle Gosselin, 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 No. AB 101 (Sub-No. 18X) in all**

correspondence, including e-filings, addressed to the Board. If you have any questions regarding this Environmental Assessment, please contact Danielle Gosselin, the environmental contact for this case, by phone at (202) 245-0300, fax at (202) 245-0454, or e-mail at danielle.gosselin@stb.dot.gov.

Date made available to the public: June 20, 2011.

Comment due date: July 1, 2011.

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

Attachment