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SEA

SERVICE DATE – SEPTEMBER 10, 2007

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (SUB-NO. 457X)

**BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN STEVENS
COUNTY, MN**

BACKGROUND

On August 16, 2007, the BNSF Railway Company (BNSF) filed a verified notice of exemption pursuant to the Surface Transportation Board's (Board) regulations at 49 C.F.R. 1152.50. BNSF proposes to abandon a rail line that extends between Milepost 86.00 and Milepost 86.65, in the City of Morris, Stevens County, Minnesota, a total distance of 0.65 miles. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA). According to BNSF, the rail line proposed for abandonment has been salvaged. If the notice becomes effective, BNSF will be able to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of abandonment, including salvage and disposition of the right-of-way. BNSF served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the environmental record in this proceeding.

The City of Morris, Minnesota is located 165 miles northwest of Minneapolis/St. Paul, Minnesota and 100 miles southeast of Fargo, North Dakota. Land use is largely agricultural beyond the city's 4.53-square-mile limits. The line proposed for abandonment passes through a residential neighborhood on the south, and light industrial property on the north, with the University of Minnesota at Morris lying just to the east. According to BNSF, this line historically was used for car storage, and as rail car storage needs lessened the rails were removed on the right-of-way. BNSF states that track on the line proposed for abandonment has been gone for more than 20 years.

The line proposed for abandonment would have no effect on existing transportation systems or patterns as there has been no local traffic on the line for over 20 years. According to BNSF, the proposed abandonment should not be inconsistent with local or regional land use plans. Likewise, the proposed abandonment should have no effect on prime agricultural lands. As a result

of abandonment activities, no impacts on air quality, noise levels, or energy resources would be expected to occur.

In a letter of April 6, 2007, the United States Fish and Wildlife Service (USFWS) indicated that they do not own any lands or interest in land in the vicinity of the proposed rail line abandonment. Further, they do not have any concerns regarding real estate matters in the abandonment. The proposed abandonment is not expected to adversely impact any Federally-listed threatened or endangered species. In an abundance of caution, we will require BNSF to consult with USFWS regarding possible impacts to Federally-listed threatened or endangered species if additional salvage activities or ground disturbance occurs along the right-of-way.

BNSF states that the proposed abandonment would be handled in a manner that is consistent with the applicable Federal, state, and local water quality standards. BNSF states that no known hazardous waste sites or spills have occurred on the right-of-way. The Minnesota Pollution Control Agency states that because the line has been salvaged, it is unlikely that permits under sections 402 and 404 of the Clean Water Act would be required for the proposed abandonment.

HISTORIC REVIEW

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 State Historic Preservation Office (MNSHPO) pursuant to 49 CFR 1105.8(c). Based on available information, the MNSHPO has submitted comments stating that the rail line as a whole, historically known as the Little Falls and Dakota Line, is eligible for the National Register of Historic Places (National Register). The MNSHPO further advises that generally, abandonment without protective measures constitutes an adverse effect. MNSHPO has no recommended mitigation for this abandonment.

Because the line proposed for abandonment is eligible for the National Register, 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 until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. BNSF shall report back to the Section of Environmental Analysis (SEA) regarding any consultations with the MNSHPO, Tribal Historic Preservation Office (if on tribal lands), and any other Section 106 consulting parties that have been identified and the public. BNSF may not file its consummation notice or initiate any salvage activities related to abandonment until the Section 106 process has been completed and the Board has removed this condition.

SEA conducted a search of the Native American Consultation Database at www.cast.uark.edu/other/nps/nacd/ to identify Federally recognized tribes that may have ancestral connections to the project area. The database identified the following seven federally recognized tribes that may have an interest in the proposed abandonment and discontinuance.

- Flandreau Santee Sioux Tribe of South Dakota

- Lower Sioux Indian Community in the State of Minnesota
- Prairie Island Indian Community in the State of Minnesota
- Santee Sioux Nation, Nebraska
- Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota
- Spirit Lake Tribe, North Dakota
- Upper Sioux Community, Minnesota

Accordingly, SEA is sending a copy of this EA to the seven tribes identified above for their review and comment.

CONDITIONS

SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

- 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, 16 U.S.C. 470f, has been completed. BNSF shall report back to the Section of Environmental Analysis regarding any consultations with the Minnesota State Historic Preservation Office, Tribal Historic Preservation Office (if on tribal lands), any other Section 106 consulting parties that have been identified and the public. BNSF may not file its consummation notice or initiate any salvage activities related to abandonment until the Section 106 process has been completed and the Board has removed this condition.
- BNSF shall consult with the United States Fish and Wildlife Service regarding any impacts on Federally-listed threatened or endangered species if any salvage activities or ground disturbance occurs along the right-of-way as a result of this abandonment.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, abandonment would 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, discontinuance of service and salvage of the rail line, a portion of the rights-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 CFR 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 is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the class 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 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 245-0230, or mail inquiries to Surface Transportation Board, Office of Public Services, 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 Phillis Johnson-Ball, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (SUB-NO. 457X)**. If you have any questions regarding this environmental assessment, please contact Phillis Johnson-Ball, the environmental contact for this case, by phone at (202) 245-0304, fax at (202) 245-0454, or e-mail johnson-ballp@stb.dot.gov.

Date made available to the public: September 10, 2007.

Comment due date: September 25, 2007.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment