

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-497 (Sub-No. 3X)

MINNESOTA NORTHERN RAILROAD, INC.–  
ABANDONMENT EXEMPTION–IN POLK AND NORMAN COUNTIES, MN

Decided: December 8, 2006

By decision served on December 4, 2006, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by Minnesota Northern Railroad, Inc. (MNN), of 17 miles of rail line in Polk and Norman Counties, MN. The Board granted the exemption subject to trail use, public use, historic, environmental and standard employee protective conditions. The exemption is scheduled to become effective on January 3, 2007, unless stayed by the Board or unless a formal offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1) is filed by December 14, 2006, 10 days after the December 4 decision's service date.

On October 20, 2006,<sup>1</sup> V & S Railway, Inc. (VSR), filed a pleading styled a "Notice of Intent to File an Offer of Financial Assistance" to purchase the 17 miles of rail line proposed for abandonment.<sup>2</sup> In the filing, VSR also requested that MNN provide it with information necessary to formulate its OFA. In particular, VSR requested the most recent report on the physical condition of the line, the carrier's estimate of the net liquidation value (NLV) of the line, data supporting the NLV, and the line's minimum purchase price.

By letter dated October 31, 2006, MNN agreed to provide the necessary OFA information in advance of the Board's final decision on the petition for exemption. However, on November 29, 2006, VSR, stating that it had not received any of the requested information from MNN, filed a request to toll the 10-day period for submitting an OFA until 10 days after VSR received the necessary valuation data from MNN.

The Board entertains petitions to toll the period for filing an OFA when a petitioner has failed to provide a potential offeror with the information necessary to the development of an OFA and that information is not contained in the petition. See 49 CFR 1152.27(c)(1)(i)(C). In this case, because the information necessary to formulate the OFA has not been provided to a

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<sup>1</sup> As amended by a letter filed on October 23, 2006.

<sup>2</sup> The Board's revised regulations no longer provide for a notice of intent to file an OFA in proceedings involving petitions for abandonment exemptions. See Aban. and Discon. of R. Lines and Transp. Under 49 U.S.C. 10903, 1 S.T.B. 894 (1996) and 2 S.T.B. 311 (1997).

potential offeror, VSR's request will be granted. As a result, an OFA will be due 10 days after VSR's receipt of all of the requested information, and the effective date of the abandonment exemption will be extended accordingly.<sup>3</sup>

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The time period for VSR to file an OFA is tolled until 10 days after VSR's receipt of the requested information, and the effective date of the exemption is further postponed until 20 days after VSR's receipt of the requested information.
2. MNN is directed to notify the Board in writing when it has provided VSR with the requested information.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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<sup>3</sup> Because this extension is not date specific, MNN is directed to notify the Board when it has furnished the requested information to VSR so that the due date for filing OFAs can be determined for the record.