

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

Ms. Katry Harris, Historic Preservation Specialist
Advisory Council on Historic Preservation
Office of Federal Agency Programs
1100 Pennsylvania Avenue, NW, Suite 809
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May 16, 2007

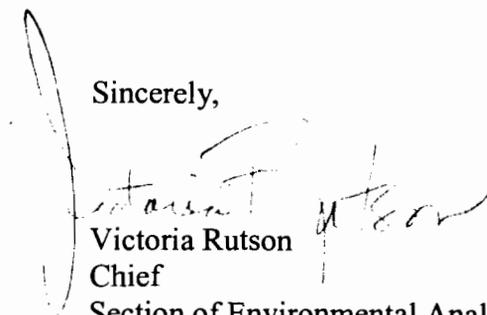
**Re: STB Docket No. AB-6 (Sub-No. 438X), BNSF Railway Co. - in
Morrison County, MN**

Dear Ms. Harris:

As you know, BNSF Railway Company (BNSF) filed a notice of exemption with the Surface Transportation Board (Board) seeking approval authority to abandon and discontinue service over a .58-mile railroad line in Morrison County, Minnesota. The Board's approval of the abandonment is considered an undertaking under Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) (NHPA) and is thus covered under its provisions.

In response to your letter dated May 9, 2007, we are providing documentation that describes the proposed action, contains information regarding the rail line, and provides the information specified in 36 CFR 800.11. The Section of Environmental Analysis is committed to ensuring proper completion of the Section 106 process. Accordingly, if you have any questions or require additional information, please do not hesitate to contact me or Christa Dean at (202) 245-0299.

Sincerely,



Victoria Rutson
Chief

Section of Environmental Analysis

Enclosures

Documentation Pursuant to 36 CFR 800.11(e)

- (1) A description of the undertaking, specifying the federal involvement, and its area of potential effects, including photographs, maps, drawings as necessary.

In this proceeding, BNSF Railway Company (BNSF) filed a notice of exemption with the Surface Transportation Board (Board) seeking approval authority to abandon and discontinue service over a .58-mile railroad line in Morrison County, Minnesota. The Board's approval of the abandonment is considered an undertaking under Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) (NHPA) and is thus covered under its provisions.

As stated in the Environmental Assessment (EA), the line proposed for abandonment is .58-miles long, and the right-of-way is generally 150-foot wide. For abandonments, the rail right-of-way is considered the area of potential effects (APE). 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.

Detailed information regarding the proposed project, including maps, was provided to the public in the following documents: the railroad's Notice of Exemption; the Environmental and Historic Report filed by the railroad; and the Environmental Assessment prepared by SEA. These documents are available on the Board's website at www.stb.dot.gov and have also been provided with this letter for the Advisory Council on Historic Preservation's (ACHP) review.

- (2) A description of the steps taken to identify historic properties.

The Section of Environmental Analysis (SEA) is the office within the Board responsible for conducting the environmental review process pursuant to the National Environmental Policy Act, including the NHPA. Accordingly, SEA consulted with Mr. Dennis Gimmestad at the Minnesota Historical Society (State Historic Preservation Office or SHPO) and with the Minnesota Department of Transportation (Minnesota DOT). SEA also contacted federally recognized tribes that may have ancestral connections to the project area and researched the National Register of Historic Places (National Register).

As stated in the EA, there are no bridges or structures on the .58-mile rail line. The closest National Register listed property, Fort Ripley, is not within the APE. The Keweenaw Bay Indian Community (KBIC) and the Leech Lake Band of Ojibwe were the only tribes that submitted comments on the proposed abandonment. The KBIC stated that its Tribal Historic Preservation Office has no interests documented in the proposed project area. The Leech Lake Band of Ojibwe also determined that it has no concerns regarding sites of religious or cultural importance in the proposed project area. However, both tribes requested

that they be notified in the event that artifacts or human remains are discovered.

During its research, SEA discovered that the track materials had already been salvaged and the right-of-way sold to Minnesota DOT for a road improvement project involving Trunk Highway 371, several years prior to filing the Notice of Exemption, Environmental Report, and Historic Report with the Board and other Federal and state agencies. The Federal Highway Administration previously reviewed the Trunk Highway 371 project pursuant to Section 106 and developed a Memorandum of Agreement with the SHPO, Minnesota DOT, and the U.S. Army Corps of Engineers in April 2002 (2002 MOA). However, the SHPO has indicated that the 2002 MOA does not pertain to the .58-mile segment of rail line that is the subject of the proposed abandonment that is before the Board.

- (3) A description of the affected historic properties, including information on the characteristics that qualify them for the National Register.

Based on consultation with the SHPO, SEA determined that the line is eligible for listing on the National Register under Criterion A, for its association with events that have made a significant contribution to the broad patterns of our history. See 36 CFR 60.4. The line is significant in Minnesota railroad history because it was part of the Brainerd Branch of the Northern Pacific Railroad, which provided a critical connection to St. Paul, the hub of railroad traffic in Minnesota in the late nineteenth century.

- (4) A description of the undertaking's effects on historic properties.

The Board has consulted with the SHPO pursuant to 36 CFR Part 800. In initial phone consultations between SEA and the SHPO, it appeared that the abandonment might not have an adverse effect on any historic resources, because it was believed that any effects had previously been evaluated and mitigated in the 2002 MOA.¹ However, after additional consultation between SEA and the SHPO, it was discovered that the 2002 MOA did not apply to the .58-mile segment of line that is the subject of this proceeding. Accordingly, SEA has determined that the proposed abandonment will have an adverse effect on the above mentioned historic resource. As a result of the abandonment and above-mentioned salvage and highway project, there is a corresponding change in the character of the property's use or physical features within the property's setting that contribute to its historic features. See 36 CFR 800.5(a)(2).

¹ SEA staff believes that the initial "no effect" determination was the reason that the ACHP was not invited to participate at the beginning of this process and apologizes for the oversight.

- (5) An explanation of why the criteria of adverse effect were found applicable or inapplicable, including any conditions or future actions to avoid, minimize or mitigate adverse effects.

As noted, several years prior to the filing of this abandonment with the Board the track materials were salvaged and the right-of-way sold to Minnesota DOT for a road improvement project involving Trunk Highway 371. Accordingly, in this proceeding, a change in the character of the property's use or physical features within the property's setting that contribute to its historic features is unavoidable. Pursuant to 36 CFR 800.6, SEA consulted with the SHPO and BNSF regarding ways to avoid, minimize, or mitigate potential effects to the historic resource as a result of abandonment and disposition of BNSF's assets and all have determined that no such measures are necessary. This was based on factors such as the length of the rail right-of-way that is the subject of this abandonment, the impacts of the highway project on a separate portion of the line to the north, as well as the mitigation stipulated for the effects of that highway project. (See the attached 2002 MOA).

Nevertheless, in light of the timing of salvage and sale of the rail line prior to Board approval, voluntary mitigation was incorporated into an MOA between the SHPO, SEA, and BNSF. Accordingly, BNSF voluntarily agreed to provide historic preservation training to staff involved with BNSF railroad abandonment projects. This one-day training course took place in April 2007, and educated BNSF staff regarding the Section 106 historic preservation process under the NHPA. BNSF staff involved with railroad abandonment projects attended this historic preservation training. The training selected by BNSF was approved by SEA and is intended to help in avoiding similar situations in the future.

- (6) An evaluation of other measures considered, but rejected, to avoid or minimize the undertaking's adverse effects.

Pursuant to 36 CFR 800.6, SEA consulted with the SHPO and BNSF regarding ways to avoid, minimize, or mitigate potential effects to the historic resource as a result of abandonment and disposition of BNSF's assets and all have determined that no such measures are necessary. Accordingly, no mitigation measures were rejected.

- (7) Copies of summaries of any views provided by consulting parties and the public.

In a letter dated September 15, 2006, the SHPO stated that the proposed abandonment may have an adverse effect on the line. However, considering the length of the abandonment, the impacts of the highway project on another portion of the line to the north, as well as the mitigation stipulated for the effects of that highway project, the SHPO does not believe that any mitigation measures for the .58-mile proposed abandonment are needed.

As stated above, the KBIC stated that its Tribal Historic Preservation Office has no interests documented in the proposed project area. In addition, the Leech Lake Band of Ojibwe determined that it has no concerns regarding sites of religious or cultural importance in the proposed project area. However, these tribes requested that they be notified in the event that artifacts or human remains are discovered. All relevant correspondence has been attached.

Documentation Pursuant to 36 CFR 800.11(f)

As indicated in SEA's May 8, 2007 letter to the ACHP, SEA executed an MOA with the SHPO and BNSF to resolve any adverse effects to historic properties for the proposed undertaking pursuant to 36 CFR 800.6(b)(i)(iv). An original signed MOA was included with that letter for the ACHP's files.