

**SURFACE TRANSPORTATION STB
SECTION OF ENVIRONMENTAL ANALYSIS**

POST POST ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
STB DOCKET NO. AB-6 (Sub-No. 438X)

July 17, 2007

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:
(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

RECOMMENDATION: Remove Section 106 Condition in AB-6 (Sub-No. 438X) –
BNSF Railway Company - Abandonment Exemption - in
Morrison County, Minnesota

In this proceeding, BNSF Railway Co. (BNSF) filed a notice of exemption with the Surface Transportation Board (STB) seeking approval authority to abandon and discontinue service over a .58-mile railroad line in Morrison County, Minnesota. By decision served on May 15, 2006 (2006 Decision), the STB imposed five environmental conditions.

Comments on the EA

Historic Condition

In this proceeding, the line was found to be eligible for listing in the National Register of Historic Places. Accordingly, Condition 5 in the 2006 Decision required BNSF to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

Pursuant to the Section 106 regulations of the NHPA at 36 CFR 800.5(b), and following consultations with the Minnesota Historical Society (the State Historic Preservation Office or SHPO) and the public, we determined that the proposed abandonment would likely have an adverse effect on the line, which is a historic resource. However, SEA and the SHPO agreed that no mitigation measures are necessary. The

attached correspondence includes an executed Memorandum of Agreement (MOA) that was negotiated to comply with the Section 106 process. SEA filed the executed MOA with the Advisory Council on Historic Preservation, and that completes the STB's compliance responsibilities under Section 106 of the NHPA.

Accordingly, we recommend that the Section 106 condition imposed by the STB in this proceeding be removed.

Other Environmental Conditions

Condition 1 in the 2006 Decision required BNSF to consult with the U.S. Environmental Protection Agency's Region 5 Office (USEPA) regarding the details of the rail removal and salvage methods that have occurred and what mitigation, if any, would be appropriate, and to notify SEA of the results of this consultation. BNSF has consulted with USEPA, and USEPA did not request any further mitigation for this abandonment.

Conditions 2, 3, and 4 in the 2006 Decision required BNSF to consult with the Minnesota Pollution Control Agency (MPCA). BNSF has contacted MPCA and provided the following information: details of what erosion and stormwater runoff mitigation practices were utilized during salvage activities and what mitigation, if any, would be appropriate; assurance that it gave proper consideration to the National Pollutant Discharge Elimination System requirements and what mitigation, if any, would be appropriate; and details of the disposal of salvaged materials, as well as any spills such as oil spills, and determine what mitigation, if any, would be appropriate. On July 2, 2007, BNSF notified SEA of the results of this consultation.

Accordingly, BNSF has fully complied with all of the environmental conditions imposed in this proceeding.

SEA CONTACT: Christa Dean 245-0299

MEMORANDUM OF AGREEMENT

**BETWEEN THE SURFACE TRANSPORTATION BOARD,
THE BNSF RAILWAY COMPANY, AND
THE MINNESOTA HISTORICAL SOCIETY**

**REGARDING AB-6 (SUB-NO 438X)
BNSF RAILWAY COMPANY
- ABANDONMENT EXEMPTION -
IN MORRISON COUNTY, MINNESOTA**

WHEREAS, on March 27, 2006, BNSF Railway Company (BNSF) filed a notice of exemption with the Surface Transportation Board (Board) under 49 CFR 1152 Subpart F – Exempt Abandonments to abandon an approximately .58-mile rail line between BNSF milepost 113.44 and BNSF milepost 114.02, in Morrison County, Minnesota, in STB Docket No. AB-6 (Sub-No. 438X); and

WHEREAS, in a decision served on May 15, 2006, the Board imposed a condition for the proposed abandonment that requires BNSF to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or that are listed in the National Register of Historic Places (generally, 50 years old or older) until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA), has been completed. In addition, the Board made it clear that BNSF must 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; and

WHEREAS, based on consultation with the Minnesota Historical Society (State Historic Preservation Office or SHPO), the Board's Section of Environmental Analysis (SEA) determined that the line is eligible for listing on the National Register of Historic Places under Criterion A, for its association with events that have made a significant contribution to the broad patterns of our history. 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; and

WHEREAS, it was discovered that the track materials had already been salvaged and the right-of-way sold to the Minnesota Department of Transportation (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;¹ and

¹ 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

WHEREAS, the Board has consulted with the SHPO pursuant to 36 CFR Part 800, and has determined that the proposed abandonment will have an adverse effect on the above mentioned historic resource; and

WHEREAS, the Board has consulted with the SHPO and BNSF pursuant to 36 CFR 800.6 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;

NOW THEREFORE, the Board, BNSF, and SHPO agree that the execution of this Memorandum of Agreement (MOA) by the parties hereto and its subsequent submission to the Advisory Council on Historic Preservation (ACHP) in accordance with 36 CFR 800.6(b)(1)(iv), shall, pursuant to 36 CFR 800.6(c), be considered to be an agreement with the ACHP for purposes of the NHPA. Execution and submission of the MOA, and implementation of its terms, evidences that the Board has afforded the ACHP an opportunity to comment on the proposed action relating to the line, and that the Board has taken into account the effects of the abandonment on historic properties and is satisfying the requirements of Section 106 of the NHPA.

The National Environmental Policy Act of 1969, 42 U.S.C. 4321-43 (NEPA), requires the Board to consider the environmental consequences of actions such as its authorization of the abandonment of railroad lines. In conducting the environmental review in abandonment cases, the Board looks at the anticipated impacts of the abandonment proposal before the agency, such as the potential environmental impacts of diversion of traffic from rail to other modes and of salvage, that is, removing the track and related structures.

In light of the timing of salvage and sale of the rail line prior to Board approval, BNSF has voluntarily agreed to provide historic preservation training to staff involved with BNSF railroad abandonment projects. This one-day training course is scheduled for April 3, 2007, and will educate BNSF staff regarding the Section 106 historic preservation process under the NHPA. BNSF will ensure that staff involved with railroad abandonment projects will attend this historic preservation training. The training selected by BNSF has been approved by SEA.

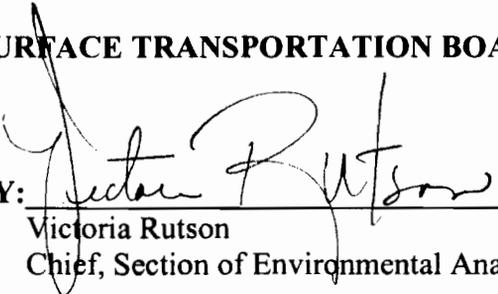
This agreement shall be in effect until completion of its terms.

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 this proposed abandonment.

ACCEPTED AND AGREED

SIGNATORY PARTIES:

SURFACE TRANSPORTATION BOARD

BY: 
Victoria Rutson
Chief, Section of Environmental Analysis

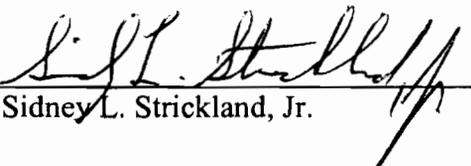
DATE: Feb. 6, 2007

MINNESOTA HISTORICAL SOCIETY

BY: 
Nova M. Archabal
State Historic Preservation Officer

DATE: 4/18/07

THE BNSF RAILWAY COMPANY

BY: 
Sidney L. Strickland, Jr.

DATE: 2/5/2007