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SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

July 9, 2004

Stillwater Heritage Preservation Commission
Stillwater City Hall
Ms. Sue Fitzgerald
216 N. 4th Street
Stillwater, MN 55082

Re: STB Docket No. AB-6 (Sub-No. 413X), The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Washington County, MN

Dear Ms. Fitzgerald:

The Surface Transportation Board's Section of Environmental Analysis (SEA) is conducting an environmental review of the Burlington Northern and Santa Fe Railway Company's (BNSF's) planned abandonment of a .99-mile rail line in Stillwater, MN, pursuant to the National Environmental Policy Act and related environmental regulations, including the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

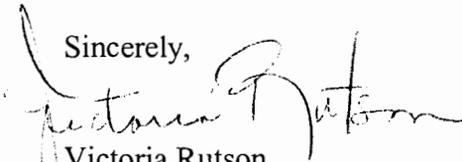
The line is partially located within the Stillwater Commercial Historic District, which is listed on the National Register of Historic Places (National Register). The line is also located within the Stillwater Cultural Landscape Historic District, which has been determined eligible for listing on the National Register. Additionally, the line is adjacent to individually listed National Register properties, including the Stillwater Lift Bridge and the Territorial/State Prison Warden's House.

In consultation with Mr. Dennis Gimmestad at the Minnesota Historical Society, we have identified the Stillwater Heritage Preservation Commission as a potential consulting party to the Section 106 process of the NHPA and are writing to invite you to participate as a consulting party in the Section 106 process. Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process at 36 CFR Part 800, consulting parties participate throughout the Section 106 process and work with all involved parties to try to resolve the issues. However, the concurrence of consulting parties in the final outcome of the Section 106 process is not required.

SEA plans to develop a Memorandum of Agreement, pursuant to 36 CFR 800.6, and we would appreciate any information that you have regarding historic and cultural resources. In particular, we invite your comments on possible measures to avoid, minimize, or mitigate any adverse effects on historic properties. We request that you contact our office by July 26, 2004, if you would like to participate as a consulting party.

We look forward to working with you to ensure proper completion of the Section 106 process. Enclosed for your review please find copies of: 1) BNSF's historical report; 2) a map showing the location of the abandonment; 3) SEA's Environmental Assessment, which provides a description of the abandonment; and 4) a February 27, 2004 letter with Mr. Gimmestad's comments. If you have additional questions about the Section 106 process or the role of consulting parties in the process, please do not hesitate to contact me or Christa Dean of my staff at (202) 565-1606.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is written in a cursive style with a large initial "V".

Victoria Rutson

Chief

Section of Environmental Analysis

cc: Dennis Gimmestad, Minnesota Historical Society
John Simms, Burlington Northern and Santa Fe Railway Company
Sidney Strickland, Burlington Northern and Santa Fe Railway Company

BEFORE THE
SURFACE TRANSPORTATION BOARD

In the Matter of The
Burlington Northern and Santa Fe
Railway Company
Notice of Exemption to Abandon
Its Line of Railroad Between M.P.
11.81 and M.P. 12.80 in Stillwater,
Minnesota

Docket No. AB-6
(Sub No. 413X)

HISTORICAL REPORT

The following is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements set forth in 49 C.F.R. § 1105.8 for the purpose of assisting the Board's environmental and historical assessment regarding BNSF's Notice of Exemption to abandon its line of railroad between M.P. 11.81 in to M.P. 12.80 in Stillwater, Minnesota a total distance of 0.99 miles.

(1) A U.S.G.S. topographic map (or alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of the railroad structures that are 50 years old or older and are part of the proposed action;

One copy of a U.S.G.S. Topographical map has been provided to the Minnesota State Historical Society and one copy is being provided to the Surface Transportation Board's Section of the Environmental Analysis upon filing of this Report.

(2) A written description of the right-of-way (including approximate widths, to the extent known) and the topography and urban and/or rural characteristics of the surrounding area:

The Stillwater, MN Trackage is located within the city of Stillwater in Washington county, Minnesota. Stillwater had a 2000 population of 15,143 and is located on the St Croix river which divides the states of Minnesota and Wisconsin. Since the line is located within the City of Stillwater, the line goes through an urban area and is located in close proximity to the St Croix River. The rail line corridor varies in width from 20 to 210 feet.

(3) Good quality photographs (actual photographic prints, not photocopies) or railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

There are no bridges or structures that are 50 years or older in the immediate area of the abandonment.

(4) The date(s) of construction of the structures, and the date(s) and extent of any major alterations, to the extent such information is known;

N/A

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

The rail line corridor was acquired by the Stillwater Union Depot and Transfer Company (SUD&T), The Stillwater Street Railway & Transfer Company (SS&T) and the Northern Pacific Railway Company (NP) between 1871 and 1910. Both the SUD&T and the SS&T were predecessors to NP. In 1970 the NP merged with other roads to become part of Burlington Northern Railroad (BN). In 1995 BN merged with The Atchison Topeka and Santa Fe Railway to become The Burlington Northern and Santa Fe Railway Company (BNSF).

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is to be historic;

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. Such documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archaeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

To the best of BNSF's knowledge, the proposed abandonment should have no appreciable effects on any known sites or properties listed, or eligible for listing in the National Register of Historic Places. The BNSF segment of rail proposed to be abandoned, historically the corridor of the Stillwater and St. Paul Railroad, is partially located within the Stillwater Commercial Historic District, which is listed on the National Register of Historic Places. The line is also located within the Stillwater Cultural Landscape Historic District, which has been determined eligible for listing on the National Register of Historic Places. The rail segment is also adjacent to individually listed National Register properties, including the Stillwater Lift Bridge and the Territorial/State Prison Warden's House. Further information as to future plans is required by the State Historic Preservation Office. See Exhibit L, letter from the Minnesota Historical Society.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

BNSF is not aware of any known prior subsurface ground disturbance or fill or any other environmental conditions (naturally occurring or man-made) that might affect the recovery of archaeological resources.

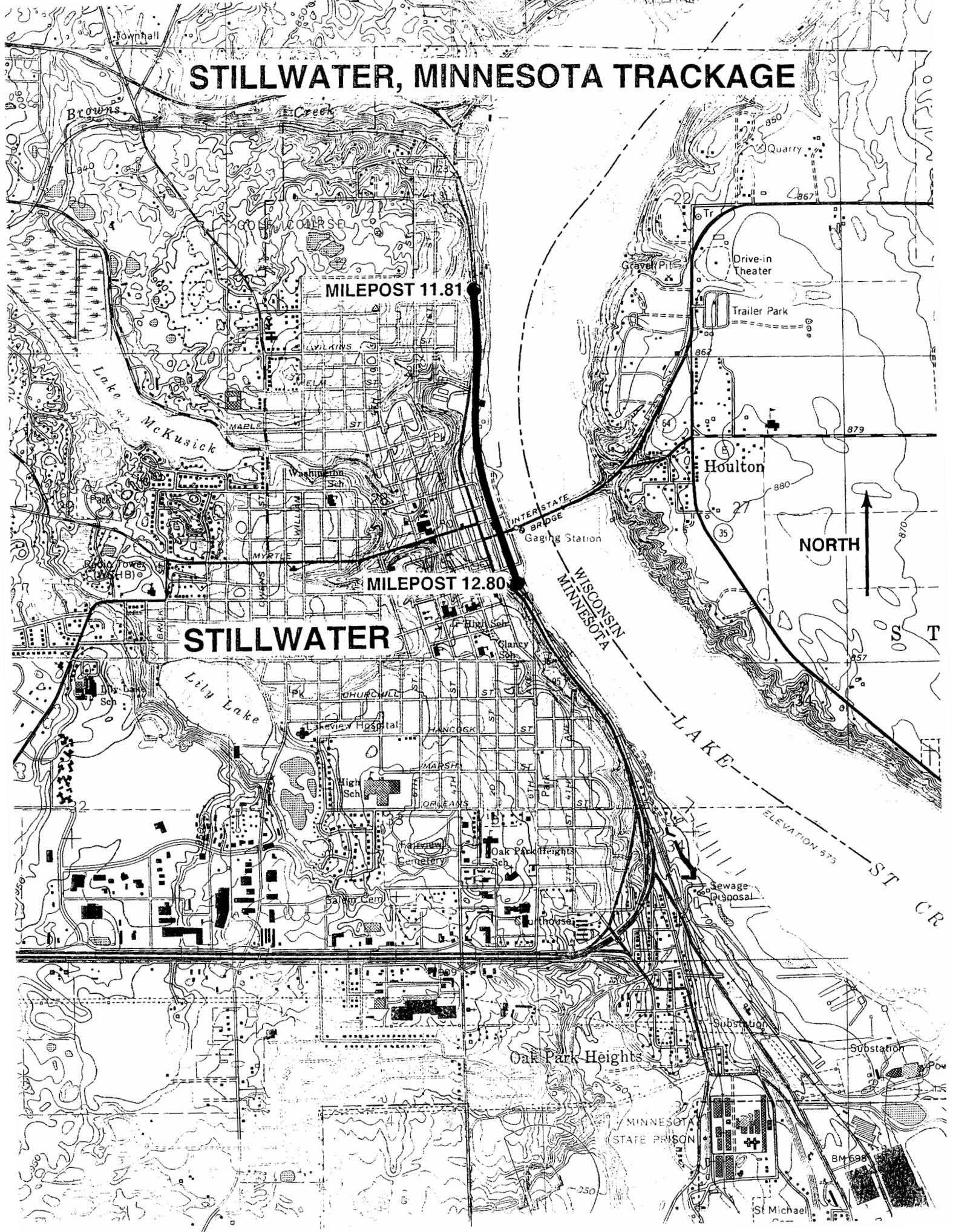
Respectfully submitted,



Michael Smith
Freeborn & Peters
311 S. Wacker Dr. Suite 3000
Chicago, Illinois 60606-6677
Phone: (312) 360-6724
Fax: (312) 360-6598

Date: May 7, 2004

STILLWATER, MINNESOTA TRACKAGE



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SEA

SERVICE DATE - JUNE 4, 2004

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (Sub-No. 413X)

**The Burlington Northern and Santa Fe Railway Company--Abandonment Exemption--In
Washington County, MN**

BACKGROUND

In this proceeding, the Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 to abandon and discontinue service over a .99-mile line of railroad, extending from BNSF Milepost 11.81 to BNSF Milepost 12.80 in the City of Stillwater, in Washington County, MN. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, BNSF will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to BNSF, the line was acquired by the Stillwater Union Depot and Transfer Company (SUDT), the Stillwater Street Railway & Transfer Company (SST), and the Northern Pacific Railway Company (NP) between 1871 and 1910. The SUDT and the SST were predecessors to NP. In 1970, NP merged with other railroads to become part of Burlington Northern Railroad (BN), and in 1995, BN merged with the Atchison Topeka and Santa Fe Railway to become BNSF.

The line is located within the City of Stillwater, which is an urban area. Additionally, the line is in close proximity to the St. Croix National Scenic Riverway, which extends from its headwater source near Gorden, WI, and along the Minnesota/Wisconsin border to Taylor's Falls, MN/St. Croix Falls, WI.¹ The riverway is one of eight original rivers designated by Congress when the National Wild & Scenic Rivers Program was established in 1968.² Under the Wild and Scenic Rivers Act, it is the policy of the United States to preserve selected rivers, or sections thereof, in their free-flowing condition to protect the water quality of such rivers and to fulfill other national conservation purposes. See Wild and Scenic River Act, 16 U.S.C. 1271.

¹ See Minnesota Department of Natural Resources' website at http://www.dnr.state.mn.us/waters/watermgmt_section/wild_scenic/ws_rivers/stcroix_upper.html.

² Id.

According to BNSF, the width of the right-of-way varies from 20 to 210 feet, and abandonment of the line would allow for the elimination of four public crossings.

According to BNSF, there has been no traffic on the line for at least two years. Upon receiving authority to abandon the line, BNSF may remove the remaining rail, track material, and crossties; however, the roadbed will be left intact.

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way.³ The applicant served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. SEA has reviewed and investigated the record in this proceeding.

The National Geodetic Survey (NGS) has advised SEA that one geodetic station marker has been identified that may be affected by the proposed abandonment.

Because traffic has not moved on the subject rail line for at least two years, the proposed abandonment would not be expected to impact the development, use and transportation of energy resources or recyclable commodities, or result in the diversion of rail traffic to truck traffic that could result in impacts to air quality or the local transportation network.

The U.S. Army Corps of Engineers, St. Paul District, has determined that the proposed abandonment, as outlined by BNSF, would not involve the discharge of dredged or fill material in waters of the United States, including wetlands. Therefore, a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would not be required.

The Minnesota Department of Natural Resources commented that the abandonment, as proposed by BNSF, would not affect the 100-year floodplain. Accordingly, no mitigation measures were suggested.

The United States Department of Agriculture, Natural Resources Conservation Service, informed SEA that the proposed abandonment would not have any effect on prime agricultural land. Accordingly, the Farmland Protection Policy Act does not apply to this land, and no mitigation measures were suggested.

³ Under 49 CFR 1152.20(a)(4), an applicant must publish its notice of intent to abandon and discontinue service in a newspaper of general circulation in each county in which any part of the involved line is located. SEA notes that BNSF has not submitted any documentation of the required publication.

The Minnesota Department of Natural Resources, Natural Heritage and Nongame Research Program (MDNR), reviewed the Minnesota Natural Heritage database to determine if any rare plant or animal species or other significant natural features are known to occur within an approximate one-mile radius of the proposed abandonment. The MDNR submitted a database printout and stated that there are 30 known occurrences of rare species or natural communities in the subject area. However, the MDNR further stated that the proposed project would not affect any known occurrences of rare features, provided the project would not impact the water quality of the St. Croix River. Accordingly, SEA contacted the St. Croix National Scenic Riverway (SCNSR) to determine the effect of the proposed abandonment on the St. Croix River. The SCNSR requested additional information, including a map of the proposed abandonment and a copy of the MDNR letter. On May 26, 2004, SEA sent the requested materials to the SCNSR and added SCNSR to the service list. SEA recommends a consultation condition requiring that BNSF contact Jill Medland at the SCNSR prior to commencement of any salvage activities.

BNSF does not believe that the proposed abandonment would affect any wildlife sanctuaries, refuges, or National or State parks or forests. The U.S. Department of the Interior, Bureau of Land Management's Milwaukee Field Office (BLM) stated that there are no BLM-administered Federal lands along the railroad line, and the U.S. Department of Agriculture, Forest Service - Eastern Region (Forest Service), stated that there are no Forest Service-administered lands in the proposed project impact area. However, the Forest Service recommended that BNSF contact the U.S. Department of the Interior, National Park Service, regarding the possible impacts to the St. Croix National Scenic Riverway. Accordingly, SEA recommends a consultation condition requiring that BNSF contact the National Park Service prior to commencement of any salvage activities.

According to BNSF, there are no known hazardous waste sites or hazardous material spill sites on the subject right-of-way.

BNSF states that the ROW may be suitable for public use, such as a recreational trail.

HISTORIC REVIEW

BNSF submitted a historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Minnesota Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). According to the SHPO, the line proposed for abandonment is partially located within the Stillwater Commercial District, which is listed on the National Register of Historic Places (National Register). The line is also located within the Stillwater Cultural Landscape Historic District, which has been determined eligible for listing on the National Register. Additionally, the line is adjacent to individually listed National Register properties, including the Stillwater Lift Bridge and the Territorial/State Prison Warden's House. At the time this EA was prepared, the SHPO had not completed its assessment of the proposed abandonment. The SHPO has requested additional information from BNSF, including information on future plans for this rail segment.

Pending completion of the SHPO's review, we recommend a condition to ensure compliance with the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONDITIONS

SEA recommends that the following four (4) environmental conditions be placed on any decision granting abandonment authority:

1. The National Geodetic Survey (NGS) has identified one (1) geodetic station marker that may be affected by the proposed abandonment. Therefore, BNSF shall notify NGS at least 90 days prior to salvage activities in order to plan for their relocation.
2. The Minnesota Department of Natural Resources, Natural Heritage and Nongame Research Program (MDNR), stated that the proposed project would not affect any known occurrences of rare features, provided the project would not impact the water quality of the St. Croix River. To determine the effect of the proposed abandonment on the St. Croix River, SEA recommends a consultation condition requiring that BNSF contact the National Park Service, St. Croix National Scenic Riverway (Jill Medland at 715-483-3284), prior to commencement of any salvage activities on this project, in order to identify the appropriate mitigation measures that may be warranted. If it is determined that the abandonment would impact the water quality of the St. Croix River, BNSF shall contact MDNR prior to commencement of any salvage activities on this project. The railroad shall report the results of these consultations to the Surface Transportation Board's Section of Environmental Analysis.
3. The U.S. Department of Agriculture, Forest Service - Eastern Region recommended that BNSF contact the U.S. Department of the Interior, National Park Service, regarding the possible impacts to the St. Croix National Scenic Riverway. Accordingly, SEA recommends a consultation condition requiring that BNSF contact Nick Chevance at the National Park Service's Midwest Region office prior to commencement of any salvage activities to determine the possible impacts on the St. Croix National Scenic Riverway. The railroad shall report the results of this consultation to the Surface Transportation Board's Section of Environmental Analysis.
4. The Minnesota Historical Society (the State Historic Preservation Office or SHPO) has requested information on future plans for this rail segment. Accordingly, BNSF shall 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.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are 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 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 (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for 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) 565-1592, 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 Christa Dean, 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. 413X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Christa Dean, the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at deanc@stb.dot.gov.

Date made available to the public: June 4, 2004.

Comment due date: June 21, 2004.

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

Vernon A. Williams
Secretary

Attachment



MINNESOTA HISTORICAL SOCIETY
STATE HISTORIC PRESERVATION OFFICE

February 27, 2004

Mr. Brian Nettles
Freeborn & Peters LLP
311 South Wacker Drive
Suite 3000
Chicago IL 60606-6677

RE: Burlington Northern Santa Fe Railway Company Abandonment
Stillwater, Washington County
SHPO Number: 2004-1052

Dear Mr. Nettles:

Thank you for the opportunity to review and comment on the above project. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

The BNSF segment of rail proposed to be abandoned, historically the corridor of the Stillwater and St. Paul Railroad, is partially located within the Stillwater Commercial Historic District, which is listed on the National Register of Historic Places. It is also located within the Stillwater Cultural Landscape Historic District, which has been determined eligible for listing on the National Register of Historic Places. The rail segment is also adjacent to individually listed National Register properties, including the Stillwater Lift Bridge and the Territorial/State Prison Warden's House.

In order to complete our review of this project, we will need to be informed of future plans for this rail segment as part of the abandonment procedure.

Please contact Dennis Gimmestad at (651) 296-5462 if you have any questions regarding our review of this project.

Sincerely,

Britta L. Bloomberg
Deputy State Historic Preservation Officer