

SURFACE TRANSPORTATION BOARD DECISION DOCUMENT

Decision Information

Docket Number: **AB_1003_0_X**

Case Title: **MOHALL CENTRAL RAILROAD, INC.—ABANDONMENT EXEMPTION--IN NELSON, RAMSEY, AND CAVALIER COUNTIES, ND**

Decision Type: **Notice Of Exemption**

Deciding Body: **Director Of Proceedings**

Decision Summary

Decision Notes: **PROVIDED NOTICE THAT MOHALL CENTRAL RAILROAD, INC. FILED A NOTICE OF EXEMPTION TO ABANDON A 44.44-MILE RAIL LINE IN NELSON, RAMSEY, AND CAVALIER COUNTIES, ND.**

Full Text of Decision

38468 SERVICE DATE – OCTOBER 29, 2007

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1003X]

Mohall Central Railroad, Inc.—Abandonment Exemption—in Nelson, Ramsey, and Cavalier Counties, ND

Mohall Central Railroad, Inc. (MCR), has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 44.44-mile rail line

[1] (the Line), extending from milepost 3.75, approximately 3.75 miles north of Lakota, to milepost 48.19, approximately 4.0 miles south of Munich, in Nelson,

[2] Ramsey, and Cavalier Counties, ND. The line traverses United States Postal Service Zip Codes 58321, 58330, 58338, 58344, 58345, and 58352.

MCR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line that would have to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502

(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 28, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,^[3] formal expressions of intent to file an OFA under^[4] 49 CFR 1152.27(c)(2), and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 8, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 19, 2007, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to MCR's representative: Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

If the verified notice contains false or misleading information, the exemption is void ab initio.

MCR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 2, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), MCR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by MCR's filing of a notice of consummation by October 29, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: October 23, 2007.

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

Vernon A. Williams
Secretary

[1]

In its verified notice of exemption filed under STB Finance Docket No. 34759, Mohall Central Railroad, Inc.—Acquisition and Operation Exemption—Rail Line of BNSF Railway Company, MCR stated that, pursuant to an operating agreement between it and Northern Plains Railroad, Inc. (NPR), NPR would operate a 69.15-mile rail line, which includes the 44.44-mile Line, and that a track connection between NPR and the acquired line would be constructed. In Mohall Central Railroad, Inc.—Acquisition and Operation Exemption—Rail Line of BNSF Railway Company, STB Finance Docket No. 34759 (STB served Oct. 25, 2005) (Mohall Central), NPR was informed that it would need to file a request for operating authority prior to commencing operations over the line and obtain construction authority under 49 U.S.C. 10901 before building connecting track. In Northern Plains Railroad, Inc.—Operation Exemption—Rail Line of Mohall Central Railroad, Inc., STB Finance Docket No. 34780 (STB served Dec. 29, 2005), NPR filed a notice of exemption to operate the line. The exemption became effective on January 28, 2006. Generally, NPR would be required to obtain discontinuance authority before MCR could abandon the Line at issue here. However, MCR provides, in its verified notice in this proceeding, a date of last service over the Line that is prior to the date that NPR obtained operating authority, which suggests that NPR never began service over the Line. Therefore, because operating authority is permissive, and NPR did not appear to begin service, MCR does not need NPR to obtain discontinuance authority before MCR seeks abandonment here.

[2]

Pursuant to section 402 of the Department of Transportation and Related Agencies Appropriation Act of 1982 (Pub. L. No. 97-102, 95 Stat. 1442, 1465), the Burlington Northern Railroad Company (BN) and its successors in interest, including BNSF Railway Company (BNSF), generally are prohibited from abandoning in excess of 350 miles of rail line in North Dakota, a mileage total that has already been reached. This limitation also applies to third-party purchasers of BNSF rail lines that are subject to the limitation. Because MCR purchased the Line from BNSF, the Line normally would be subject to the 350-mile limitation. See Mohall Central. However, Congress amended section 402 in the Department of Transportation and Related Agencies Appropriations Act, 1992, Pub. L. No. 102-143, § 343, 105 Stat. 917, 948 (1991), narrowing the restriction on processing BNSF (or third-party purchasers of BNSF rail lines) abandonment applications so that the 350-mile limitation no longer applies to exemptions for out-of-service rail lines under 49 CFR 1152.50 in North Dakota.

[3]

The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4]

Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

Decision Attachments

[38468.pdf](#)

15 KB

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