

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1003X

MOHALL CENTRAL RAILROAD, INC.—ABANDONMENT EXEMPTION—IN NELSON,  
RAMSEY, AND CAVALIER COUNTIES, ND

Decided: November 27, 2007

Mohall Central Railroad, Inc. (MCR), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 44.44-mile rail line (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, Ramsey, and Cavalier Counties, ND. On October 29, 2007, notice of the exemption was served and published in the Federal Register (72 FR 61211-12). The exemption is scheduled to become effective on November 28, 2007.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on November 2, 2007. In the EA, SEA recommends two conditions. First, SEA notes that the U.S. Fish and Wildlife Service (USFWS) has reviewed the proposed abandonment and has stated that MCR's environmental and historic report did not identify three parcels of land in the project area located in Ramsey County, ND, that USFWS has described as part of the National Wildlife Refuge System.<sup>1</sup> SEA states in the EA that USFWS has indicated that these parcels are traversed by the Line and are critical breeding and nesting habitat for waterfowl and other water-dependent bird species, and that, if the Line is abandoned, it is critical that the parcels are sold to USFWS to avoid an inholding situation<sup>2</sup> within the waterfowl production areas. Accordingly, SEA recommends that a condition be imposed upon any decision granting abandonment authority, requiring MCR to consult with USFWS regarding the sale of these parcels.

Second, SEA notes in the EA that the North Dakota Department of Health (NDDH) has reviewed the proposed abandonment and has stated that it believes that the environmental impacts would be minor and could be controlled by proper salvage and disposal methods.

---

<sup>1</sup> In MCR's comments to the EA, which are discussed below, MCR states that USFWS informed it that the three parcels are not part of the National Wildlife Refuge System, but are waterfowl protection areas.

<sup>2</sup> According to SEA, inholdings can result in uses that cause waterfowl production areas to be less attractive to waterfowl for breeding and nesting purposes, resulting in less production in those areas.

Accordingly, SEA recommends that a condition be imposed upon any decision granting abandonment authority, requiring MCR to consult with NDDH and to comply with NDDH's reasonable requirements regarding proper salvage and disposal.

Comments to the EA were due on November 16, 2007. SEA received one comment. In a letter dated November 15, 2007, MCR explains that, based on its discussion with USFWS, USFWS owns the three parcels of land in the area of the proposed abandonment but may not own the title to the railroad's right-of-way (ROW) over these properties and may wish to acquire it. MCR requests that SEA change the USFWS condition recommended in the EA to include a sentence stating that nothing requires the sale of the ROW to USFWS. MCR is concerned that the recommended condition would force a sale of lands to USFWS after abandonment of the Line.

After review of MCR's comments, SEA recommends that the USFWS condition remain the same as set forth in the EA. SEA notes that the language of the condition remains appropriate because the condition is self-executing and simply requires that MCR consult with USFWS. Accordingly, the conditions recommended by SEA in the EA will be imposed. Based on SEA's recommendations, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the rail line described above, and covered by the notice served and published in the Federal Register on October 29, 2007, is subject to the conditions that MCR shall, prior to commencement of any salvage activities: (1) consult with USFWS regarding USFWS's concerns about the sale of lands in the area of the proposed abandonment; and (2) consult with NDDH to ensure that MCR follows proper salvage and disposal methods and shall comply with NDDH's reasonable requirements.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary