

#ED-2794



**Fw: BNSF Railway Abandonment, Section 7 Consultation Code
01EWF00-2016-SLI-0092**

Diana Wood to: Karl Morell

05/19/2016 06:45 AM

Karl:

Can you respond to USFWS's questions below (in this email thread) and I'll forward your response onto USFWS so we can keep the process moving.

Thanks!

Diana

Diana F. Wood
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW Room 1110
Washington, DC 20423
202-245-0302 (phone)
202-245-0454 (fax)

----- Forwarded by Diana Wood/STB on 05/19/2016 06:41 AM -----

From: "Burgdorf, Shirley" <shirley_burgdorf@fws.gov>
To: <Diana.Wood@stb.dot.gov>
Date: 05/17/2016 06:14 PM
Subject: Re: Fw: BNSF Railway Abandonment, Section 7 Consultation Code 01EWF00-2016-SLI-0092

Hi Diana,

Thanks for the email and information about the project. I have a few questions and want to clarify a few things about the official consultation process.

Your email and letter ask for initiation of consultation for the project; however, we (USFWS) can't officially start the consultation until we have a biological assessment (or other document) with all the specifics about the project. Contacting us early in the process is great and helps everyone know what is coming and what we need to do. I just did not want a misunderstanding of when we can 'start the clock' to have a response back to you within the desired 30 days if an informal consultation is necessary.

From your description, it does sound like any effects will be minimal. Because the project is adjacent to suitable Oregon spotted frog habitat, I need more information about how the ties and rails will be removed. The following are just a few questions I have:

- 1) Will the work be done with heavy equipment brought to the site?
- 2) Is any vegetation removal necessary for new access routes to the site?
- 3) Where will the creosote railroad ties and the rails be disposed of?
- 4) Will standard erosion control BMPs be in use?

If it is determined that the proposed project will have "no effect" on ESA species, then consultation is not required. The determination of "no effect" to listed resources rests with the action agency. The USFWS has no regulatory or statutory authority for concurring with a "no effect" determination.

Please contact me if you have any questions.
Shirley

Shirley Burgdorf
Fish & Wildlife Biologist
U.S. Fish & Wildlife Service
510 Desmond Dr. SE, Suite 102
Lacey, WA 98503
360/534-9340

On Tue, May 10, 2016 at 7:17 AM, <Diana.Wood@stb.dot.gov> wrote:
Here are two aerial photos from BNSF to add to the email attachments below.

Diana F. Wood
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW Room 1110
Washington, DC 20423
202-245-0302 (phone)
202-245-0454 (fax)

----- Forwarded by Diana Wood/STB on 05/10/2016 10:15 AM -----

From: Diana Wood/STB
To: shirley_burgdorf@fws.gov
Cc: Diana Wood/STB@STB, "Karl Morell" <karlm@karlmorell.com>
Date: 05/10/2016 09:47 AM
Subject: BNSF Railway Abandonment, Section 7 Consultation Code 01EWF00-2016-SLI-0092

Dear Ms. Burgdorf:

I'm in the process of preparing an environmental assessment for abandonment of a 1.43 mile segment of BNSF rail line in Thurston WA. In 2015, BNSF's attorney, Karl Morell, contacted you to determine the possible presence of threatened, endangered, and proposed species, as well as designated and proposed critical habitats and candidate species. A list of species was subsequently generated, and it appears that there may be 12 species present in or near the project area, and that a biological evaluation may be required. This email (and a formal letter to follow in the mail) initiates the Section 7 consultation process and designates BNSF as a non-federal representative to conduct any studies, as needed. BNSF anticipates that no ground disturbance would occur as a result of the abandonment because salvage would involve removing the rail line only (track, ties, and other appurtenances) but not the ballast or roadbed. Therefore, it's not clear what, if any, adverse impacts would occur on ESA species.

The EA will be served on Monday, May 16th, and I'll send you a copy then, but in the meantime, am

sending the above referenced letter as well as the species list so we can start discussing what is expected to resolve this process as quickly as possible.

Thanks so much for your consideration in this matter.

Regards,

Diana Wood

Diana F. Wood
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW Room 1110
Washington, DC 20423
202-245-0302 (phone)
202-245-0454 (fax)