



Fwd: STB Docket No. AB-1068 (Sub-No.1X)
Marquardt, Shauna
to:
diana.wood
07/12/2013 09:19 AM
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From: "Marquardt, Shauna" <shauna_marquardt@fws.gov>

To: diana.wood <Diana.Wood@stb.dot.gov>

E1-20248

1 Attachment



AB-1068 (Sub-No.1X) Letter to US Fish and Wildlife Service.pdf

Hi Diana,

I had a conversation with Sandra Brown regarding the railroad abandonment project in Missouri. There will be no effect to federally listed species for the project. They submitted this letter to our office in that regard and I thought you might need a copy for your files.

Thanks for your coordination,
Shauna

Shauna Marquardt
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Missouri Ecological Services Field Office
101 Park De Ville Drive, Suite A
Columbia, MO 65203
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----- Forwarded message -----

From: **DePew, Aimee** <Aimee.DePew@thompsonhine.com>

Date: Thu, Jul 11, 2013 at 8:41 AM

Subject: STB Docket No. AB-1068 (Sub-No.1X)

To: "shauna_marquardt@fws.gov" <shauna_marquardt@fws.gov>

Cc: "Diana.Wood@stb.dot.gov" <Diana.Wood@stb.dot.gov>, "CHenderson@ameren.com" <CHenderson@ameren.com>

Per Sandy Brown's request, please find attached a letter regarding the above referenced matter.

Regards,

Aimee DePew | Thompson Hine LLP

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July 11, 2013

VIA First Class Mail and E-Mail

Shauna Marquardt
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Missouri Ecological Services Field Office
101 Park De Ville Drive, Suite A
Columbia, MO 65203

shauna_marquardt@fws.gov

Re: Section 7 Endangered Species Act Consultation - STB Docket No. AB-1068 (Sub-No. 1X), Missouri Central Railroad Company – Abandonment Exemption – in Cass, Henry, Johnson, and Pettis Counties, Missouri

Dear Ms. Marquardt:

In follow-up to our recent phone call, this letter is to re-confirm with U.S. Fish and Wildlife Service (“Service”) that the proposed abandonment will have “no effect” on listed species, their habitats, or proposed or designated critical habitat.

The Missouri Central Railroad Company (“MCRR”) is seeking authorization from the Surface Transportation Board (“STB”) in the above-captioned proceeding to abandon an approximately 42-mile segment of rail line in western Missouri. In accordance with the STB regulations, MCRR sent an initial consultation letter to the Service on February 15, 2013. On March 1, 2013, the Service responded to the initial consultation letter with a statement that “no federally listed species, candidate species, or designated critical habitat occurs within the project area.”

Pursuant to STB regulations, MCRR sent the Combined Environmental and Historic Report (“CEHR”) to the Service on March 21, 2013. MCRR then became aware that four snag trees are located within the right-of-way of the proposed abandonment. Snag trees can be used as roost for the Indiana bat, a federal-listed endangered species. However, no listed plant or animal species were found in the project area during a biological survey. This issue was raised by MCRR in consultation with the STB’s environmental staff and the STB designated MCRR and its representatives as non-federal representatives for Section 7 consultation in a letter to the Service on May 2, 2013.

MCRR abandonment actions will include salvage (removal) of the ties, track, and related steel components¹ upon receiving authority from the STB to abandon the line.² MCRR will not be

¹ Related steel components are things such as tie plates, spikes, track joints, etc.

July 11, 2013

Page – 2 –

removing ballast or disturbing land and the four snag trees will not be disturbed or removed during the abandonment activities.

For these reasons and in consultation with the Service, MCRR has concluded that the abandonment project will have “no effect” on listed species, their habitats, or proposed or designated critical habitat. We deem this letter to close the loop on the Section 7 consultation for this project.

Respectfully submitted,



Sandra L. Brown

cc: Diana Wood, Surface Transportation Board
Charlie Henderson, MCRR/Ameren

² This project area is the same project area as the project area that the Missouri Department of Natural Resources (“MDNR”) is planning to build the trail if MCRR receives abandonment authority and the corridor is transferred to MDNR under the Rails-to-Trails Act. As you may be aware, trail construction will occur after the property has ceased to be an active rail line, and will be outside the environmental review of the abandonment process. The STB has stated its position that it “does not conduct an environmental review of a potential conversion to interim trail use/railbanking because it does not exercise sufficient federal control so as to qualify as a ‘major federal action’ under the National Environmental Policy Act (NEPA).” Environmental Assessment in Missouri Central Railroad Company – Abandonment and Discontinuance of Service Exemption – in Cass County, MO, STB Docket No. AB-1068X, slip op. at 6 (n. 8) (served Dec. 3, 2010).
