

HEA 2859

**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

**SUPPLEMENTAL FINAL
ENVIRONMENTAL ASSESSMENT**

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 6 (SUB-NO. 493X)

September 23, 2016

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

() Notice of Exemption (X) Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

RECOMMENDATION: Remove U.S. Fish and Wildlife Service Condition

In this proceeding, BNSF Railway Company (BNSF) filed a petition under 49 U.S.C. § 10502 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately 0.89 miles of rail line on the Lumber District Lead in Cook County, Illinois.

By decision served on August 19, 2016, the Surface Transportation Board (Board) imposed three conditions that require BNSF to do the following: (1) contact the U.S. Fish and Wildlife Service (USFWS) to discuss potential impacts to any federally listed, endangered, threatened, or candidate species that may occur in the vicinity of the right-of-way, (b) should any protected species be identified that may be affected by salvage activities, identify the species and the potential impacts, (c) consult with OEA and USFWS to develop appropriate mitigation measures to avoid or reduce impacts to the protected species, and (d) be prohibited from filing its consummation notice or initiating any salvage activities related to abandonment (including removal of tracks and ties) until the consultation process with USFWS and OEA is complete and the Board has removed this condition; (2) use best management practices during salvage operations in order to address the U.S. Army Corps of Engineers' (Corps) concerns regarding the use of sediment and erosion control measures during salvage operations. These measures may include, but would not be limited to, the installation and maintenance of erosion and sediment control devices in any areas involving the removal of vegetation; and (3) to immediately cease all work and notify OEA and the Illinois Historic Preservation Agency (State Historic Preservation Office or SHPO), pursuant to 36 C.F.R. § 800.13(b), in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, (b) OEA shall then consult with the Miami Tribe of Oklahoma, the SHPO, BNSF, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

Comments on the EA

By the attached e-filing dated September 21, 2016, USFWS commented that it has no concerns regarding federally listed species in the area of the proposed abandonment or immediate vicinity.

Conclusion

OEA has determined that no further consultation with USFWS is necessary in this proceeding and therefore recommends that condition 1 be removed.

Attachment

OEA CONTACT: Diana Wood
 202-245-0302
 Diana.Wood@stb.gov

Distribution: Office of Proceedings
 OEA Chron
 ECT

21-25376

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September 21, 2016

E-FILED

Ms. Victoria Rutson, Esq.
Environmental Analysis Chief
Surface Transportation Board
395 E Street, SW, Room 1106
Washington, DC 20423

Re: Docket No. AB 6 (Sub-No. 493X), BNSF Railway Company --
Abandonment Exemption -- in Cook County, Illinois

Dear Ms. Rutson:

By decision served August 19, 2016, the Surface Transportation Board ("Board") exempted from the prior approval requirements the abandonment by BNSF Railway Company ("BNSF") of a 0.89-mile rail line in Chicago, Ill. In so doing, the Board imposed the environmental condition that BNSF contact the U.S. Fish and Wildlife Service ("USFWS") to discuss potential impacts to any federally listed, endangered, threatened, or candidate species that may occur in the vicinity of the right-of-way. BNSF is precluded from initiating salvage operations until the Board has removed that condition.

Attached please find a copy of the e-mail received from the USFWS finding that they "have no concerns about impacts to Federally listed species in the proposed abandonment area or within the immediate vicinity." In light of the finding by USFWS, BNSF respectfully urges the Board to remove the environmental condition concerning the USFWS.

Sincerely,



Karl Morell

Enclosure

Karl Morell

From: Thompson, Emily Jean <Emily.Thompson@BNSF.com>
Sent: Friday, September 16, 2016 12:29 PM
To: Karl Morell; Mecone, James M; Sims, John A; Norton, Mark A
Cc: Thompson, Emily Jean
Subject: FW: FW: BNSF Abandonment AB-6-493X Chicago, Cook County, IL

See email below. I talked to the USFWS and was able to clear the environmental condition in AB-6-493X.

Karl – please draft a letter to the STB and attach my email below showing that the USFWS has no concerns about impacts to federally listed species in the proposed abandonment. Thanks.

From: Cirton, Shawn [mailto:shawn_cirton@fws.gov]
Sent: Friday, September 16, 2016 11:25 AM
To: Thompson, Emily Jean <Emily.Thompson@BNSF.com>
Subject: Re: FW: BNSF Abandonment AB-6-493X Chicago, Cook County, IL

EXTERNAL EMAIL

Emily,

After reviewing the information provided, we have no concerns about impacts to Federally listed species in the proposed abandonment area or within the immediate vicinity.

Sincerely,

Shawn Cirton
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Chicago Illinois Field Office
230 South Dearborn Street, Suite 2938
Chicago, IL 60604
(312)216-4728

On Mon, Sep 12, 2016 at 9:39 AM, Thompson, Emily Jean <Emily.Thompson@bnsf.com> wrote:

Hello Shawn,

Please see my email below to Louise Clemency and the attached documents. Are there any potential impacts to any federally listed, endangered, threatened, or candidate species that may occur in the vicinity of the right-of-way for the 0.89-mile rail line in Cook County, Illinois that we are seeking to abandon. Let me know if you have any questions or need additional information. Thank you.

Emily Thompson

From: Louise Clemency [mailto:louise_clemency@fws.gov]
Sent: Tuesday, August 23, 2016 10:23 AM
To: Thompson, Emily Jean <Emily.Thompson@BNSF.com>
Subject: Re: BNSF Abandonment AB-6-493X Chicago, Cook County, IL

EXTERNAL EMAIL

Emily,

I am assigning this request to Shawn Cirton (copied) who will be contacting you to follow up.

Thank you,

Sent from my iPhone

On Aug 23, 2016, at 9:31 AM, Thompson, Emily Jean <Emily.Thompson@bnsf.com> wrote:

Louise Clemency,

I am a paralegal for BNSF Railway and we are seeking to abandon 0.89-mile rail line in Cook County, Illinois. Attached please find the following STB filings in abandonment AB-6-493X in Chicago, Cook County, Illinois:

- 1) 11/3/2015 Official Species List which BNSF generated using USFWS's Information, Planning, and Conservation System (IPaC) for the project area
- 2) 3/3/2016 BNSF Environment and Historic Report
- 3) 8/19/2016 STB Decision imposing environmental condition

Per the 8/19/2016 Surface Transportation Board ("STB") Decision, the Office of Environmental Analysis ("OEA") states that "BNSF shall (a) contact USFWS to discuss potential impacts to any federally listed, endangered, threatened, or candidate species that may occur in the vicinity of the right-of-way, (b) should any protected species be identified that may be affected by salvage activities, identify the species and the potential impacts, (c) consult with OEA and USFWS to develop appropriate mitigation measures to avoid or reduce impacts to the protected species, and (d) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the

consultation process with USFWS and OEA is complete and the Board has removed this condition.”

BNSF is seeking to abandon approximately 0.89-mile rail line on BNSF’s Lumber District Lead beginning just west of Laflin Street at Engineering Station 118+00 and proceeding east along West Cermak Road to the most easterly point at Engineering Station 157+65 and heading north along the Sangamon Street Lead at Engineering Station 163+50, including both legs of the wye, in Chicago, Cook County, Illinois. Our salvage activities for the 0.89-mile of railroad line will include the removal of the rails and ties and will be restricted to the railroad right-of-way. The railroad right-of-way, ballasts and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site. The culverts, ballast and right-of-way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right-of-way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted. Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed. BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions recommended by the Office of Environmental Analysis (“OEA”) and imposed by the Surface Transportation Board (“STB”) in the final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

Please let me know who we need to consult with regarding the potential impacts to any federally listed, endangered, threatened, or candidate species that may occur in the vicinity of the right-of-way by **September 30, 2016**, as we would like to move forward with the salvage as soon as possible. Thank you.

Emily Thompson

Paralegal III

BNSF Law Department

2500 Lou Menk Dr. AOB-3

Fort Worth, Texas 76131-2898

Office 817-352-2376

Emily.Thompson@BNSF.com

This message may be confidential and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender by replying to this message and then delete it from your system. Thank you.

<Ex F - 2015.11.03 U.S. Fish and Wildlife Official Species List.pdf>

<2016.03.03 Environmental and Historic Report AB-6-493X.pdf>

<2016.08.19 Decision - Imposing Environmental Conditions and Deadlines.pdf>