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OEA

SERVICE DATE – JULY 1, 2016

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 6 (Sub-No. 493X)

**BNSF Railway Company – Abandonment Exemption –
In Cook County, Ill.**

BACKGROUND

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. The rail line begins just west of Laflin Street at Engineering Station 118+00 and proceeds east along West Cermak Road to the most easterly point at Engineering Station 157+65 and then continues north along the Sangamon Street Lead at Engineering Station 163+50, including both legs of the wye, in Cook County, Illinois (the Line).

BNSF states that no traffic has moved on the Line since August 2014 due to poor track conditions, a train derailment, and the subsequent embargo of Colonial Brick Company, Inc. (Colonial Brick), the sole customer on the Line. BNSF indicates that there has been minimal maintenance on the Line as a result of the limited traffic and notes that the proposed abandonment would have no impact on freight operations or maintenance. BNSF signifies that Colonial Brick is not opposed to the proposed abandonment.

The Line travels through the downtown city streets of Chicago on right-of-way that varies from 25 feet to 105 feet in width. BNSF believes that the rail line proposed for abandonment may be suitable for alternative public use. Based on information in BNSF's possession, there are no federally granted rights-of-way on the abandonment line. The proposed abandonment traverses Zip Code 60608. If the notice becomes effective, BNSF would be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BNSF served the environmental report on a number of appropriate federal, state, and local agencies as required by

the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

BNSF states that no local traffic has moved over the line since August 2014 and no overhead traffic would be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or if necessary, via construction of new access points to the right-of-way. According to BNSF, if abandonment authority is granted, BNSF would salvage the rail, tie, and track material, but would retain the underlying ballast, and any structures, including culverts, so as not to alter or impede existing drainage flows.

The U.S. Fish and Wildlife Service (USFWS) commented that the area of the proposed abandonment may contain federally listed or candidate species but no designated critical habitats.² The species include: Piping Plover (*Charadrius melodus*); Red Knot (*Calidris canutus rufa*); Eastern Prairie Fringed orchid (*Platanthera leucophaea*); Leafy prairie-clover (*Dalea foliosa*); Mead's milkweed (*Asclephas meadii*); Prairie bush-clover (*Lespedeza leptostachya*); Hind's Emerald dragonfly (*Somatochlora hineana*); Rattlesnake-Master Borer moth (*Papaipema eryngil*); Northern long-eared Bat (*Myotis septentrionalis*); and eastern Massasauga (*Sistrurus catenatus*). USFWS stated that there are no species within the area with conservation measure recommendations but that the local Chicago office should be contacted to confirm. BNSF indicates that its impacts associated with salvage activities on the proposed abandonment line would be minimal, given that the project area is located in the city streets and salvage would be limited to the railroad right-of-way. However, we have not been able to confirm this statement with USFWS and therefore, have included a condition in this EA that would require BNSF to contact USFWS prior to beginning salvage activities to discuss potential impacts to any federally listed, endangered, threatened, or candidate species within the vicinity of the project area. Should any potential impacts be identified, BNSF shall consult with OEA and USFWS to develop appropriate mitigation measure to avoid or reduce impacts on the species.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 6 (Sub-No. 493X).

² USFWS Consultation Code: 03E13000-2016-SLI-0182.

The U.S. Army Corps of Engineers (Corps) commented that permits and other approvals under Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act are not required because BNSF's salvage operation would be limited to the removal of rail, tie, and track material, but would not involve the removal of any ballast or structures that may otherwise alter or impede existing drainage flows and/or involve the discharge of fill material into waters of the United States or associated wetlands. However, the Corps did recommend that sediment and erosion control measures be implemented and properly maintained during the salvage process. Accordingly, OEA is recommending a condition that would require BNSF to use best management practices during salvage operations. These measures may include, but not be limited to, the installation and maintenance of erosion and sediment control devices in any areas involving the removal of vegetation.

The United States Department of Agriculture's Natural Resources Conservation Service (NRCS) commented that the proposed abandonment is confined to an existing rail corridor in an urban area and is therefore exempt from the Farmland Protection Policy Act. OEA has determined that no further consultation with NRCS will be necessary in this proceeding.

The Illinois Department of Natural Resources' Coastal Management Program (IDNR) commented that the proposed abandonment is not subject to the Illinois Coastal Management Program (ICMP) because this type of activity would not affect any land or water use, or any natural resource of the Illinois coastal zone. IDNR has therefore concluded that an ICMP Federal Consistency Determination, pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq) is not required.

The National Geodetic Survey (NGS) commented that there are no geodetic station markers that may be affected by the proposed abandonment. Accordingly, OEA has determined that no further consultation with NGS will be necessary in this proceeding.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

OEA has not yet received responses from several other federal, state and local agencies regarding potential environmental impacts from the proposed abandonment. OEA is therefore sending a copy of this EA to the following agencies for review and comment: the National Park Service; the U.S. Department of Interior, Bureau of Land Management; the U.S. Environmental Protection Agency; the Illinois Environmental Planning Agency; the Office of the Governor; the Chicago Plan Commission; and the Cook County Department of Planning and Development.

HISTORIC REVIEW

BNSF submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Illinois Historic Preservation Agency (State Historic Preservation Office or SHPO) pursuant to 49 C.F.R. § 1105.8(c). The SHPO submitted comments stating that the Line is located within the Pilsen Historic District, but that the removal

of track materials would not adversely affect historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) within the right-of-way (the Area of Potential Effects, or APE) of the proposed abandonment.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of two Native American databases to identify federally recognized tribes that may have ancestral connections to the project area.³ The databases indicated that there are eight federally recognized tribes with ancestral connections in the area of the proposed abandonment. The tribes are: the Citizen Potawatomi Nation, Oklahoma; the Forest County Potawatomi Community of Wisconsin; the Hannahville Indian Community, Michigan; the Prairie Band of Potawatomi Nation; the Kickapoo Tribe of Oklahoma; the Miami Tribe of Oklahoma; the Little Traverse Bay Bands of Odawa Indians, Michigan; and the Menominee Indian Tribe of Wisconsin. We have included these tribes in the service list for this proceeding so that they may receive a copy of this EA.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. BNSF Railway Company (BNSF) shall 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. Should any protected species be identified that may be affected by salvage activities, BNSF shall identify the species, potential impacts, and consult with the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) and USFWS to develop appropriate mitigation measures to avoid or reduce impacts to the protected species. BNSF may 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.

³ Native American Consultation Database <http://grantsdev.cr.nps.gov/Nagpra/NACD/> (last visited June 20, 2016) and the U.S. Housing and Urban Development's Tribal Directory Assessment Tool at <http://egis.hud.gov/tadat/Tribal.aspx> (last visited June 20, 2016).

2. To address the U.S. Army Corps of Engineers' concerns regarding the use of sediment and erosion control measures during salvage operations, BNSF shall use best management practices during salvage operations. These measures may include, but not be limited to, the installation and maintenance of erosion and sediment control devices in any areas involving the removal of vegetation.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and if the recommended mitigation is imposed, abandonment of the line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental

comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 6 (Sub-No. 493X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: July 1, 2016.

Comment due date: August 1, 2016.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment