

SURFACE TRANSPORTATION BOARD

DECISION

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

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
COOK COUNTY, ILL.

Decided: October 31, 2016

By decision served on August 19, 2016, the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903 the abandonment by BNSF Railway Company (BNSF) of an approximately 0.89-mile rail line on BNSF's Lumber District Leading 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, Ill. (the Line). Notice of the exemption was served and published in the Federal Register on May 23, 2016 (81 Fed. Reg. 32,381). The exemption became effective on September 18, 2016.¹

The Board's August 19, 2016 decision imposed three environmental conditions on BNSF's abandonment of the Line recommended by the Board's Office of Environmental Analysis (OEA). The first condition required that BNSF: (a) 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) not file 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. The second condition required that in order 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, which 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. The third condition required that (a) in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, BNSF shall immediately cease all

¹ On September 26, 2016, the City of Chicago, acting by and through its Department of Transportation (the City), late-filed a request for interim trail use and public use for the 0.89-mile line. In a reply filed on September 28, 2016, BNSF states that it does not object to the City's request. This request will be addressed in a separate decision.

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), and (b) OEA will 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.

In a Supplemental Final Environmental Assessment dated September 23, 2016, OEA states that it received a letter from the USFWS dated September 21, 2016, in which the USFWS commented that it has no concerns regarding federally listed species in the area of the proposed abandonment or immediate vicinity. OEA has determined that no further consultation with the USFWS is necessary in this proceeding and recommends that Condition 1 imposed in the Board's August 19, 2016 decision be removed.

Accordingly, based on OEA's recommendations, the proceeding will be reopened and the previously imposed environmental Condition 1 will be removed. Conditions 2 and 3 will remain unchanged.

This action 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. The environmental Condition 1 imposed in the August 19, 2016 decision is removed. Conditions 2 and 3 will remain unchanged.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.