

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 314 (Sub-No. 6X)

CHICAGO CENTRAL & PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN LINN COUNTY, IOWA

Decided: November 25, 2013

Chicago Central & Pacific Railroad Company (CCP)¹ filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon an approximately 0.49-mile line of railroad extending between milepost 230.24 and milepost 229.75 in Cedar Rapids, Linn County, Iowa. Notice of the exemption was served and published in the Federal Register on October 30, 2013 (78 Fed. Reg. 65,040). The exemption is scheduled to become effective on November 29, 2013.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on October 23, 2013, recommending that three environmental conditions be imposed on any decision granting abandonment authority. In the EA, OEA states that the Iowa Department of Natural Resources' (IDNR), Conservation and Recreation Division, commented that it had conducted a search of its database for any rare species or significant natural communities that may be present within the area of the proposed abandonment and found no site specific records for such resources. IDNR has requested that it be notified if any such resources are encountered during CCP's salvage activities to determine if further actions are warranted. OEA also states that IDNR noted that its comments do not include any permits that may be required from IDNR's Environmental Services Division and cautioned that other department approvals may be required for the proposed abandonment. Therefore, OEA recommends that, prior to commencement of any salvage activities, CCP be required to consult with IDNR's Conservation and Recreation Division to ensure that any concerns in the right-of-way are addressed regarding disturbance to any rare species or significant natural communities. OEA also recommends that CCP be required to consult with IDNR's Environmental Services Division to determine the permit requirements, if any, for watershed disturbances, erosion and sedimentation, or wastewater discharges.

In the EA, OEA states that CCP served an historic report on the Iowa Historical Society (State Historic Preservation Office or SHPO) pursuant to 49 C.F.R. § 1105.8(c). OEA noted that the SHPO had submitted comments stating that the rail line proposed for abandonment was not eligible for inclusion in the National Register of Historic Places (National Register). OEA noted

¹ CCP is an indirect subsidiary of Canadian National Railway Company (CNR) and is controlled by Grand Trunk Corporation, a wholly owned subsidiary of CNR.

that the SHPO also commented that it had not received any archaeological site background information, as requested, and could not make a determination as to whether any archaeological resources would be adversely affected by the proposed undertaking.

OEA points out that CCP has now provided details of its salvage procedure, and based on that information, OEA believes that no historic properties would be affected by the proposed undertaking. However, OEA recommends that CCP be required to retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register until completion of the Section 106 process of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f. OEA also recommends that CCP be required to report back to OEA regarding any consultations with the SHPO and the public, and that CCP not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

In addition, OEA recommends that, in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during CCP's salvage activities, CCP be required to immediately cease all work and notify OEA and the SHPO pursuant to 36 C.F.R. § 800.13(b). OEA would then consult with the SHPO, CCP, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

No comments to the EA were received by the November 7, 2013 due date. Accordingly, the conditions recommended by OEA in the EA will be imposed.

Based on OEA's recommendation, the proposed abandonment, if implemented as conditioned, 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. Upon reconsideration, the notice served and published in the Federal Register on October 30, 2013, exempting the abandonment of the line described above is subject to the conditions that CCP shall: (1) (a) prior to commencement of any salvage activities, consult with IDNR's Conservation and Recreation Division to ensure that any concerns in the right-of-way are addressed regarding disturbance to any rare species or significant natural communities, and (b) consult with IDNR's Environmental Services Division to determine the permit requirements, if any, for watershed disturbances, erosion and sedimentation, or wastewater discharges; (2) (a) retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or are listed in the National Register until completion

of the Section 106 process of the NHPA, (b) report back to OEA regarding any consultations with the SHPO and the public, and (c) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition; and (3) in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during CCP's salvage activities, immediately cease all work and notify OEA and the SHPO pursuant to 36 C.F.R. § 800.13(b). OEA would then consult with the SHPO, CCP, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

3. This decision is effective on its service date.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.