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OEA

SERVICE DATE – FEBRUARY 19, 2013

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 6 (Sub-No. 482X)

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 requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Cook County, Illinois. The rail line proposed for abandonment extends 2.14 miles from Station 36+70, north of the Chicago Sanitary and Ship Canal, to Station 149+87, near Western Avenue (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

BNSF submitted an Environmental Report that concludes the quality of the human environment will 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

According to BNSF, a total of four carloads of traffic have moved over the Line during the past two years. The only active shipper is Pure Asphalt, which has shipped between zero and six carloads per year in each of the past four years. The Line is stub-ended and not capable of handling overhead traffic. There has been no rail traffic on the Line since October 27, 2011, when the Line was embargoed due to unsafe track conditions. Because of the low volume and

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. 487X).

sporadic nature of current rail traffic, OEA believes that the proposed abandonment would not adversely impact the development, use, or transportation of energy resources or recyclable commodities; the 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

If abandonment authority is granted in this proceeding, BNSF states that it would salvage rail and ties along the Line, but would not remove or alter culverts, ballast, or the underlying roadbed. Road crossings and signals would be removed and remediated as required by local governing authorities. Salvage would be conducted within the right-of-way using specialized machinery and in accordance with best practices to prevent any disruption to waterways in the project area.

In its Environmental Report, filed on April 3, 2012, BNSF proposed to abandon a section of track extending from Station 24+43 to Station 149+87, a distance of 2.38 miles. This original proposal included the removal of one bridge, the Illinois Central Railroad Swing Bridge, located near 35th Street and Pulaski Road. BNSF has subsequently narrowed the scope of the proposed abandonment to only 2.14 miles, between Stations 36+70 and 149+87. If the abandonment is approved, BNSF would retain its ownership of the Illinois Central Railroad Swing Bridge and accept continued responsibility for its maintenance. Accordingly, no structures would be removed or altered as a result of this abandonment.

The U.S. Natural Resource Conservation Service submitted comments stating that, because the proposed abandonment would be confined to an existing rail corridor, the project would not have an impact on prime or important farmlands. Accordingly, no mitigation regarding the conservation of agricultural land is recommended.

Because the proposed abandonment now excludes the Illinois Central Railroad Swing Bridge, the Line does not cross any waterways. OEA review has confirmed that the Line does not cross any wetlands.² Based on available data, the Line does not cross a regulatory floodway and is not located in 100-year flood plain.³

The Army Corps of Engineers (Corps) submitted comments stating that the removal of the Illinois Central Railroad Swing Bridge would require authorization under the Corps Regional Permit 3 (RP3) for transportation projects crossing water of the United States. The Corps requests that BNSF submit additional documentation regarding the removal of the bridge in order

² U.S. Fish and Wildlife Service, National Wetlands Inventory, <http://www.fws.gov/wetlands/> (last visited February 4, 2013).

³ Federal Emergency Management Agency (FEMA) Mapping Information Platform, <https://hazards.fema.gov/femaportal/wps/portal> (last visited February 4, 2013).

to begin the permitting process. Because the proposed abandonment no longer includes the removal of any bridges, OEA believes that the RP3 process would not be required. OEA is sending a copy of this EA to the Corps for their comment and review.

The Illinois Environmental Protection Agency (IEPA) submitted comments stating that, because the proposed abandonment may result in a land disturbance greater than or equal to one acre, a General National Pollution Discharge Elimination System (NPDES) permit for Storm Water Discharges from Construction Site Activities would be required. Accordingly, OEA will recommend a condition requiring BNSF to consult with IEPA prior to commencement of any salvage activities and to comply with all reasonable NPDES requirements.

BNSF states that there are no known hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA review has confirmed that there are no listed Superfund sites in the vicinity of the Line.⁴ Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

BNSF has requested comments from U.S. Fish and Wildlife Service (USFWS) on the potential effects of the proposed abandonment on threatened or endangered species, but has received no response to date. In its review of available geospatial data, OEA has concluded that the proposed abandonment is not located in an area designated as critical habitat for threatened and endangered species.⁵

OEA also conducted a search of the USFWS Environmental Conservation Online System in order to identify any federally listed endangered or threatened species that may be present in the vicinity of the Line.⁶ The table below shows the protected species known or thought to occur in the county in which the proposed abandonment is located.

⁴ Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited February 4, 2013).

⁵ U.S. Fish and Wildlife Service, Critical Habitat Portal, <http://criticalhabitat.fws.gov/crithab> (last visited February 4, 2013).

⁶ U.S. Fish and Wildlife Service, Environmental Conservation Online System, <http://ecos.fws.gov/ecos/indexPublic.do> (last visited February 4, 2013).

Protected Species in Cook County, Illinois			
Group	Common Name	Scientific Name	Status
Birds	Piping Plover	<i>Charadrius melodus</i>	Endangered
Reptiles	Eastern Massasauga (Rattlesnake)	<i>Sistrurus catnatus</i>	Candidate
Insects	Hine's Emerald Dragonfly	<i>Somatochlora hineana</i>	Endangered
Flowering Plants	Mead's Milkweed	<i>Asclepias meadii</i>	Threatened
	Leafy Prairie Clover	<i>Dalea foliosa</i>	Endangered
	Prairie Bush-Clover	<i>Lespedeza leptostachya</i>	Threatened
	Eastern Prairie Fringed Orchid	<i>Plantanthera leucophaea</i>	Threatened

Among the listed species, Hine's emerald dragonfly, the eastern massasauga, and the eastern prairie fringed orchid are typically confined to wetland and woodland habitats that are not present in the project area. The piping plover, a beach-dwelling bird, is also unlikely to be affected by the proposed abandonment. The prairie bush clover, the leafy-prairie clover, and Mead's milkweed are prairie species that, although generally not found in urbanized areas, may be present where significant vegetative regrowth has occurred. Accordingly, although adverse impacts to biological resources are considered unlikely, OEA will recommend a condition requiring BNSF to consult with USFWS prior to commencing salvage activities.

BNSF has requested comments from the National Park Service (NPS) regarding the potential impact of the proposed abandonment on wildlife sanctuaries or refuges, parks, or other protected areas, but has received no response to date. In its review of available geospatial data, OEA has concluded that the proposed abandonment is not located in or adjacent to any local or national park; wildlife sanctuary or refuge; or other protected area. Accordingly, no mitigation regarding protected areas is recommended.

The National Geodetic Survey (NGS) has not submitted comments regarding the potential impact of the proposed abandonment on any geodetic survey markers that may be present in the project area. Accordingly, OEA is recommending a condition requiring BNSF to consult with NGS prior to beginning salvage activities.

The Cook County Bureau of Economic Development submitted comments stating that the proposed abandonment would be consistent with the existing local land use plan.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to the following agencies for their review and comment: Illinois Environmental Protection Agency, U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service.

HISTORIC REVIEW

According to BNSF, the Line was formerly part of the Illinois Northern Railway, a switching carrier owned by International Harvester. In 1949, International Harvester sold its capital stock to a group of railroads that included the Atchison, Topeka and Santa Fe Railway (ATSF), the Chicago, Burlington, and Quincy Railroad (CB&Q), and the Pennsylvania Railroad. ATSF, and subsequently BNSF, later acquired all of the former Illinois Northern interests in the Chicago area, including the Line.

In its Historic Report, filed on April 3, 2012, BNSF proposed to abandonment a section of track extending from Station 24+43 to Station 149+87, a distance of 2.38 miles. This original proposal included the removal of one bridge, the Illinois Central Railroad Swing Bridge, located near 35th Street and Pulaski Road. BNSF has subsequently narrowed the scope of the proposed abandonment to only 2.14 miles, between Stations 36+70 and 149+87. If the abandonment is approved, BNSF would retain its ownership of the Illinois Central Railroad Swing Bridge and accept continued responsibility for its maintenance. Accordingly, no structures would be removed or altered as a result of this abandonment.

BNSF served the Historic Report on the Illinois Historic Preservation Agency (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). On January 26, 2012, the SHPO submitted comments stating that the proposed abandonment would not affect any known archaeological sites or historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). The SHPO subsequently rescinded these comments in a letter dated April 17, 2012.

In its revised comments, the SHPO states that the Illinois Central Railroad Swing Bridge is a designated Chicago Landmark and has been determined to be eligible for inclusion in the National Register. The SHPO further states that the proposed removal of the bridge would constitute an adverse effect on a historic structure as defined in 36 C.F.R. § 800.5 and requests that BNSF initiate consultation in order to mitigate this adverse effect.

Because the proposed abandonment under review no longer includes the Illinois Central Railroad Swing Bridge and because the SHPO has not identified any other historic properties that may be effected by the proposed abandonment, OEA believes that initiation of the Section 106 process of the National Historic Preservation Act at 16 U.S.C. § 470f is unnecessary in this case.

Accordingly, 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, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. 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 www.stb.dot.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.⁷ The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment:

- Citizen Potawatomi Nation in Oklahoma;
- Forest County Potawatomi Community in Wisconsin;
- Hannahville Indian Community in Michigan; and
- Prairie Band of Potawatomi Nation in Kansas.

Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

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

- 1. To ensure appropriate consideration of the National Pollution Discharge Elimination System (NPDES) requirements, the BNSF Railway Company shall consult with the Illinois Environmental Protection Agency prior to commencement of any salvage activities and shall comply with the reasonable NPDES requirements.**
- 2. Prior to commencement of any salvage activities, BNSF Railway Company (BNSF) shall consult with the U.S. Fish and Wildlife Service regarding potential impacts from salvaging activities to federally listed threatened and endangered species that may occur in the vicinity of the line. BNSF shall report the results of these consultations in writing to the Board's Office of Environmental Analysis prior to the onset of salvage operations.**
- 3. BNSF Railway Company (BNSF) shall consult with the National Geodetic Survey (NGS) prior to beginning salvage activities. If NGS identifies geodetic station markers that may be affected by the proposed abandonment, BNSF shall notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS.**

⁷ National Park Service, National NAGPRA Program Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited February 4, 2013).

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, 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 would 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 four-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.

The Chicago Department of Transportation has submitted comments expressing interest in converting the line into a trail and, in a letter dated January 29, 2013, filed a request for trails use pursuant to 49 C.F.R. § 1152.29 and a request for public use pursuant to 49 C.F.R. § 1152.28. Comments were also received from Cook County residents Brian Lynch, Laurence Rohter, James Novak, and Gabrielle Souder requesting the issuance of a public use condition.

TRAILS USE

Requests for a notice of interim trail use (NITU) are 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).

As mentioned above, the Chicago Department of Transportation has submitted a request for a NITU pursuant to 49 C.F.R. § 1152.29. In its reply to these comments, BNSF states that it has no objection to the requested NITU.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office 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 Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket Nos. AB 6 (Sub-No. 482X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: February 19, 2013

Comment due date: March 21, 2013

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