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Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: *BNSF Railway Company—Abandonment Exemption—In Los Angeles County, California, STB Docket No. AB 6 (Sub-No. 499X)*

Dear Ms. Brown:

The Los Angeles County Metropolitan Transportation Authority's ("LACMTA") hereby notifies the Board of the abandonment of its residual common carrier obligation over approximately 5.93 miles of track on the Harbor Subdivision between Milepost 2.1 and approximately Milepost 7.95 in Los Angeles County, California (the "Line"). Abandonment is effective immediately upon filing of this letter, subject to the Section 106 historic preservation condition imposed in the Board's November 1, 2019 decision issued in the above-referenced docket.

The Line is part of a group of rail lines acquired by LACMTA's predecessor agency, the Los Angeles County Transportation Commission ("LACTC") in 1992 in Interstate Commerce Commission ("ICC") Finance Docket No. 32172. Although the railroad conveying the lines, the Atchison, Topeka and Santa Fe Railway Company ("ATSF"), retained an exclusive binding and permanent easement to continue providing common carrier service, the ICC subsequently deemed LACMTA to be a rail carrier subject to its jurisdiction based on the acquisition, *see Orange County Transp.—Exemption—Atchison, Topeka and Santa Fe Ry. Co.*, 10 I.C.C.2d 78 (1994). However, in 1997 the Board granted LACMTA and several other county transportation agencies a blanket exemption from 49 U.S.C. Subtitle IV for the acquired lines, including the Line. *See Orange County Transportation Authority, Riverside County Transportation Commission, San Bernardino Transit Development Board, North San Diego County Transit Development Board—Acquisition Exemption—The Atchison, Topeka and Santa Fe Ry. Co.*, STB Docket No. FD 32173 *et al.* (Service Date March 12, 1997).

Since that time, ATSF's successor, the BNSF Railway Company ("BNSF") has abandoned its freight easement over several of these lines owned by LACMTA pursuant to Board procedures,

and the Board has acknowledged LACMTA's subsequent full abandonment of any residual common carrier obligation over these abandoned lines. In *Los Angeles County Metropolitan Transportation Authority—Abandonment Exemption—In Los Angeles County, Cal*, STB Docket No. AB 409 (Sub-No. 6X) (Service Date Feb. 8, 2012), concerning one such abandonment, the Board explained that “[i]n the future, if LACMTA wishes to abandon whatever residual common carrier obligation it may have retained over a line of railroad subject to the blanket exemption from Subtitle IV, and the operating railroad has already received authority to abandon the freight easement on the line and that authority has become effective, LACMTA does not need to file for abandonment authority.” *Id.*, slip op. at 3. Instead, the Board stated that LACMTA need only submit a letter including “(1) a commitment by LACMTA to adopt the environmental and historic conditions the Board imposed on the abandoning railroad; (2) an explanation of why there are no changed circumstances that would warrant imposing additional measures; and (3) an explanation that the required level of labor protection that is necessary to safeguard the line’s employees has been imposed.” *Id.*

On June 25, 2019, BNSF filed a Verified Notice of Exemption Pursuant to 49 C.F.R. § 1152.50 for abandonment of the Line. The Notice was published in the Federal Register on July 15, 2019. According to that Notice, the abandonment became effective on August 14, 2019. On August 13, 2019, the Board issued a decision in this docket re-opening the proceeding to impose a salvaging-related condition and a historic preservation condition under Section 106 of the National Historic Preservation Act, 54 U.S.C. § 406108. The historic preservation condition required consultation with state and local historic preservation agencies and the public prior to alteration of any historic properties. The salvaging-related condition prohibited any salvaging activities related to abandonment from taking place until the Section 106 process had been completed. LACMTA and BNSF have complied with these conditions, and BNSF has received a statement from the State Historic Preservation Office (“SHPO”) stating that no historic properties will be affected by the abandonment.

On November 1, 2019, the Board issued a decision removing its prior Section 106 historic condition and replacing its previous conditions with a condition that: “[i]n the event that any unanticipated archaeological sites, human remains, funerary items, or associated artifacts are discovered during salvage activities, BNSF and LACMTA shall immediately cease all work and notify [the Board’s Office of Environmental Analysis], interested federally recognized tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b).”

Pursuant to the Board’s guidance, LACMTA hereby submits the following information:

- (1) *A commitment by LACMTA to adopt the environmental and historic conditions the Board imposed on the abandoning railroad.*

LACMTA hereby commits to adopt the condition imposed on BNSF in its November 1, 2019 decision requiring BNSF and LACMTA to immediately cease all work and notify the Board’s Office of Environmental Analysis, interested federally recognized tribes, and the SHPO

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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

(2) An explanation of why there are no changed circumstances that would warrant imposing additional measures

As explained in BNSF's Verified Notice filed June 25, 2019, in Docket No. AB 6 (Sub-No. 499X), LACMTA desires to construct the Rail to Rail Active Transportation Corridor Project – Segment A (the "Project"). There has been no change to these plans since BNSF filed its Verified Notice, nor has there been any change in freight service on the Line, which has not seen traffic since approximately 2009.

(3) An explanation that the required level of labor protection that is necessary to safeguard the line's employees has been imposed.

No rail employees will be adversely affected by this transaction. The interests of railroad employees will be protected in accordance with the conditions set forth in *Oregon Short Line R. Co.—Abandonment*, 360 I.C.C. 91 (1979).

Submission of the above information satisfies the requirements necessary for LACMTA to complete abandonment of the Line.

I hereby certify that I have this day caused to be served a copy of this letter by first class mail, postage pre-paid on all parties of record listed on the Board's website.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Charles A. Spitulnik
Counsel for Los Angeles County Metropolitan
Transportation Authority

cc: All Parties of Record

Enclosures