

SERVICE DATE – APRIL 7, 2020

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 486X)

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

Decided: April 6, 2020

On January 4, 2013, BNSF Railway Company (BNSF) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon 14.5 miles of rail line between milepost 52.2 in Farmington and milepost 66.7 in Dunfermline, in Fulton County, Ill. (the Line). Notice of the exemption was served and published in the Federal Register on January 24, 2013 (78 Fed. Reg. 5244). The exemption became effective on May 27, 2013.

By decision served on March 4, 2013, the Board imposed a historic preservation condition on the Line under Section 106 of the National Historic Preservation Act, 54 U.S.C. § 306108, which prevents consummation of the abandonment until the condition is removed. On March 21, 2016, the Section 106 condition was modified to exclude, and therefore permit abandonment of, the segment of the Line between milepost 64.65 and milepost 66.7, and the abandonment of that segment was consummated as of that date.¹

On January 9, 2017, the Section 106 condition was modified further to apply only to the historic stone arch bridge at milepost 52.86, thus permitting abandonment of the rest of the Line between milepost 64.65 and milepost 52.2 (except the bridge). By decisions served on April 17, 2019, and January 14, 2020, the consummation deadline for that portion of the Line was extended, ultimately to January 21, 2021.

In a Supplemental Final Environmental Assessment (Supplemental Final EA) served on March 11, 2020, OEA states that in September 2019, it learned that the tracks and ties were removed from the entire Line, including the segment over the stone arch bridge. OEA states that it has since consulted with the Illinois State Historic Preservation Office (SHPO) and determined that removal of the tracks and ties from the bridge constitutes an adverse effect to that historic resource. As a result, on March 6, 2020, OEA, BNSF, and the SHPO executed a Memorandum

¹ The decision stated that, although BNSF had improperly filed its notice of consummation before the historic preservation condition was removed, the consummation would be deemed effective on March 21, 2016.

of Agreement (MOA) to mitigate this adverse effect. OEA states that the filing of this MOA with the Advisory Council on Historic Preservation completes the Board's compliance responsibilities under Section 106 of the NHPA. For this reason, OEA recommends removing the historic preservation condition imposed in the January 9, 2017 decision.

Accordingly, based on OEA's recommendation, this proceeding will be reopened and the previously imposed historic preservation condition will be removed.

Because there are no remaining legal or regulatory barriers to consummation,² a notice of consummation would typically be required to be filed by June 6, 2020, or the abandonment authority would expire. 49 C.F.R. § 1152.29(e)(2). However, as the consummation deadline for the remaining portion of the Line, which surrounds the bridge, has been extended to January 21, 2021, the consummation deadline for the bridge will be extended to the same date so that the entire remaining portion of the Line will be on the same schedule.

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. Upon reconsideration, the Section 106 historic preservation condition imposed in the January 9, 2017 decision is removed.
3. The authority to abandon must be exercised and the notice of consummation filed on or before January 21, 2021.
4. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

² A previously imposed public use condition under 49 U.S.C. § 10905 expired on November 23, 2013, and the trail use negotiating period under a previously imposed notice of interim trail use or abandonment expired on November 22, 2018.