



EO-3167

Preserving America's Heritage

**Advisory Council on Historic Preservation
Electronic Section 106 Documentation Submittal System (e106) Form
MS Word format**

Send to: *e106@achp.gov*

I. Basic information

- 1. Name of federal agency** (If multiple agencies, state them all and indicate whether one is the lead agency):

Surface Transportation Board

- 2. Name of undertaking/project** (Include project/permit/application number if applicable):

Surface Transportation Board Docket No.

AB 6 (Sub-No. 486X) *BNSF Railway Company* — Abandonment Exemption in Fulton County, Ill

- 3. Location of undertaking** (Indicate city(s), county(s), state(s), land ownership, and whether it would occur on or affect historic properties located on tribal lands):

The rail line proposed for abandonment extends from milepost 52.2 in Farmington to milepost 66.7 in Dunfermline, 14.5 miles, in Fulton County, Ill. The rail right-of-way is privately owned by the railroad applicant. The undertaking would not take place on or in the immediate vicinity of tribal lands.

- 4. Name and title of federal agency official and contact person for this undertaking**, including email address and phone number:

Federal agency official:

Victoria Rutson

Director

Office of Environmental Analysis

Surface Transportation Board

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 ☐ Washington, DC 20001-2637

Phone: 202-517-0200 ☐ Fax: 202-517-6381 ☐ achp@achp.gov ☐ www.achp.gov

Federal agency contact:

Alan Tabachnick
 Historic Preservation Specialist
 Office of Environmental Analysis
 Surface Transportation Board

Mailing address:

Rm 1107
 395 E Street, SW
 Washington, D.C. 20423

Email: alan.tabachnick@stb.gov

Phone: (202) 245-0367

5. Purpose of notification. Indicate whether this documentation is to:

(1) notify the ACHP of a finding that an undertaking may adversely affect historic properties, and (2) invite the ACHP to participate in a Section 106 consultation.

II. Information on the Undertaking***6. Describe the undertaking and nature of federal involvement** (if multiple federal agencies are involved, specify involvement of each):

BNSF has filed a Notice of Exemption under 49 C.F.R. § 1152 with the Surface Transportation Board (the Board) in connection with the abandonment of a line of railroad in Fulton County, Illinois. If the abandonment were to be consummated, BNSF would be able to salvage the rail line, dismantle any structures located within the rail corridor, and dispose of the right-of-way.

Regarding federal involvement, though the applicant requires federal authority to proceed with abandonment and salvage of the line, the action proposed is not funded in whole or in part by a federal agency, carried out on its behalf, or carried out with federal financial assistance.

The Board's Office of Environmental Analysis (OEA), which is responsible for ensuring the Board's compliance with the National Historic Preservation Act (NHPA), issued an Environmental Assessment (EA) in this case on January 29, 2013. The EA recommended that the Board impose a condition preventing BNSF from consummating the abandonment or taking any actions that could affect historic properties, including the removal of track and ties, until the completion of the Section 106 process. That condition was imposed by the Board in a decision issued on March 1, 2013.

In a supplemental final Environmental Assessment dated December 8, 2016, OEA stated that BNSF submitted a letter on November 30, 2016, requesting that the Section 106 condition be modified to include only the stone arch bridge at milepost 52.86, allowing it to salvage the rest of the line. OEA reviewed BNSF's filing, and the Board modified the Section 106 condition to remove from that condition all of the line other than the historic bridge.

7. Describe the Area of Potential Effects:

In railroad abandonment cases, OEA typically considers the Area of Potential Effect (APE) to comprise the rail right-of-way. In the present case, the rail line proposed for abandonment extends approximately 14.5 miles long and between 70 and 100 feet wide.

8. Describe steps taken to identify historic properties:

Railroad applicants seeking to abandon a rail have been delegated the authority to contact appropriate State Historic Preservation Officers (SHPOs) before the Section 106 process under NHPA officially begins. Pursuant to the Board's environmental rules at 49 C.F.R. § 1105.7(b), BNSF prepared a combined Environmental and Historic Report and on November 29, 2012, served the report on a number of appropriate federal, state, and local agencies, including the Illinois Historic Preservation Agency (SHPO). In its Historic Report, BNSF defined the APE as the rail right-of-way and after consultation with the SHPO, concluded that one bridge within the APE was eligible for listing in the National Register of Historic Places (the National Register).

As part of the Section 106 consultation process, the SHPO responded to BNSF on October 26, 2012, noting that their agency had previously determined the stone arch bridge located at Milepost 52.86 eligible for listing in the National Register. Based on that information, the information submitted by the applicant, and OEA's independent research, OEA agreed with the SHPO's earlier determination, and found that the stone arch bridge located at Milepost 52.86 is an historic property that is eligible for listing in the National Register.

9. Describe the historic property (or properties) and any National Historic Landmarks within the APE (or attach documentation or provide specific link to this information):

The historic property is the stone arch railroad bridge, located at Milepost 52.86, near Farmington, IL. The bridge is 100 feet long and the arch is 13 feet by 15 feet and was built in 1860. It is located on the west side of County Rte. 24 and carries the line over Littlers Creek. The railroad line itself was previously determined to be not eligible.

The original railroad line constructed through this area was the Jacksonville & Savanna Railroad, chartered by the Illinois legislature in 1855. The line was intended to run from Jacksonville to Savanna in Carroll County, passing through Liverpool, Canton, Farmington, and Yates City. One source noted that "That part of the branch of the C., B. & Q. road 2 ½ miles south of Canton to Farmington was graded, tied and bridged as the Jacksonville & Savanna Railroad" (History of Fulton County, Illinois, Chas. C. Chapman & Co., Editors, Peoria, IL, 1879: p. 1006). This work was likely undertaken between 1855 and 1857 as it appears that the financial panic of 1857 impacted the construction of the line. In 1861, the line was either sold or leased to the Chicago, Burlington & Quincy Railroad Company to finish construction and to operate the line.

Frank Farwell of Liverpool and Colonel A.C. Babcock of Canton, under the firm name of Farwell & Babcock, were contractors "to bridge, grade and tie the J. & S. road from Liverpool to Yates City" (Ibid). The railroad tracks first reached Canton on Friday, May 2, 1862, and the first goods were delivered that day. Research into the firm of Farwell & Babcock did not reveal any details about the design or construction of the line, or its bridges, including the stone arch bridge at milepost 52.86.

The Chicago, Burlington, & Quincy Railroad (CB&Q) operated along this line, crossing the stone arch bridge, and following the same alignment through the early 21st century. The line is visible on historic maps from 1870, 1871, 1895, 1899, and 1918, and continues to be illustrated on other maps through the 20th century. None of the 19th century maps or documents examined provided any detail about the bridge itself, nor was it shown in any of the illustrations that accompanied many of these map atlases.¹

The historic report prepared for this project noted that on March 2, 1970, the CB&Q merged into the Great Northern Pacific and Burlington Line, Inc. and the name was changed to Burlington Northern Inc. (BNI). BNI changed its name to Burlington Northern Railroad Company (BNRR) in 1981. In 1996 the BNRR merged with The Atchison, Topeka and Santa Fe Railway Company to become The Burlington Northern and Santa Fe Railway Company, which name was changed to BNSF Railway Company in 2005.

There has been no rail traffic on the line since at least 2011, if not earlier. It appears as if the line was salvaged in early 2017.

The stone arch bridge carrying the CB&Q over Littlers Creek, built around 1860, was determined to be eligible for the National Register of Historic Places (NRHP) by the Illinois Historic Preservation Agency in 2005. It is eligible under Criterion C of the National Register Criteria for Evaluation (36 C.F.R. 60.4) for its architectural significance and as a good example of a mid-19th century stone arch railroad bridge construction in the region. The bridge is in very good condition and retains integrity.

10. Describe the undertaking's effects on historic properties:

When the Board grants abandonment authority in a railroad abandonment case, the railroad applicant is able to remove rail, ties, and related track material, dismantle any rail-related structures, and dispose of the rail right-of-way, provided that the railroad has complied with any environmental and historic mitigation conditions imposed by the Board.

Alternatives to proposed railroad abandonments include rejection, discontinuance of service without abandonment, and continued operation by another operator. In cases where there are no shippers located on the rail line, however, denial of abandonment authority is rare and must be based on extraordinary economic need for the continued service over the line. The Board cannot deny authority for a railroad to abandon a rail line solely on the grounds that it would adversely affect historic resources.

In the present case, OEA understands that BNSF has salvaged the tracks and ties and has left the eligible stone arch bridge in place. In conflict with one of the Board's Section 106 conditions, to leave the rails and ties in place on top of the eligible bridge, BNSF removed the tracks and ties from the bridge.

¹Walling Atlas of Fulton County, Illinois, 1870; Atlas of Fulton County, Illinois, Adreas, Lyter & Co., Davenport Iowa, 1871; Plat Book of Fulton County, Illinois, compiled and published by American Atlas Company, George A. Ogle & Company, Chicago, Illinois 1895; Sanborn Fire Insurance Map from Farmington, Fulton County, Illinois, 1899; Sanborn Fire Insurance Map from Farmington, Fulton County, Illinois, 1918.

11. Explain how this undertaking would adversely affect historic properties (include information on any conditions or future actions known to date to avoid, minimize, or mitigate adverse effects):

The Surface Transportation Board granted the rail line abandonment subject to a condition requiring the abandoning railroad, BNSF, to retain its interest in and take no steps to alter the historic stone arch bridge at milepost 52.86 (including the tracks and ties that ran along the top of the bridge). OEA learned that the tracks and ties on the entire rail line had been removed, including approximately 100 feet along the top of the historic stone arch bridge, in contravention of the Board's order. Other than the removal of the tracks and ties, the bridge has not been affected. OEA is in discussions with the legal department of BNSF to understand why salvage was not conducted in compliance with the Board's order. The latest information from BNSF indicates that the salvage contract between BNSF and the salvage contractor failed to contain the language prohibiting salvage of the rail line across the top of the stone arch bridge.

As part of the Section 106 process, OEA has determined that because the Board cannot impose a restrictive covenant on the railroad and because the tracks and ties were removed from the historic stone arch bridge, there is an Adverse Effect to the resource. Thus, the abandonment has an Adverse Effect on historic properties.

OEA informed the Illinois SHPO of this determination on September 26, 2019. As of October 26, 2019, OEA has not received a response from the SHPO to the Adverse Effect determination. OEA is in the process of developing a MOA in consultation with the Illinois SHPO, the railroad applicant, and other consulting parties, as appropriate, to mitigate the adverse effect of the proposed undertaking.

12. Provide copies or summaries of the views provided to date by any consulting parties, Indian tribes or Native Hawai'ian organizations, or the public, including any correspondence from the SHPO and/or THPO.

Please see attached correspondences.

III. Optional Information

13. Please indicate the status of any consultation that has occurred to date. Are there any consulting parties involved other than the SHPO/THPO? Are there any outstanding or unresolved concerns or issues that the ACHP should know about in deciding whether to participate in consultation?

Section 106 consultation on this abandonment has been ongoing since 2006 between BNSF, OEA, and the SHPO. As part of the NEPA and Section 106 process for this abandonment, five federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment were previously contacted. The tribes included: the Citizen Potawatomi Nation of Oklahoma; the Forest County Potawatomi Community of Wisconsin; the Hannahville Indian Community of Michigan; the Peoria Tribe of Indians of Oklahoma; and the Prairie Band of Potawatomi Nation of Kansas. OEA included the tribes in the service list for the proposed abandonment so that they would receive a copy of the EA. The EA included historic resource information regarding the

rail line and the historic bridge at milepost 52.86. No responses were received from any of the tribes that were contacted. As part of the Section 106 consultation process related to the Adverse Effect determination and the development of a MOA, those tribes, as well as additional tribes (listed on the HUD database), are currently being contacted. The additional tribes include the Kickapoo Tribe of Oklahoma, Menominee Indian Tribe of Wisconsin, Miami Tribe of Oklahoma, and the Osage Nation. Finally, the City of Farmington is being contacted and invited to participate in the process. If any of these entities respond to this updated request for interest and/or participation, they will be included in all consultation activities. However, since there will be no ground disturbance related to this abandonment, and thus no potential to disturb archaeological sites or materials, it is unlikely that there will be significant interest from the Tribes.

It is anticipated that consultation will continue between BNSF, the SHPO, and OEA on the preparation of the MOA. There are no outstanding or unresolved concerns or issues, and Mr. Anthony Rubano of the IL SHPO's office has recently provided a draft MOA for review by OEA.

14. Does your agency have a website or website link where the interested public can find out about this project and/or provide comments? Please provide relevant links:

The Surface Transportation Board's website is located at:
www.stb.gov.

The Board's Section 106 process is described at:
<https://www.stb.gov/stb/environment/preservation.html>.

Case-related documents can be accessed at:
https://www.stb.gov/home.nsf/case?openform&caseID=31660&caseDocket=AB_6_486_X

Correspondence related to environmental and historic review can be accessed under the case number AB_6_486_X on OEA's Environmental Correspondence Tracking system at:
<https://www.stb.gov/ect1/ecorrespondence.nsf/public%20incoming%20by%20docket%20number?OpenView>

15. Is this undertaking considered a "major" or "covered" project listed on the Federal Infrastructure Projects Permitting Dashboard or other federal interagency project tracking system? If so, please provide the link or reference number:

Not Applicable

The following are attached to this form (check all that apply):

☒ Section 106 consultation correspondence

☒ Maps, photographs, drawings, and/or plans

X Additional historic property information

X Other: Environmental Assessment

LIST OF ATTACHMENTS FOR E106 SUBMITTAL

STB DOCKET NO. AB 6 (Sub-No. 486X)

BNSF Railway Company Abandonment Exemption

Fulton County, Illinois

1. Project and Historic Property Location Map
2. September 30, 2005 – Letter from Applicant to SHPO with Photos of Corridor and resources along the route.
3. October 6, 2005 – Email from SHPO to Applicant requesting additional photographs of the stone arch bridge at milepost 52.86.
4. October 13, 2005 – Emails showing coordination between the Applicant and the SHPO regarding documentation of the bridge at milepost 52.86.
5. October 17, 2005 – Email package from Applicant to SHPO with attached photographic documentation of the bridge at milepost 52.86.
6. November 8, 2005 – Letter from SHPO to Applicant stating that the Bridge at Milepost 52.86 was eligible and providing a No Adverse Effect finding for the abandonment with the condition of a preservation covenant for the bridge.
7. January 29, 2013 – Environmental Assessment prepared by the Surface Transportation Board.
8. February 15, 2013 – Final Environmental Assessment prepared by the Surface Transportation Board.
9. February 25, 2013 – Letter from Applicant to the Board noting that they had received a finding from the SHPO that the second bridge, at milepost 52.81, was not eligible. The email from the SHPO, dated February 22, 2013, is attached to this letter.
10. June 25, 2015 – Letter from the SHPO to the Board relating to the continued time extensions for the Canton Park District to negotiate with the Applicant for trails and railbanking. This effort was not ultimately successful after years of extensions for continued negotiations.
11. February 5, 2016 – Letter from the Board to the SHPO requesting concurrence on a No Adverse Effect finding for the abandonment with a Section 106 condition preventing salvage until the Section 106 process has been completed and the Board removes the condition. The letter also notes that the entire line was determined not eligible, and that only the bridge was eligible, and the bridge is included in the condition.
12. February 18, 2016 – Supplemental Final Environmental Assessment prepared by the Board.
13. November 30, 2016 – Letter from the Applicant to the SHPO asking if they concurred that only the stone arch bridge located at Milepost 52.86 was eligible and abandonment of the rest of the line would have No Adverse Effects.

14. December 8, 2016 – Supplemental Final Environmental Assessment prepared by the Board. Includes a modified Section 106 condition restricting any salvage activities related to the abandonment (including removal of tracks and ties) of the stone arch bridge until the Section 106 process has been completed and the Board has removed the condition.
15. September 26, 2019 – Letter from OEA to SHPO with Determination of Adverse Effect.



DOCKET NO. AB 6 (Sub-No. 486X)

BNSF Railway Company
Abandonment Exemption
Fulton County, Illinois
From Dunfermline to Farmington

Legend

— the Line

Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.



Location in State

SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-295-4024
FAX: 202-672-5399

SIDNEY L. STRICKLAND, JR.
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

September 30, 2005

Illinois Historic Preservation Agency
Preservation Services
#1 Old State Capitol Plaza
Springfield, IL
62701-1507

RECEIVED

OCT 04 2005
011100405
Preservation Services

**Re: STB Docket No. AB-6 (Sub. No. 431X) BNSF Railway Company—
Abandonment Exemption – in Knox and Fulton Counties, IL**

Dear Sir or Madam:

By letter dated September 20, 2005, you were informed of BNSF Railway Company's ("BNSF") plans to file with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 16.11 miles of railroad line between Milepost 47.80, at Yates City in Knox County, and Milepost 63.91, at Canton in Fulton County, Illinois.

The September 20th letter indicated we would forward photographs and all pertinent information regarding any bridges or structures that might be affected by the proposed abandonment. The following describes four bridges (with accompanying photographs) on the line.

Bridge 58.58. Bridge 58.58 is a railroad bridge in or near Norris, IL. It is near Milepost 58.58. This bridge is 170 feet long, 14 feet high, and is a truss plate girder. It was built in 1964. Highway Route 78 passes under this bridge. We have two photographs of this bridge as follows:

MVC-003F—bridge 58.58 Side view of the bridge looking north.

MVC-004F—bridge 58.58 Side view of the bridge looking south.

Bridge 58.50. Bridge 58.50 is a railroad bridge in or near Norris, IL. It is near Milepost 52.50. This bridge is 90 feet long, 14 feet high, and is a steel beam bridge with open pile trestle. It was built in 1981. Highway Route 78 passes under this bridge. We have five photographs of this bridge as follows:

MVC-005F—bridge 58.50 Side view of the bridge looking north

MVC-006F—bridge 58.50 Side view of the bridge (west side)
looking North

MVC-007F—bridge 58.50 Side view of the bridge looking south

MVC-008F—bridge 58.50 Side view of the bridge looking west

MVC-009F—bridge 58.50 Top view of the bridge looking east

IHPA REVIEW
H/A Spec 10/31/05
AC _____
AR _____
File VA/STB

eligible
Bridge 52.86
CR-1860 Stone Arch
MVC-003F
MVC-004F
MVC-005F
MVC-006F
MVC-007F
MVC-008F
MVC-009F

SIDNEY STRICKLAND AND ASSOCIATES, PLLC

Illinois Historic Preservation Agency
September 30, 2005
Page 2 of 2

Bridge 52.81. Bridge 52.51 is a railroad bridge in or near Farmington, IL. It is near Milepost 52.81. This bridge is 55 feet long, 20 feet high, and is a truss plate girder. It was built in 1912. A line of railroad owned by Union Pacific passes underneath this bridge. We have four photographs of this bridge as follows:

MVC-001F—bridge 52.81 Side view of the bridge looking north
MVC-002F—bridge 52.81 Side view of the bridge looking south
MVC-003F—bridge 52.81 Top view of the bridge looking west
MVC-004F—bridge 52.81 Top view of the bridge looking east

Bridge 52.86. Bridge 52.86 is a stone arch railroad bridge in or near Farmington, IL. It is near Milepost 52.86. This bridge is 100 feet long and the arch is 13 feet by 15 feet. It was built in 1860. A creek flows underneath this bridge. We have four photographs of this bridge as follows:

MVC-005F—bridge 52.86 Side view of the bridge looking south
MVC-006F—bridge 52.86 Side view of the bridge (underneath)
looking south
MVC-007F—bridge 52.86 Top views from the bridge looking West
(bridge behind)
MVC-008F—bridge 52.86 Side view of the bridge looking north

As part of the historic report required by the Surface Transportation Board, BNSF needs to know if there are any structures eligible for listing on the National Register of Historic Places and also if there are any archeological resources in the project area. Please provide this information to me by October 20, 2005.

For your reference, I have enclosed a U.S. Geological Survey map of the above referenced railroad line along with the aforementioned photographs. Further, we have enclosed a small map that marks the line to be abandoned in bold, black coloring. If you have any questions or need additional time, please do not hesitate to contact me at (202) 295-4024.

Thank you in advance for your cooperation.

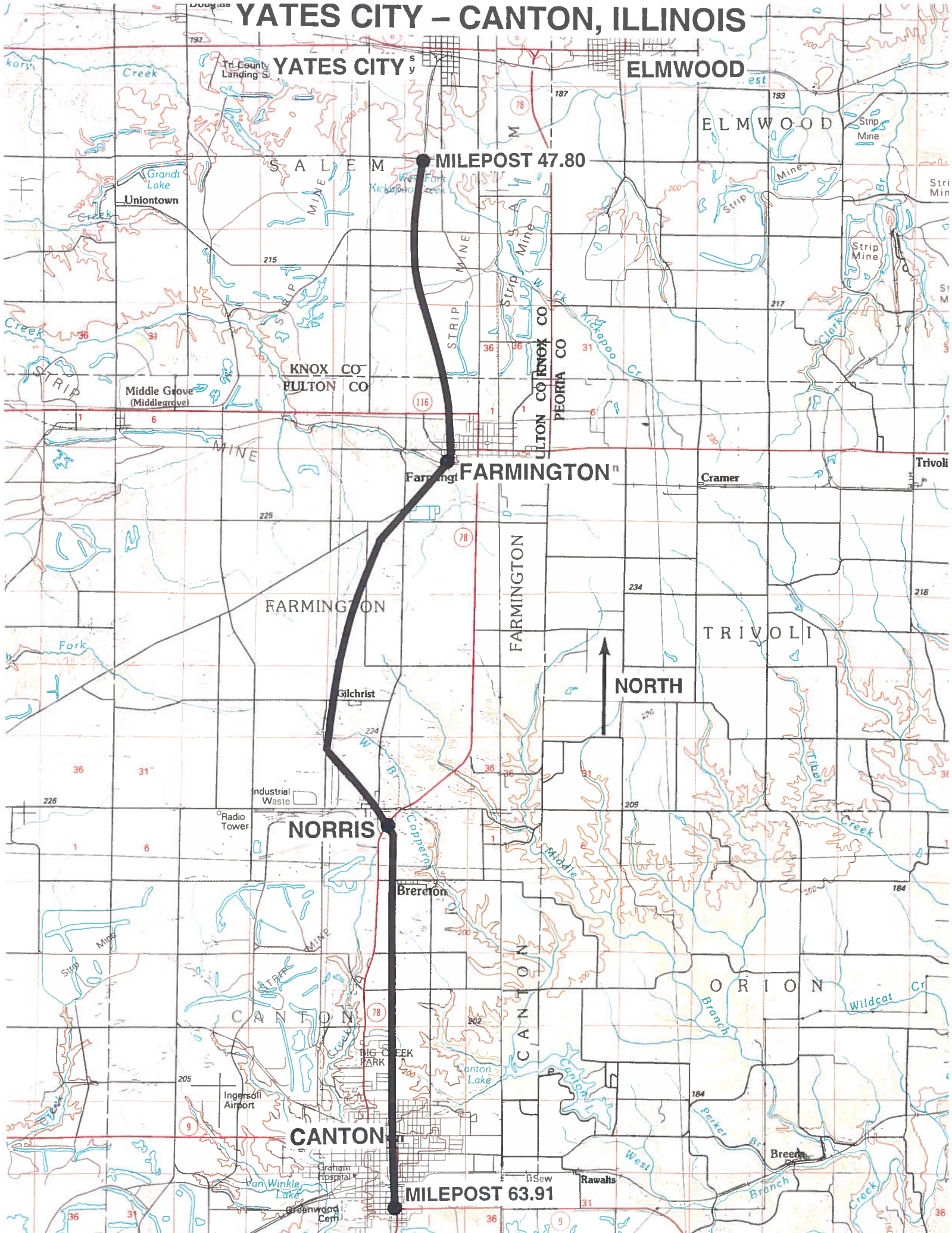
Sincerely,



Sidney L. Strickland, Jr.

Enclosures
SLS/ew

YATES CITY - CANTON, ILLINOIS



YATES CITY

ELMWOOD

MILEPOST 47.80

KNOX CO
FULTON CO

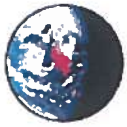
FARMINGTON

NORTH

NORRIS

CANTON

MILEPOST 63.91



"Liz Waite"
<liz.waite@stricklandpllc.com
>

10/05/2005 12:25 PM

To ladonna_young@ihpa.state.il.us

cc liz.waite@stricklandpllc.com

bcc

Subject Yates City, 431X--Photos

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MVC-005F--bridge_52.86.JPG



MVC-006F--bridge_52.86.JPG



MVC-007F--bridge_52.86.JPG



MVC-008F--bridge_52.86.JPG











LaDonna Young/HPA/ILL

10/06/2005 09:03 AM

To "Liz Waite" <liz.waite@stricklandpllc.com>@CMS

cc

bcc

Subject Re: Yates City, 431X--Photos Bridge 52.86 

We will need additional photographs of this bridge. We need entire elevations of bridge taken from both sides.

"Liz Waite" <liz.waite@stricklandpllc.com>



"Liz Waite"

<liz.waite@stricklandpllc.com

>

10/05/2005 12:25 PM

To ladonna_young@ihpa.state.il.us

cc liz.waite@stricklandpllc.com

Subject Yates City, 431X--Photos

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MVC-005F--bridge_52.86.JPG



MVC-006F--bridge_52.86.JPG



MVC-007F--bridge_52.86.JPG



MVC-008F--bridge_52.86.JPG



LaDonna Young/HPA/ILL
10/13/2005 10:44 AM

To "Liz Waite" <liz.waite@stricklandpllc.com>@CMS
cc
bcc
Subject Re: Bridge 52.86--Yates City

We need photos showing the entire span of the bridge (side view) from both the North and South sides of the bridge.

"Liz Waite" <liz.waite@stricklandpllc.com>



"Liz Waite"
<liz.waite@stricklandpllc.com>
>
10/13/2005 10:13 AM

To ladonna_young@ihpa.state.il.us
cc liz.waite@stricklandpllc.com,
sidney.strickland@stricklandpllc.com
Subject Bridge 52.86--Yates City

Ms. Young,

I have recently spoken with BNSF personnel who will provide you with the additional photographs of Yates City-Canton Bridge 52.86. However, they have requested more specific information as to the precise views and sides of the bridge to photograph that would be most helpful to you. You had indicated in your last email that you would need photos of the "entire elevation of the bridge taken from both sides". Please elaborate on this request, and any other requests you may have, at your convenience. Feel free to contact me with any questions or concerns.

Liz Waite
Strickland and Associates, PLLC
(202) 374-2474

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"Liz Waite"
<liz.waite@stricklandpllc.com
>

10/17/2005 02:30 PM

To ladonna_young@ihpa.state.il.us
sidney.strickland@stricklandpllc.com,
cc richard.batie@bnsf.com, john.sims@bnsf.com,
liz.waite@stricklandpllc.com

bcc

Subject Bridge 52.86 Photos

Ms. Young,

I have attached the requested photos of Yates City Bridge 52.86. I hope these will be helpful. The photographer had limited access because of thick brush and standing water. Please contact me with any questions or concerns.

Liz Waite
Strickland and Associates, PLLC
(202) 295-4024

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MVC-001F--52.86b.JPG



MVC-002F--52.86b.JPG



MVC-003F--52.86b.JPG



MVC-004F--52.86b.JPG



MVC-005F--52.86b.JPG



MVC-006F--52.86b.JPG



MVC-007F--52.86b.JPG



MVC-008F--52.86b.JPG



MVC-009F--52.86b.JPG



MVC-010F--52.86b.JPG

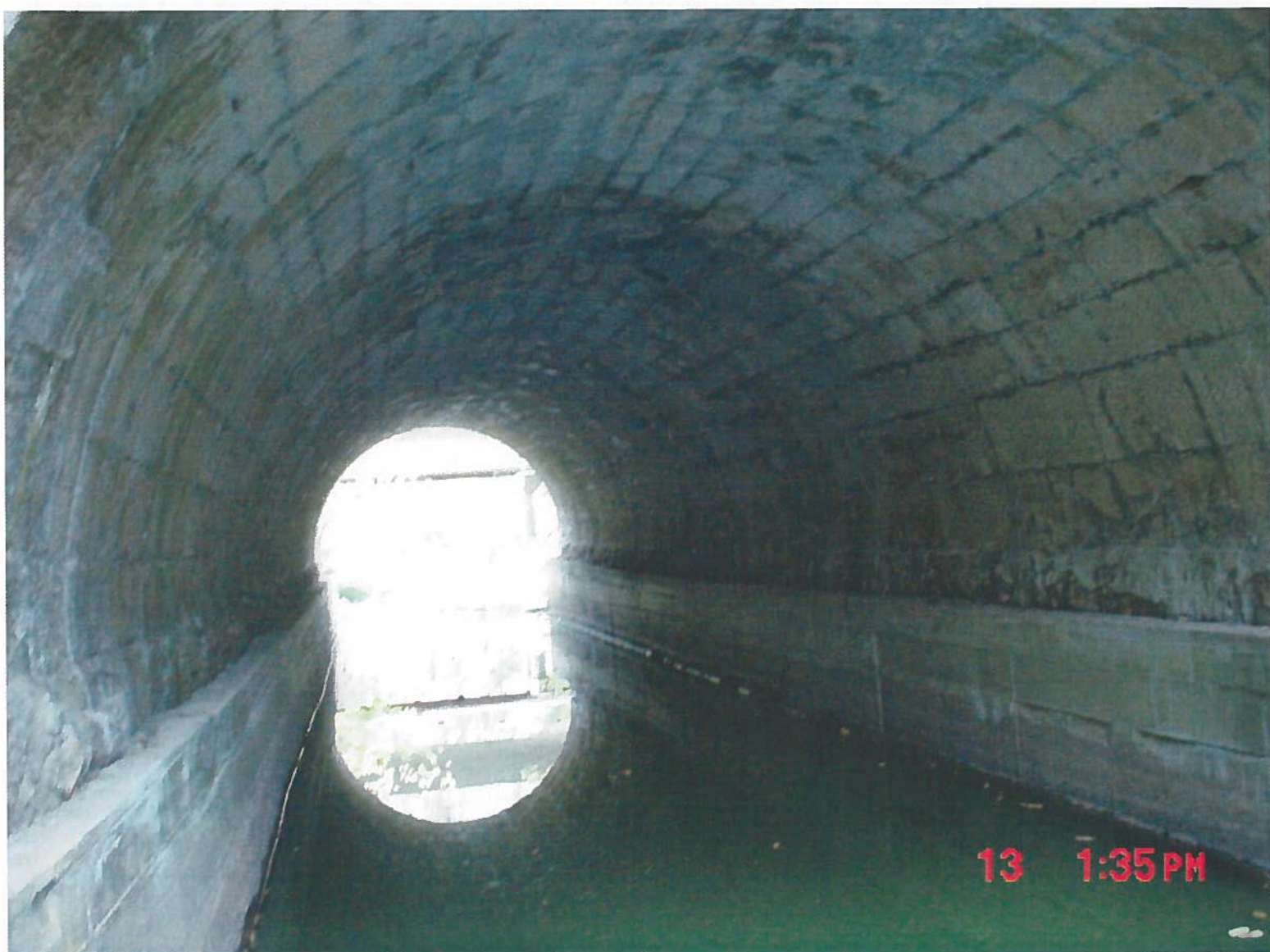






















**Illinois Historic
Preservation Agency**

1 Old State Capitol Plaza • Springfield, Illinois 62701-1512 • Teletypewriter Only (217) 524-7128

Voice (217) 782-4836

www.illinois-history.gov

Fulton County

Farmington

BNSF Railway Company Abandonment Exemption

Bridge 52.86 - West side of County Route 24, Over Little's Creek; Section 11,
T8N/R4E

STB-AB-6 (Sub No. 431X)

IHPA Log #011100405

November 8, 2005

Sidney Strickland

Sidney Strickland and Associates, PLLC

3050 K St. N.W. Ste. 101

Washington, DC 20007-5108

Dear Mr. Strickland:

We have reviewed the documentation provided for the referenced project. This property is eligible for listing on the National Register of Historic Places.

In our opinion the project meets the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" and we concur in a finding of no adverse effect pursuant to 36 CFR Part 800 to the abandonment of the property provided that the following conditions are met:

A preservation covenant (sample attached) is attached to Bridge 52.86. Our office should be provided with a draft of the covenant for approval and a copy of the recorded document.

Notifying our office of agreement with these conditions and their subsequent implementation constitutes compliance with Section 106 of the National Historic Preservation Act of 1966, as amended.

If you have any questions, please contact Cody Wright, Cultural Resource Manager, Illinois Historic Preservation Agency, 1 Old State Capitol Plaza, Springfield, IL 62701, 217/785-3977.

Sincerely,

Anne E. Haaker

Anne E. Haaker

Deputy State Historic

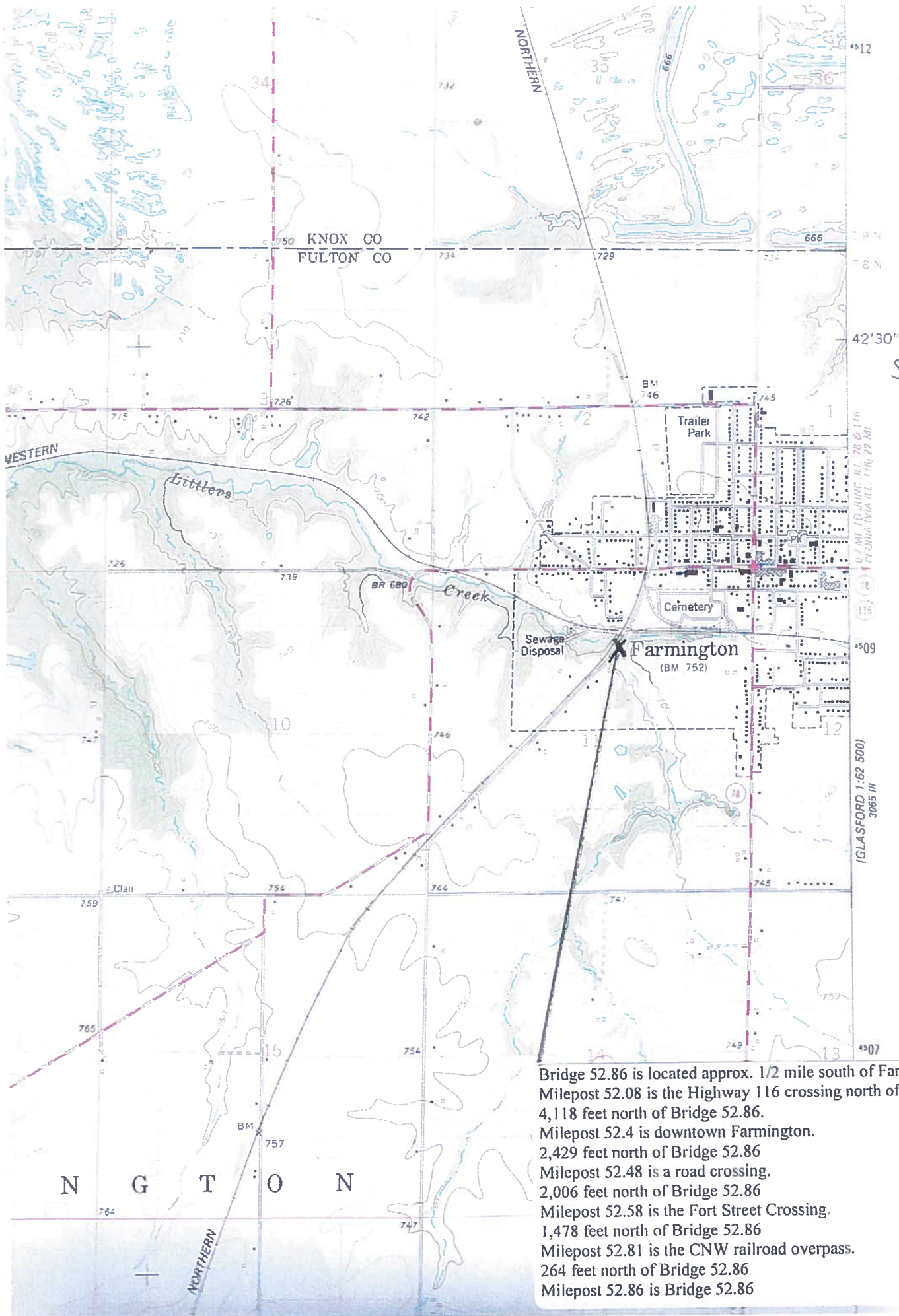
Preservation Officer

DRAFT PRESERVATION COVENANT LANGUAGE

In consideration of the conveyance of certain real property, [address of property] in the city of () of the County (), State of Illinois and legally defined as (insert legal description):

- (1) The grantee hereby covenants on behalf of itself, its heirs, successors and assigns at all time to restore, maintain and preserve this property in accordance with the recommended approaches of the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic buildings" (National Park Service, 1989) in order to preserve those qualities that make this property eligible for listing on the National Register of Historic Places.
- (2) No construction, alteration or rehabilitation shall be undertaken or permitted to be undertaken that would affect the historic features of the property without consultation with and the express permission of the Illinois Historic Preservation Agency (IHPA) or a fully authorized representative thereof.
- (3) The IHPA shall be permitted at all reasonable times to inspect the property in order to ascertain if the above conditions are being met.
- (4) In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, the IHPA may, following reasonable notice to the grantee, institute suit to enjoin said violation or to require the restoration of the property.
- (5) This covenant is binding on the grantee, its heirs, successors and assigns in perpetuity. All stipulations and covenants contained herein shall be inserted by the grantee verbatim or by express reference in any deed or other legal instrument by which the grantee divests itself of any interest in the property or any part thereof.
- (6) The failure of the IHPA to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or use of such right or remedy at any other time.
- (7) This covenant shall be a binding servitude upon the property and shall be deemed to run with the land. Execution of this covenant shall constitute conclusive evidence that the grantee agrees to be bound by the foregoing conditions and restrictions and to perform to obligations herein set forth.
- (8) The IHPA may, for good cause, modify or cancel any or all of the foregoing restrictions upon application of the grantee, its heirs, successors or assigns.

Signatures required



Bridge 52.86 is located approx. 1/2 mile south of Farmington, Illinois.
 Milepost 52.08 is the Highway 116 crossing north of Farmington.
 4,118 feet north of Bridge 52.86.
 Milepost 52.4 is downtown Farmington.
 2,429 feet north of Bridge 52.86
 Milepost 52.48 is a road crossing.
 2,006 feet north of Bridge 52.86
 Milepost 52.58 is the Fort Street Crossing.
 1,478 feet north of Bridge 52.86
 Milepost 52.81 is the CNW railroad overpass.
 264 feet north of Bridge 52.86
 Milepost 52.86 is Bridge 52.86

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

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

**BNSF Railway Company – Abandonment Exemption –
in Fulton County, Ill.**

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 to abandon a line of rail located in Fulton County, Illinois. The line extends from milepost 52.2 in Farmington to milepost 66.7 in Dunfermline, a distance of 14.5 miles. The proposed abandonment traverses Zip Codes 61524 and 61531. 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 would 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 Board's 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

BNSF certifies that no local or overhead traffic has moved over the line for more than two years. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; 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.

¹ The railroad's 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. 486X).

Salvage Activities

The rail line travels through rural areas and the right-of-way is generally 70 to 100 feet wide. If abandonment authority is granted, BNSF plans to salvage the rails, ties, bridges (milepost 52.81 and milepost 52.86), spikes, plates, railroad-related utilities and signaling devices. BNSF would not remove the ballast and culverts so as not to alter or impede the prevailing water flows. BNSF's salvage process typically involves unbolting track materials; removing the rails and related steel using specialized machinery placed on the railroad right-of-way; removing the wooden ties from the ballast with a tool designed for minimum disruption of the ground material; and sorting the ties to determine future uses. BNSF indicates that any scrap ties would be loaded into railcars and shipped to an EPA-approved disposal site. All salvage activities would be conducted using the right-of-way and existing public and private roads for access; no new access roads are planned.

BNSF indicates that the proposed abandonment would result in the removal of track materials at several roads that are currently crossed by the rail line: one active private railroad overpass; two active public railroad overpasses; 15 private at-grade crossings (nine active and six closed); 24 public at-grade crossings (20 active and four closed); and two bridges, one at Milepost 52.81 and the other at Milepost 52.86. BNSF notes that all road crossings would be closed and resurfaced in accordance with the requirements of the local governing authority. Accordingly, the proposed abandonment would not adversely impact public safety.

BNSF contacted the City of Dunfermline, the City of Farmington, and Fulton County Office of Planning and Zoning, to determine if the proposed abandonment would be consistent with existing land use plans. BNSF has not received any responses but believes the right-of-way would be suitable for use as a recreational trail. BNSF indicates that some of the property underlying the right-of-way is reversionary and would be affected by a property transfer involving uses other than rail or rail banking. BNSF notes that it would retain the two bridges at milepost 52.81 and milepost 52.86 if the line is rail banked.²

BNSF states that there are no known hazardous waste sites or sites where there have been known hazardous waste spills on the right-of-way.

BNSF does not believe that the proposed abandonment would result in any adverse impacts to endangered or threatened species or areas designated as a critical habitat. Furthermore, BNSF is not aware of any wildlife sanctuaries or refuges, national or state parks or forests that would be adversely affected.

The Natural Resources Conservation Service submitted a letter stating that the proposed abandonment would have no impact on prime agricultural land because the proposed abandonment is confined to an existing rail corridor. Accordingly, no mitigation regarding prime agricultural land is recommended.

² By letter dated January 23, 2013, the Canton Park District in Canton, Illinois submitted a letter to the Board requesting a public use condition and an interim trail use condition.

The Illinois Department of Natural Resources submitted a comment stating that the proposed abandonment is located outside the boundaries of the Illinois Coastal Management Plan and would not affect any coastal resources. Accordingly, no mitigation regarding state coastal management consistency certification is necessary.

The U.S. Army Corps of Engineers (Corps) submitted a letter stating that the proposed abandonment as described would not result in the discharge of dredge or fill material into waterways or wetlands of the United States and therefore would not require a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344).

Based on all information available to date, OEA does not believe that abandonment activities would cause significant environmental impacts.

HISTORIC REVIEW

BNSF submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Illinois Historic Preservation Agency (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The report indicated that the line proposed for abandonment contains two bridges that are 50 years or older as described below.

1. Milepost 52.81 – 55 feet long, 20 feet high, thru plate girder, built in 1912
2. Milepost 52.86 – 100 feet long, 13 feet high, stone arch, built in 1860

By letter dated October 26, 2012 (IHPA Log 009101512), the SHPO indicated that it provided an eligibility and effect determination in November 2005 and included a copy and sample preservation covenant as part of its review on the proposed abandonment. The SHPO's 2005 determination concluded that the bridge at milepost 52.86 was eligible for listing on the National Register of Historic Places (National Register) and that the proposed abandonment would have no adverse effect on this bridge providing certain stipulations were set forth in a preservation covenant. Because the SHPO's 2005 opinion makes no reference to any other structures on the line, OEA is unclear as to the eligibility of other potential historic resources on the line and the effect that the proposed abandonment and salvage operations would have on such resources, including the bridge at milepost 52.81. If abandonment authority is granted, BNSF has indicated that it would remove both bridges on the line, and in a January 17, 2013 telephone conversation with OEA, BNSF stated that no preservation covenant (either existing or proposed) is in place. BNSF has stated that it would retain the two bridges only if a public use agreement is reached.

Due to the potential presence of historic resources, as noted above, OEA is recommending a condition that requires BNSF 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) eligible for listing or listed in the National Register until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at

<http://www.stb.dot.gov/stb/environment/preservation.html>. Specifically, OEA recommends that the SHPO provide an opinion on the potential eligibility, as well as an effect determination, of all historic resources on the line in the APE of the proposed abandonment.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.³ The database indicated that there are five federally-recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment. The tribes are: the Citizen Potawatomi Nation of Oklahoma; the Forest County Potawatomi Community of Wisconsin; the Hannahville Indian Community of Michigan; the Peoria Tribe of Indians of Oklahoma; and the Prairie Band of Potawatomi Nation of Kansas. OEA has included the tribes in the service list for the proposed abandonment so that they may receive a copy of the EA.

CONDITION

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

1. BNSF Railway Company (BNSF) shall 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 of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. BNSF shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the State Historic Preservation Office and the public. BNSF may 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.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and if the recommended mitigation is imposed, abandonment of the line will 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 should not be affected.

³ Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited January 24, 2013).

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.

TRAILS USE

A request for a notice of interim trail use (NITU) is 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).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC 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 Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 6 (Sub-No. 486X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: January 29, 2013.

Comment due date: February 13, 2013.

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

Attachment

**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

EO-2035

FINAL ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 6 (SUB-NO. 486X)

February 15, 2013

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

(X) NO NEW COMMENTS WERE RECEIVED

() NEW COMMENTS WERE RECEIVED

OEA served an Environmental Assessment (EA) for this proceeding on January 29, 2013 for public review and comment. In the EA, OEA recommended one (1) environmental condition and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

OEA has not received any new comments following the issuance of the EA.

Conclusion

Based on the information received in this proceeding, OEA recommends that the following condition previously recommended in the EA should be imposed upon any decision granting abandonment authority:

1. BNSF Railway Company (BNSF) shall 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 of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. BNSF shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the State Historic Preservation Office and the public. BNSF may 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.

If the above condition is imposed, OEA believes that the proposed action will not significantly affect the quality of the human environment.

Distribution: Andrea Pope-Matheson, Office of Proceedings
Barbara Saddler, Office of
Proceedings Vivian Hardy, Office of
Proceedings OEA Chron and ECT



655 Fifteenth Street, NW, Suite 225
Washington, DC 20005

balljanik.com

t 202.638.3307
f 202.783.6947

February 25, 2013

Karl Morell
Of Counsel
kmorell@balljanik.com

E-FILED

Ms. Victoria Rutson, Esq.
Environmental Analysis Chief
Surface Transportation Board
395 E Street, SW, Room 1106
Washington, DC 20423

Re: Docket No. AB 6 (Sub-No. 486X), BNSF Railway Company --
Abandonment Exemption -- In Fulton County, Illinois

Dear Ms. Rutson:

Attached please find the correspondence we received from David J. Halpin, Cultural Resources Manager, Illinois Historic Preservation Agency, finding that the bridge located at milepost 52.81 is not eligible for listing on the National Register of Historic Places.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Karl Morell".

Karl Morell
Of Counsel

Enclosure

#E1-2013B
AB 6 486X
DHW

Morell, Karl

From: Halpin, David [David.Halpin@Illinois.gov]
Sent: Friday, February 22, 2013 4:28 PM
To: Morell, Karl
Subject: RE: IHPA Log #009101512

Karl:

I am sorry that it has taken so long to get back to you. Only the stone arch bridge was determined eligible of the National Register of Historic Places. The other bridge was not eligible.

With best regards:

David

David J. Halpin
Cultural Resources Manager
Illinois Historic Preservation Agency
217-785-4998

From: Morell, Karl [mailto:kmorell@balljanik.com]
Sent: Thursday, February 14, 2013 11:05 AM
To: Halpin, David
Subject: IHPA Log #009101512

David, in your prior letters you deemed the stone arch bridge at Milepost 52.86 as eligible for listing in the National Register of Historic Places. Please let us know whether the bridge at Milepost 52.81 is also eligible. Thanks for your assistance.

Karl



Karl Morell
Of Counsel
t 202.638.3307
f 202.783.6947
kmorell@balljanik.com

655 Fifteenth Street, NW
Suite 225
Washington, DC 20005

We advise you that any discussion of federal tax matters in this email is not intended or written to be used, and may not be used by you or any taxpayer, to (a) avoid penalties under the Internal Revenue Code, or (b) promote, market or recommend to any other party any transaction or matter addressed herein. All taxpayers should seek independent tax advice.

2/25/2013



**Illinois Historic
Preservation Agency**

1 Old State Capitol Plaza, Springfield, IL 62701-1512

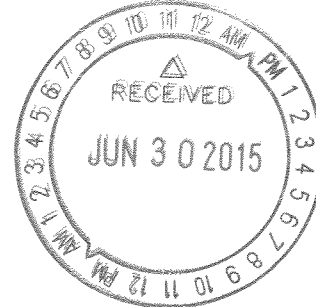
238722

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June 30, 2015
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Public Record

FAX (217) 524-7525

www.illinoishistory.gov

Fulton County
Farmington to Dunfermline
Railway Abandonment
Milepost 52.2 in Farmington to Milepost 66.7 in Dunfermline
STB-AB 6 (Sub-No. 486X)
IHPA Log #009101512



June 25, 2015

Cynthia Brown
Surface Transportation Board
Office of Proceedings
395 E. Street, SW
Washington, DC 20423

Dear Ms. Brown:

We are in receipt of your letter dated May 18, 2015 that allows more time for the Canton Park District to continue negotiations with the BNSF Railroad for trails and railbanking. We look forward to further consultation as the project proceeds.

If you have any questions, please contact David Halpin, Cultural Resources Manager, at 217/785-4998.

Sincerely,

Rachel Leibowitz, Ph.D.
Deputy State Historic
Preservation Officer

c: Karl Morell, Karl Morell and Associates
Jon E. Johnson, MPA, CPRP, Canton Park District

#EO-2723



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

February 5, 2016

David Halpin
Cultural Resources Manager
Illinois Historic Preservation Agency
1 Old State Capitol Plaza
Springfield, Illinois 62701

**Re: STB Docket No. AB 6 (Sub-No. 486X) – BNSF Railway Company –
Abandonment Exemption – in Fulton County, IL, Addendum to Original Submission
in IHPA Log #009101512 and No Adverse Effect Finding for Mileposts 52.2 to 64.65**

Dear Mr. Halpin:

Thank you for discussing the above referenced abandonment proceeding with me yesterday. As you know, BNSF Railway Company (BNSF) filed for abandonment authority with the Surface Transportation Board (Board) in 2012. As background, the 14.5-mile rail line is located in Fulton County, Illinois between milepost 52.2 in Farmington and milepost 66.7 in Dunfermline and contains two bridges at mileposts 52.81 and 52.86 that are 50 years or older. In an October 26, 2012 letter, your office commented that the stone arch bridge at milepost 52.86 was eligible for listing in the National Register of Historic Places (National Register) and that the proposed abandonment would have no adverse effect on that bridge, providing certain stipulations were set forth in a preservation covenant. Based on your recommendations, the Board imposed a condition requiring BNSF 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 the Section 106 process of the National Historic Preservation Act is completed. Although your letter set forth requirements for the bridge, it also referenced the “abandonment property” and so the Section 106 condition was imposed on the entire 14.5-mile line. The condition precludes BNSF from consummating or closing the abandonment proceeding until this process has been completed.

Since 2013, Canton Park District and BNSF have been negotiating an interim trail use (NITU) agreement under the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d) to rail bank the abandonment line. The Board has granted three extensions to give the parties more time to negotiate a mutually agreeable settlement. However, in the latest extension request, Canton asked that the NITU be revised to exclude the 2.05 mile segment of rail line right-of-way between mileposts 64.65 to 66.7. BNSF followed with a letter stating that it had converted the 2.05 mile segment to private industrial track for rail car storage and that it had consummated this portion of the abandonment. BNSF also requested that the

Board extend the consummation deadline for one year on the abandonment segment between mileposts 52.2 and 64.65, should the NITU extension not be granted. The extension would provide enough time to resolve the Section 106 condition on the NITU segment; however, the outstanding Section 106 condition on the consummated rail segment needs to be resolved as soon as possible.

In the discussion yesterday, you provided clarification on the historic properties of interest on line. While other structures may be of historic age, you noted that the bridge at milepost 52.86 is the only historic resource on the 14.5 mile abandonment line of concern. Based on this conversation and information submitted to date in this proceeding, we have concluded that the line segment between mileposts 64.65 and 66.7 does not retain enough physical or historical integrity to warrant any further action. BNSF intends to use this rail segment for rail car storage. Accordingly, we have determined that the proposed abandonment between mileposts 64.65 and 66.7 would have no adverse effect on National Register eligible resources. We request your concurrence in this no adverse effect finding and have amended the Section 106 condition to the following:

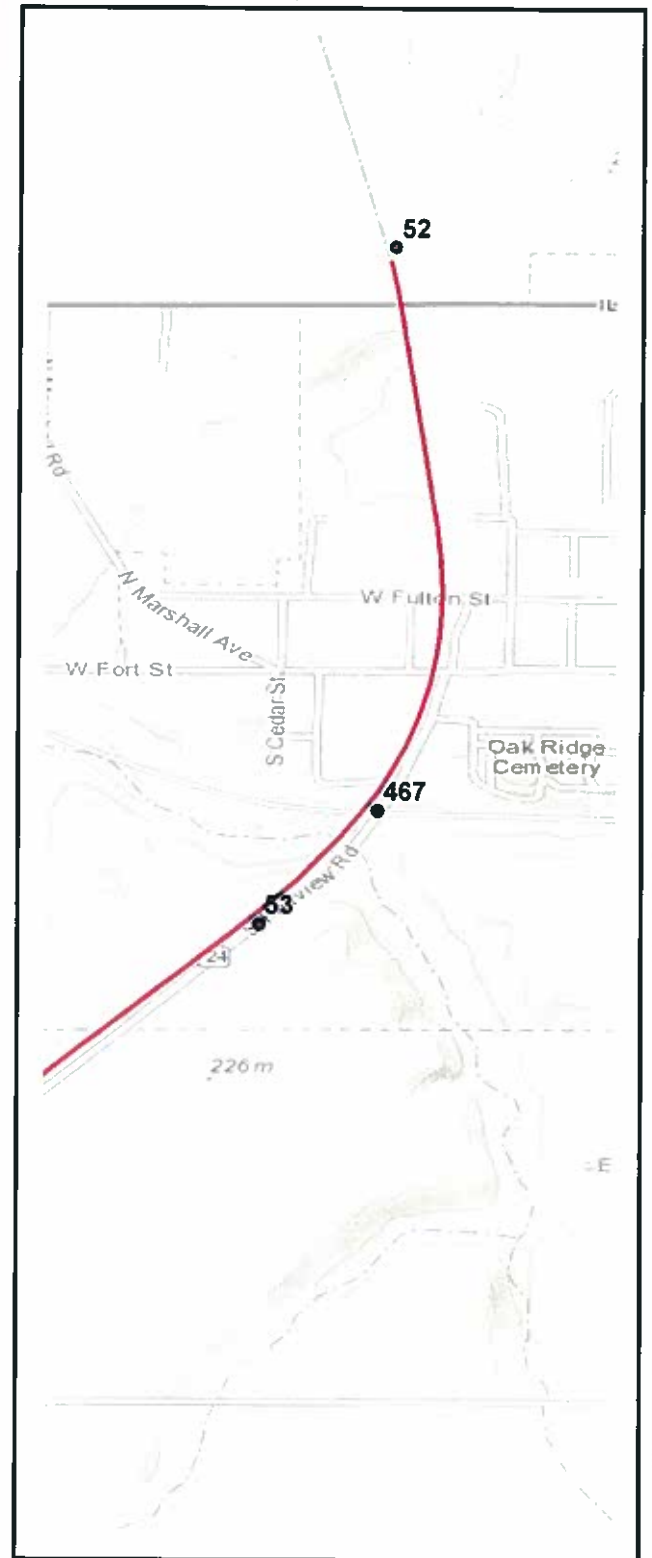
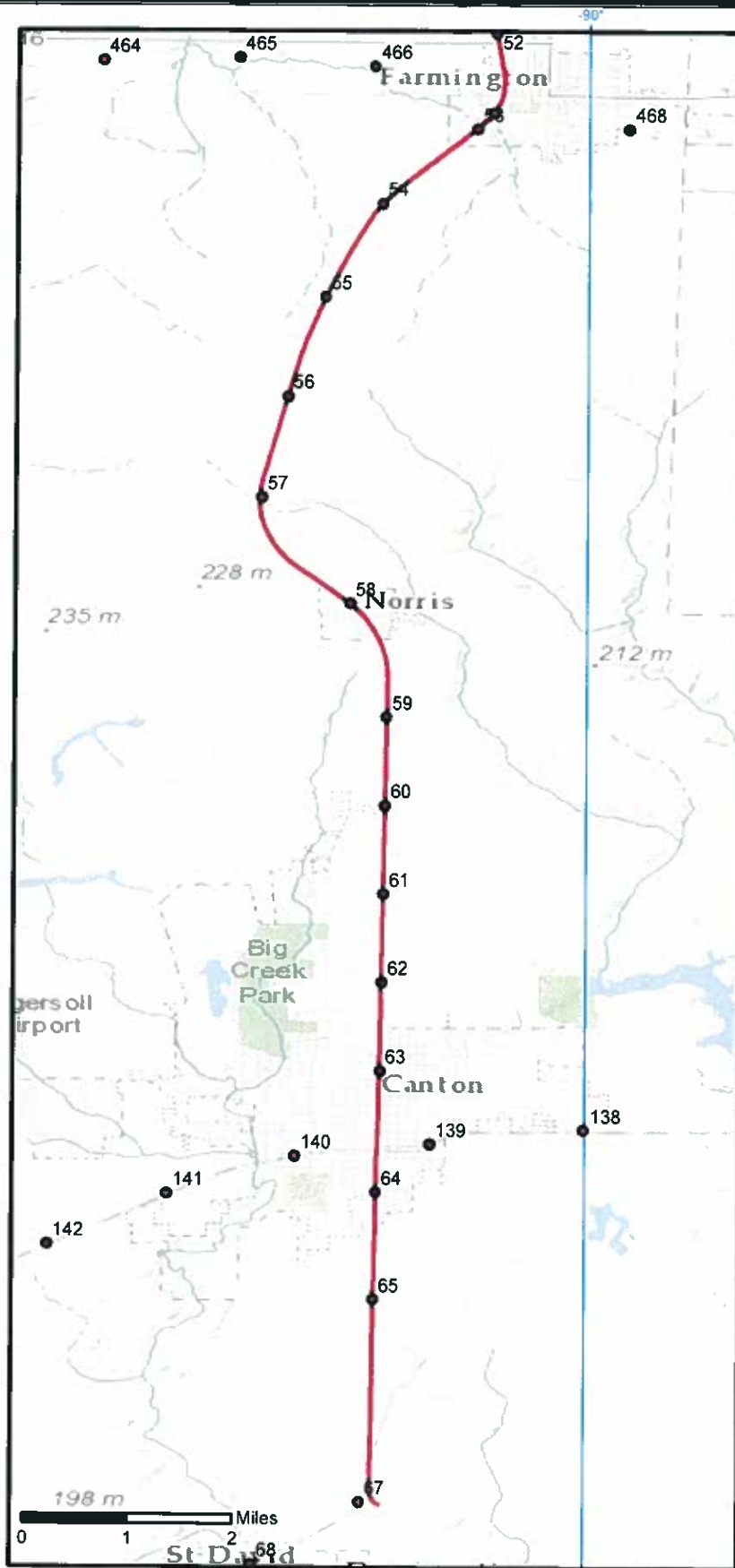
BNSF Railway Company (BNSF) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) between mileposts 52.2 and 64.65 that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. BNSF shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the State Historic Preservation Office and the public. BNSF may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) between mileposts 52.2 and 64.65 until the Section 106 process has been completed and the Board has removed this condition.

Importantly, the above condition retains the National Register eligible stone arch bridge at milepost 52.86 in the Section 106 process. Thank you for working so quickly with us to resolve this matter. If you have any questions or require additional information regarding this proceeding, please do not hesitate to contact me at 202-245-0302.

Sincerely,

Diana Wood
Office of Environmental Analysis

cc: Karl Morell, Attorney for BNSF



Legend

- Mileposts
- AB-6-486-X

BNSF
AB/DISC EXEMPTION
AB-6 (Sub-No. 486X)
Fulton County, IL



Disclaimer: Maps produced by the Surface Transportation Board, Office of Environmental Analysis are based on information provided by the rail applicant and are for reference purposes only.

#EO-2733

**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

**SUPPLEMENTAL FINAL
ENVIRONMENTAL ASSESSMENT**

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 6 (Sub-No. 486X)

February 18, 2016

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

RECOMMENDATION: Modify Section 106 Condition

In this proceeding, the BNSF Railway Company (BNSF) filed a notice under 49 C.F.R. § 1152.50 seeking approval authority to abandon a 14.5 line of rail located in Fulton County, Illinois between milepost 52.2, in Farmington, and milepost 66.7, in Dunfermline. Because the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, (NHPA),¹ had not been completed at the time of the Surface Transportation Board's (Board) March 1, 2013 decision, a condition was imposed that requires BNSF to: (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 that are eligible for listing or are listed in the National Register of Historic Places until the Section 106 process of the NHPA has been completed; (b) report back to the (Board) Office of Environmental Analysis (OEA) regarding any consultations with the Illinois State Historic Preservation Office (SHPO) and the public; and (c) not file a 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 the condition.

New Comments On the Abandonment

Section 106 Condition

Canton Park District (Canton) and BNSF have been negotiating an interim trail use (NITU) agreement under the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d) to rail bank the abandonment line since 2013. The Board has granted three extensions to give the parties more time to negotiate a mutually agreeable settlement. Recently, however, both parties

¹ The NHPA was recodified in December 2014 to Title 54 and is now known as 54 U.S.C. § 306108.

submitted filings to the Board that request certain modifications. Specifically, in a November 19, 2015 filing, Canton asked that the NITU be modified to exclude the 2.05 mile segment of rail line right-of-way between mileposts 64.65 to 66.7 from trail use, and in a January 19, 2016 filing, BNSF stated that it had converted the 2.05 mile segment to private industrial track for rail car storage and had consummated this portion of the abandonment. BNSF has also requested that the Board extend the consummation deadline for one year on the segment between mileposts 52.2 and 64.65, should the NITU extension not be granted. OEA believes that such an extension would provide enough time to satisfy the Section 106 condition on the requested modified NITU segment, but has since initiated consultation with the SHPO to resolve the outstanding Section 106 requirements on the newly consummated segment.

In a February 4, 2016 telephone conversation, the SHPO stated that while other structures on the 14.5-mile line may be of historic age, the major concern here is the bridge at milepost 52.86. The SHPO further agreed that a “no adverse effect” finding could be made on the consummated segment. OEA followed with the attached February 5, 2016 letter to the SHPO that states that the rail line segment between mileposts 64.65 and 66.7 does not retain enough physical or historical integrity to warrant any further action, and accordingly, concludes that the proposed abandonment between mileposts 64.65 and 66.7 would have no adverse effect on National Register eligible resources. The SHPO concurred with this finding in the attached February 9, 2016 response.

Modified Condition

For the reasons stated above, OEA recommends that the Board modify the existing Section 106 condition to remove the consummated segment² from the historic review process, as follows:

1. BNSF Railway Company (BNSF) shall 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) between mileposts 52.2 and 64.65 that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. BNSF shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the State Historic Preservation Office and the public. BNSF may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) between mileposts 52.2 and 64.65 until the Section 106 process has been completed and the Board has removed this condition.

² Where an historic condition is needed only for a portion of the rail line or for particular structures on the rail line, the Board may modify the condition to salvage (or in this case, consummate and convert the line segment to private industrial track) the rest of the line that is not affected by that condition. See Consummation of Rail Line Abandonments That Are Subject To Historic Preservation And Other Environmental Conditions, EP 678 (April 23, 2008).

OEA concludes that if the above modified condition is imposed, the proposed action would not significantly affect the quality of the human environment.

Attachments

OEA CONTACT: Diana Wood *DfW*
202-245-0302
woodd@stb.dot.gov

Distribution: Office of Proceedings
OEA Chron
ECT



Emily Thompson
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive - AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376

Email - emily.thompson@bnsf.com

#E1-25644
#E1-25645

November 30, 2016

david.halpin@illinois.gov

David Halpin, Cultural Resources Manager
Illinois Historic Preservation Agency
1 Old State Capitol Plaza
Springfield, Illinois 62701

Re: STB Docket No. AB 6 (Sub No. 486X) - BNSF Railway Company - Abandonment
Exemption - in Fulton County, Illinois
Milepost 52.2 in Farmington to Milepost 64.65 in Dunfermline
IHPA Log #009101512

Mr. Halpin,

Thank you for discussing the above referenced abandonment proceeding with me on Tuesday, November 29, 2016. In an October 26, 2012 letter, your office commented that the stone arch bridge at Milepost 52.86 was eligible for listing in the National Register of Historic Places (National Register) and that the proposed abandonment would have no adverse effect on that bridge, providing certain stipulations were set forth in a preservation covenant. The Surface Transportation Board imposed a Section 106 condition over the entire line between Mileposts 52.2 in Farmington and Milepost 64.65 in Dunfermline. Do you concur that *only* the stone arch bridge located at Milepost 52.86 is eligible for listing in the National Register of Historic Places, and abandonment of the rest of the line would have no adverse effect on National Register eligible resources?

If you concur, we would like to ask the Surface Transportation Board to modify the Section 106 condition imposed in the March 21, 2016 decision to include only the stone arch bridge at Milepost 52.86 and remove the rest of the line proposed for abandonment.

Enclosed is a map of the line showing the stone arch bridge at Milepost 52.86 in relation to the rest of the line proposed for abandonment. BNSF and Canton Park District continue to negotiate an interim trail use (NITU) agreement to rail bank the line.

Sincerely,

Emily Thompson
Paralegal

Enclosure as stated

CONCUR

By: Dan F. Reibowitz
Deputy State Historic Preservation Officer

Date: 11/30/16

SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS

HEO-2868

SUPPLEMENTAL FINAL
ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 6 (Sub-No. 486X)

December 8, 2016

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

RECOMMENDATION: Modify Section 106 Condition

In this proceeding, the BNSF Railway Company (BNSF) filed a notice under 49 C.F.R. § 1152.50 seeking approval authority to abandon a 14.5 line of rail located in Fulton County, Illinois between milepost 52.2, in Farmington, and milepost 66.7, in Dunfermline. Because the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, (NHPA),¹ had not been completed at the time of the Surface Transportation Board's (Board) March 1, 2013 decision, a condition was imposed that requires BNSF to: (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 that are eligible for listing or are listed in the National Register of Historic Places (National Register) until the Section 106 process of the NHPA has been completed; (b) report back to the Board's Office of Environmental Analysis (OEA) regarding any consultations with the Illinois State Historic Preservation Office (SHPO) and the public; and (c) not file a 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 the condition.

In a March 21, 2016 decision, the Board reopened the proceeding to modify the Section 106 condition to exclude, and therefore permit abandonment of, the segment of rail line between milepost 64.65 and milepost 66.7 because OEA determined, and the SHPO concurred, that abandonment of that segment of rail line would have no adverse effect on National Register resources.

¹ The NHPA was recodified in December 2014 to Title 54 and is now known as 54 U.S.C. § 306108.

New Comments On the Abandonment

By letter dated November 30, 2016, BNSF has requested that the Section 106 condition – which includes mileposts 52.2 to 64.65 – be modified to include only the stone arch bridge at milepost 52.86 (as shown in the attached map). This bridge is the only structure on the abandonment line that has been deemed eligible for listing in the National Register and BNSF's letter includes the SHPO's concurrence that the proposed modification would have no adverse effect on National Register resources. BNSF has signified that it is still negotiating a public use agreement with Canton Park District and that the agreement will include preservation language specific to the bridge at milepost 52.86. Accordingly, we have no objection to the proposed modification, as specified below.

Modified Condition

For the reasons stated above, OEA recommends that the Board modify the existing Section 106 condition to remove the abandonment line² from the historic review process between mileposts 52.2 and 64.65 and include only the stone arch bridge segment at milepost 52.86 that is eligible for listing in the National Register, as follows:

1. BNSF Railway Company (BNSF) shall retain its interest in and take no steps to alter the historic integrity of the stone arch bridge within the project right-of-way (the Area of Potential Effect) at milepost 52.86 that is eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. BNSF shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the State Historic Preservation Office and the public. BNSF may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) of the stone arch bridge at milepost 52.86 until the Section 106 process has been completed and the Board has removed this condition.

OEA concludes that if the above modified condition is imposed, the proposed action would not significantly affect the quality of the human environment.

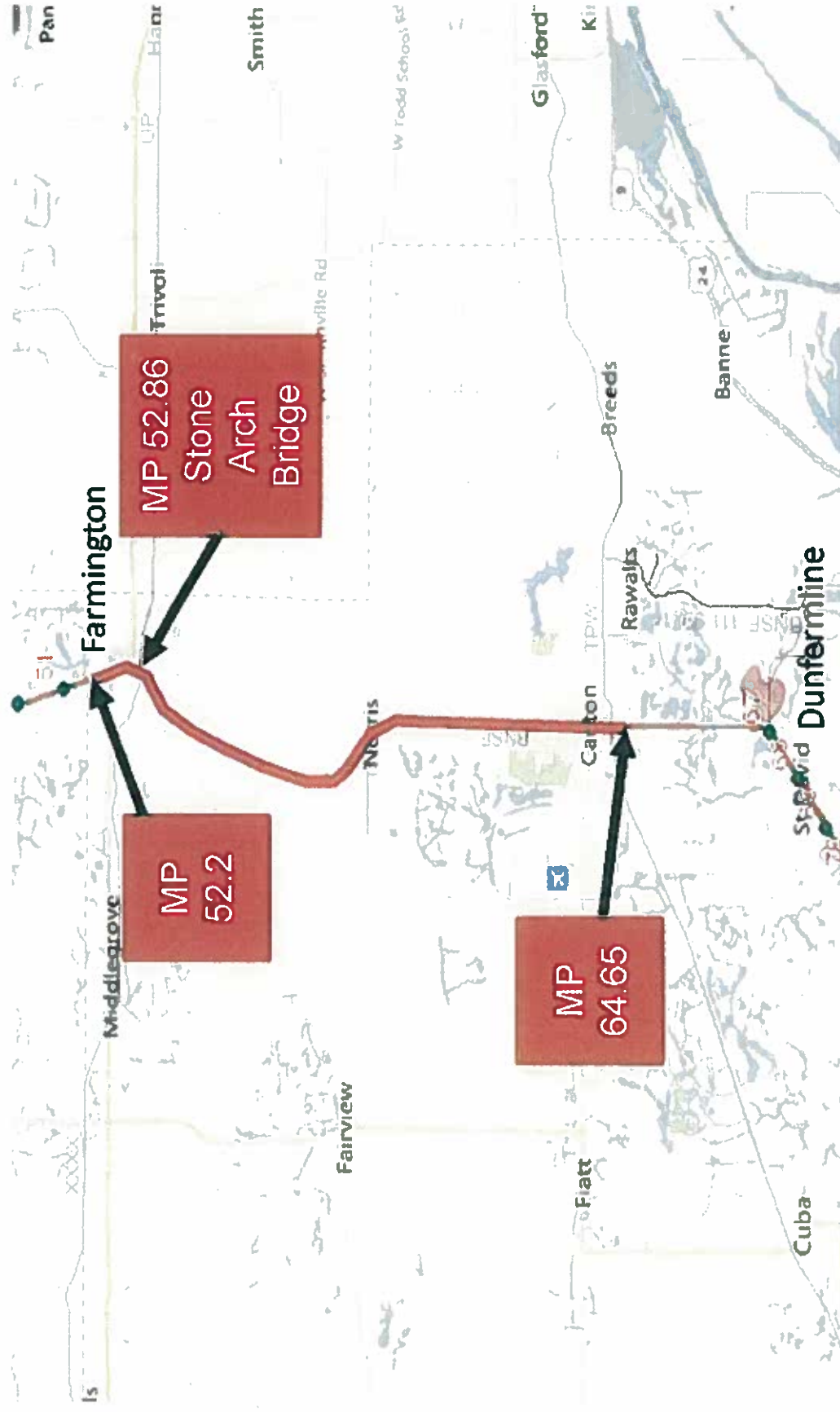
Attachment

OEA CONTACT: Diana Wood 
202-245-0302
woodd@stb.dot.gov

Distribution: Office of Proceedings
OEA Chron
ECT

² Where an historic condition is needed only for a portion of the rail line or for particular structures on the rail line, the Board may modify the condition to salvage the rest of the line that is not affected by that condition. See Consummation of Rail Line Abandonments That Are Subject To Historic Preservation And Other Environmental Conditions, EP 678 (April 23, 2008).

Farmington to Dunfermline, IL Abandonment



GPS view of bridge



cc: Diana Wood – Surface Transportation Board OEA – Diana.Wood@stb.gov
Karl Morell – Karl Morell & Associates – karlm@karlmorell.com
James Mecone – BNSF – james.mecone@bnsf.com



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

September 26, 2019

Robert F. Appleman, P.L.A.
Deputy State Historic Preservation Officer
Illinois Historic Preservation Office
One Natural Resources Way
Springfield, IL 62702-1271

Re: STB Docket No. AB 6 (Sub-No. 486X), BNSF Railway Company—
Abandonment Exemption—In Fulton County, Ill.; **Determination of Adverse
Effect**; SHPO LOG #009101512

Dear Mr. Appleman:

I am writing to inform you of an Adverse Effects determination we have made in the rail abandonment proceeding captioned above. As described in detail below, the Surface Transportation Board granted the rail line abandonment subject to a condition requiring the abandoning railroad, BNSF Railway (BNSF), to retain its interest in and take no steps to alter an historic stone arch bridge and the tracks and ties that ran along the top of the bridge. It appears that BNSF did not include the exact language of the condition in the salvage contract with the result that the tracks and ties on the stone arch bridge were removed by the salvage contractor. No part of the structure of the stone arch bridge was removed or altered. We are now concluding that that abandonment of this rail line constitutes an adverse effect.

Background

On January 4, 2013, BNSF filed a notice of exemption with the Surface Transportation Board (Board) seeking to abandon a line of railroad located in Fulton County, Illinois. The rail line proposed for abandonment extends from milepost 52.2 in Farmington to milepost 66.7 in Dunfermline, a distance of 14.5 miles. Beginning in 2013, the Canton Park District (District) filed a Request for Public Use Condition and Request for Interim Trail Use to provide time for the District to negotiate conversion of the rail line to a trail. The parties continue to negotiate but at present, no agreement on trails use has been reached.

BNSF prepared an historic report as required by the Board's environmental rule. The report indicated that the rail line proposed for abandonment contained two bridges over 50 years

of age, one a stone arch bridge circa 1860. By letter dated October 26, 2012, SHPO referred to an earlier letter from November 2005 stating that the stone arch bridge is eligible and that the proposed abandonment would have No Adverse Effect, subject to stipulations that would be included in a preservation covenant.¹

Section 106 Condition

The Board's Office of Environmental Analysis (OEA) issued an Environmental Assessment for the project on January 29, 2013, which recommended that the Board impose a Section 106 condition on any decision granting abandonment authority. The condition stated that:

BNSF Railway Company (BNSF) shall retain its interest 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 or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act [NHPA], 16 U.S.C. 470f has been completed.... BNSF may 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.

The Board imposed this condition in a decision approving the rail abandonment dated May 24, 2013.

In a supplemental final Environmental Assessment dated December 8, 2016, OEA stated that BNSF submitted a letter on November 30, 2016, requesting that the Section 106 condition be modified to include only the stone arch bridge at milepost 52.86, allowing it to salvage the rest of the line; the Board issued a decision on March 21, 2016 (Docket No. AB 6 (Sub-No. 486X, BNSF Ry.—Aban. Exemption—in Fulton Cty., Ill.) imposing the modified Section 106 condition on its grant of abandonment authority on BNSF. The revised condition required BNSF to “take no steps to alter the historic integrity of the stone arch bridge” and to “not initiate any salvage activities related to the abandonment (including removal of tracks and ties) of the stone arch bridge” until the Section 106 process has been completed and the Board has removed the condition.

Adverse Effect Determination

Recently, OEA heard that the tracks and ties on the entire rail line have been removed, including approximately 100 feet along the top of the historic stone arch bridge, in contravention of the Board's order. Other than the removal of the tracks and ties, the bridge has not been affected. OEA is in discussions with the legal department of BNSF to understand why salvage was not conducted in compliance with the Board's order. The latest information from BNSF

¹ Because rail property is privately owned, the agency does not have the power to impose a restrictive covenant upon the deed as a condition to obtaining abandonment authority. See Implementation of Environmental Laws, 7 I.C.C.2d 807 (1991) at 829.

indicates that the salvage contract between BNSF and the salvage contractor failed to contain the language prohibiting salvage of the rail line across the top of the stone arch bridge.

As part of the Section 106 process, OEA has determined that because the Board cannot impose a restrictive covenant on the railroad and because the tracks and ties were removed from the historic stone arch bridge, there is an Adverse Effect to the resource. Thus, the abandonment has an Adverse Effect on historic properties.

OEA is continuing to consult with Mr. Anthony Rubano of your office as we work together through the Section 106 process. We will be sending an Adverse Effects Determination Letter and a Request to Participate in the Section 106 Process to the Advisory Council on Historic Preservation in the near future. We are discussing several options for resolving the adverse effects and will be consulting with the public.

If you have any questions, require additional information regarding this proceeding, or have any concerns, please do not hesitate to contact me or Alan Tabachnick of my staff by telephone at (202) 245-0367 or email at Alan.Tabachnick@stb.gov. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

Victoria Rutson
Director
Office of Environmental Analysis

Cc: Jill Rugema, BNSF