

#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

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Preservation Services



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

IHPA REVIEW

H/A *Carey S. Halpin*

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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

CONCUR

By: R. Leilowitz JH
Deputy State Historic Preservation Officer

Date: 2/9/16