



"Fowler, Brendon P."
<Brendon.Fowler@klgates.com>
m>

12/22/2008 11:36 AM

To <Diana.Wood@stb.dot.gov>

cc

bcc

Subject RE: Transit America LLC - Abandonment Exemption in
Buchanan County, Missouri, STB Docket No. AB-1019X

#E1-16252
DWW
AB-1019X

History:

✉ This message has been replied to.

Hi Diana-

Thank you for your email. My understanding of the Corps consultation condition is that it requires consultation only in the event Transit America ("TA") decides to conduct any salvage activities on the line. See *Transit America LLC - Abandonment Exemption - In Buchanan County, MO*, STB Docket No. AB-1019X, *2-3 (Board served December 1, 2008) (noting that "SEA recommends a condition requiring prior TA consultation with the Corps in the event TA decides to salvage the line" and ordering that "prior to conducting any salvage activities, [TA] shall consult with the Corps for potential impacts to waters of the United States...") (emphasis added).

Under the proposed abandonment, TA will transfer the trackage and right-of-way to its affiliate Herzog Contracting Corporation ("HCC"), which will operate non-common carrier switching service on the line. Consequently, as indicated in TA's earlier submissions, neither TA nor HCC will engage in any salvage activities and the line will be unchanged. See *Transit America LLC - Abandonment Exemption - In Buchanan County, MO*, Environmental Assessment, STB Docket No. AB-1019X, *2 (SEA served October 10, 2008) ("EA") (noting that TA has indicated it does not intend to salvage the line, but recommending condition that TA consult with Corps "in the event TA should decide to salvage the rail line following abandonment approval.")

Because there will be no salvage activities, TA has not engaged in additional consultations with the Corps (the Corps filed initial comments on the proposed abandonment, see EA at *2). Please note that TA is not presently requesting that SEA or the Board remove that Corps consultation condition, and will fully comply with that condition and consult with the Corps in the unanticipated event that salvage operations are contemplated at some point in the future. Rather, as a precondition to filing its consummation notice, December 1 Decision at *4, TA has consulted with and completed the Section 106 review process with the Missouri SHPO as directed in the Board's December 1st decision and as more fully discussed in my prior letter. TA respectfully requests that the condition based on completion of the Section 106 process be correspondingly removed.

Thank you for your attention to this matter, and please feel free to contact me directly at the number below with any questions.

Sincerely,
Brendon

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From: Diana.Wood@stb.dot.gov [mailto:Diana.Wood@stb.dot.gov]

Sent: Friday, December 19, 2008 11:14 AM

To: Fowler, Brendon P.

Subject: Transit America LLC - Abandonment Exemption in Buchanan County, Missouri, STB Docket No. AB-1019X

On December 15, 2008, I received your letter requesting removal of the Section 106 condition for the above referenced abandonment exemption and am writing to remind you that the Board also imposed a Corps consultation condition. See attachment. Could you provide a status of your consultation with the Corps - in other words, did the Corps require (or not require) permits, mitigation? An email would suffice, and once I receive it, will write a clearance memo to Proceedings.

Thanks

Diana F. Wood
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