

#EO-1044
AB-6 435X



Diana Wood/STB
09/18/2008 11:49 AM

To "Sims, John A" <John.Sims@bnsf.com>
cc "Sims, John A" <John.Sims@bnsf.com>, kristen_lundh@fws.gov
bcc

Subject RE: STB Docket No. AB-6 (Sub-No. 435X) Abandonment Exemption for BNSF in Albany, IL

John:

Thank you for providing the additional information. All seven conditions have been complied with. I have no further issues on this case.

Diana F. Wood
Section of Environmental Analysis
Surface Transportation Board
395 E Street S.W. Room 1110
Washington, DC 20423
202-245-0302 (phone)
202-245-0454 (fax)

"Sims, John A" <John.Sims@bnsf.com>



"Sims, John A"
<John.Sims@bnsf.com>
09/18/2008 10:11 AM

To <Diana.Wood@stb.dot.gov>
cc <kristen_lundh@fws.gov>, "Sims, John A" <John.Sims@bnsf.com>
Subject RE: STB Docket No. AB-6 (Sub-No. 435X) Abandonment Exemption for BNSF in Albany, IL

Diana,
As I indicated on the telephone earlier this week, this line has been salvaged. Below are comments from the salvager regarding their removal process of weeds and trees. Please let me know if you need any additional information.

Thanks,
John Sims, Paralegal
BNSF - Law Dept
817-352-2376

Salvager comments:

Mr Mack Wiens,

Upon your request Atlantic Track & Turnout Co. had to remove mainly weeds and small trees on abandon tracks and right of way along railroad property only. This process was conducted during the month of July before abandonment process could be started. The weeds and small trees were removed by hand and placed along right of way.

This work was conducted on line segment 949, MP20.31 to MP 25.40 that runs through Albany, IL.

Please advise if any additional information is needed on this matter.

Thank you,

Eric Ruzkowski

Atlantic Track & Turnout Co.

5851 AMI Drive

Richmond, IL 60071

Phone: 815-678-4521

Fax: 815-678-4227

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

Sent: Tuesday, September 16, 2008 10:00 AM

To: Sims, John A

Cc: kristen_lundh@fws.gov

Subject: Re: STB Docket No. AB-6 (Sub-No. 435X) Abandonment Exemption for BNSF in Albany, IL

John:

I am writing the Post Post EA for this project, but in looking at USFWS's December 18, 2007 concurrence email, noted that it supported following the recommended restoration procedure outlined on the last page of the endangered species survey prepared in October 2007 by Pizzo & Assoc. as a means of re-establishing remnant prairie ecology to the area. Specifically, the survey recommends the following procedure for salvage:

"Recommended restoration activities include careful cutting and removing of weedy brush and young trees along the railway, then reintroducing prescribed fire to the area. If the removal of brush and trees is necessary for the successful salvage of railroad materials, we recommend that clearing efforts be conducted during late fall or winter to minimize impact on soil structure and remnant seed bank."

Could you incorporate this language into the salvage procedure and email a copy to me and to USFWS for the record? Otherwise, I will need to write a new condition.

Thanks

Diana F. Wood
Section of Environmental Analysis
Surface Transportation Board
395 E Street S.W. Room 1110
Washington, DC 20423
202-245-0302 (phone)
202-245-0454 (fax)

"Sims, John A" <John.Sims@bnsf.com>

07/16/2008 02:39 PM

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

cc "Sims, John A" <John.Sims@bnsf.com>

Subje STB Docket No. AB-6 (Sub-No. 435X) Abandonment Exemption for BNSF in
ct Albany, IL

Ms. Wood,

Please see the attached. This is regarding Condition No. 6 in the STB decision served January 25, 2006.

If you have any questions, please call me at (817) 352-2376.

Sincerely,
John Sims, Paralegal
BNSF - Law Dept

-----Original Message-----

From: Wiens, Mack D
Sent: Wednesday, July 16, 2008 12:38 PM
To: Sims, John A
Subject: Salvage Conditions - Albany Abandonment

John,
Here ya go.

Mack

-----Original Message-----

From: Bryant, Kenneth J
Sent: Wednesday, July 16, 2008 11:32 AM
To: Wiens, Mack D
Subject:

This E-mail was sent from "lp601494" (LD230).

Scan Date: 07.16.2008 12:31:36 (-0400)
Queries to: lanier-ftw@bnsf.com



Atlantic Track & Turnout Co.

P.O. BOX 435, RICHMOND IL 60071 (815) 678-4521

July 10, 2008

Mr. Mack Weins,

As outlined in Exhibit D of the Salvage Conditions I contacted Norm West with the U.S. Environmental Protection Agency. Norm advised me he approved the historic (SHPO) and IDNR threatened and endangered species portions but forwarded me to the Illinois Environmental Protection Agency concerning permits. I contacted both the Water department and Land Department of the Illinois EPA explaining in details the scope of the Albany, Illinois Sub-No 435X salvage agreement.

Al Keller with the Illinois Water Department advised me no permits or special arrangements would be needed.

Will Sparks with the Illinois Land Department advised me no permits or special arrangements would be needed.

Sincerely,

Eric Ruzkowski

Sims, John A

From: Sims, John A
Sent: Thursday, February 08, 2007 3:15 PM
To: Sims, John A; 'woodd@stb.dot.gov'
Subject: RE: Railway Abandonment

Sorry, I forgot to mention the docket no. This is regarding AB6-435X. #1

-----Original Message-----

From: Sims, John A
Sent: Thursday, February 08, 2007 3:14 PM
To: 'woodd@stb.dot.gov'
Cc: Sims, John A
Subject: FW: Railway Abandonment

Ms. Wood,

See attached messages. This is regarding Condition #1 in the STB decision served on January 25, 2006.

If you have any questions, please call me at (817) 352-2376.

Sincerely,
John Sims, Paralegal
BNSF - Law Dept

-----Original Message-----

From: Nettles, Brian [mailto:bnettles@freebornpeters.com]
Sent: Thursday, February 08, 2007 1:24 PM
To: Sims, John A
Subject: FW: Railway Abandonment

We have just received a reply from Rock Island County regarding the Albany, Illinois abandonment.

-----Original Message-----

From: Ray Nees [mailto:rnees@co.rock-island.il.us]
Sent: Thursday, February 08, 2007 12:08 PM
To: Nettles, Brian
Subject: Railway Abandonment

Mr. Nettles,

After reviewing the information sent to me dated 1/30/07 regarding the railroad abandonment of Albany, Illinois, Rock Island County has no objection. Rock Island County already has a bike path developed through this area, so no alternate public uses are requested.

Sincerely,

Raymond Nees, CFM
Director of Zoning & Building
Rock Island County, Illinois
309-558-3771

#2

April 3, 2006

Freeborn & Peters LLP

Simon Monroe
National Geodetic Survey
NOAA, N/NGS2, Room 8813
1315 East-West Highway
Silver Spring, Maryland 20910-3282

**Re: Surface Transportation Board Docket No. AB-6 (Sub-No. 435X);
Docket No. AB-987X; The Burlington Northern and Santa Fe
Railway Company Abandonment of Albany, Illinois**

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Paralegal
Direct 312.360.6336
Fax 312.360.6596
bnettl@
freebornpeters.com

Dear Mr. Monroe:

This responds to your e-mail of March 31, 2005 concerning the referenced abandonment. Upon receipt of effective authority from the Surface Transportation Board, BNSF plans to arrange for the salvage and disposition of the right-of-way and materials thereon. Accordingly, the five geodetic marker identified (attached) as being affected by the proposed abandonment should be relocated within the next 90 days.

Sincerely,



Brian Nettles

Chicago

Springfield

/bn
Enclosure

cc: R. A. Batie (w/attachments)
John Sims (w/attachments)
Victoria Rutson (w/attachments)

Attachments



"Pearson, Christopher F"
 <PearsonCF@dot.il.gov>
 04/04/2006 02:36 PM

To "Simon Monroe" <Simon.Monroe@noaa.gov>, <msmith@freebornpeters.com>
 cc "Gilbert Mitchell" <Gilbert.Mitchell@noaa.gov>, <pat.canfield@acsm.net>, <sea@stb.dot.gov>, "Eller, Amy J" <ELLERAJ@dot.il.gov>, "Blumhoff, Michael E"
 bcc

Subject RE: NGS Response, STB docket AB-6 (SUB NO. 435X) & docket AB-987X

Diana
 # *EL-1974*
BTW

Hi Simon

I have discussed these marks with Mike Blumhoff, chief of surveys of the IDOT district containing this area and it appears that none of these marks are under threat. Three of these marks are horizontal that are not immediately located on an RR ROW, |...|MG0006|. 2|88/ADJUSTED|N414719|W0901317|A...|52 no longer exists and MG0005 does not have any geodetic quality control (according to the data sheet) and also appears to be destroyed (see below). So this appears to take care of the problem.

Thanks for the heads up.

```
>MG0005 53          41 47 49. /090 11 58.
X
>MG0005 53          41 47 49. /090 11 58.
NN
```

Cheers Chris

Chris Pearson
 NGS Geodetic Advisor for Illinois
 2300 S Dirksen Pkwy
 Springfield IL 62764
 217 524 4890
 fax 217 524 4149

-----Original Message-----
 From: Simon Monroe [mailto:Simon.Monroe@noaa.gov]
 Sent: Friday, March 31, 2006 12:20 PM
 To: msmith@freebornpeters.com
 Cc: Simon Monroe; Gilbert Mitchell; pat.canfield@acsm.net; Chris Pearson; sea@stb.dot.gov
 Subject: NGS Response, STB docket AB-6 (SUB NO. 435X) & docket AB-987X

Thank you for sharing your railroad abandonment environmental report for Albany, Rock Island County, Illinois

Approximately 5 geodetic survey marks may be located in the area described. If marks will be disturbed by the abandonment, NGS requests 90-day advance notice to attempt their formal relocation. These marks are described on the attached file. Additional advice is provided at <http://geodesy.noaa.gov/marks/railroads/>

```
|Dist|PID...|H V|Vert_Source|Approx.|Approx..|Stab|Designation
|----|-----|---|-----|-----|-----|-----|-----
|....|MG0006|. 2|88/ADJUSTED|N414719|W0901317|A...|52
```

|....|MG0005|. u|29/ADJ UNCH|N414749|W0901158|A...|53

|....|MG0677|3 .|.....|N414808|W0901527|....|CAMANCHE FIELD
AVIATION BCN 29

|....|AH3018|1 .|88/GPS OBS.|N414734|W0901240|A...|WHI84 1A

|....|AH3019|1 .|88/GPS OBS.|N414740|W0901214|A...|WHI84 1B



Simon Monroe
 <Simon.Monroe@noaa.gov>
 03/31/2006 01:20 PM

To msmith@freebornpeters.com
 cc Simon Monroe <Simon.Monroe@noaa.gov>, Gilbert Mitchell
 <Gilbert.Mitchell@noaa.gov>, pat.canfield@acsm.net, Chris
 Pearson <Chris.Pearson@noaa.gov>, sea@stb.dot.gov
 bcc

Subject NGS Response, STB docket AB-6 (SUB NO. 435X) & docket
 AB-987X

Thank you for sharing your railroad abandonment environmental report for
 Albany, Rock Island County, Illinois

Approximately 5 geodetic survey marks may be located in the area
 described. If marks will be disturbed by the abandonment, NGS requests
 90-day advance notice to attempt their formal relocation. These marks
 are described on the attached file. Additional advice is provided at
<http://geodesy.noaa.gov/marks/railroads/>

Dist	PID	H V	Vert_Source	Approx.	Approx..	Stab	Designation
....	MG0006	. 2	88/ADJUSTED	N414719	W0901317	A...	52
....	MG0005	. u	29/ADJ UNCH	N414749	W0901158	A...	53
....	MG0677	3	N414808	W0901527	CAMANCHE FIELD AVIATION BCN 29
....	AH3018	1	.88/GPS OBS.	N414734	W0901240	A...	WHI84 1A
....	AH3019	1	.88/GPS OBS.	N414740	W0901214	A...	WHI84 1B

Nettles, Brian

From: Smith, Michael
Sent: Friday, March 31, 2006 12:24 PM
To: Nettles, Brian
Subject: FW: NGS Response, STB docket AB-6 (SUB NO. 435X) & docket AB-987X

-----Original Message-----

From: Simon Monroe [mailto:Simon.Monroe@noaa.gov]
Sent: Friday, March 31, 2006 12:20 PM
To: Smith, Michael
Cc: Simon Monroe; Gilbert Mitchell; pat.canfield@acsm.net; Chris Pearson; sea@stb.dot.gov
Subject: NGS Response, STB docket AB-6 (SUB NO. 435X) & docket AB-987X

Thank you for sharing your railroad abandonment environmental report for Albany, Rock Island County, Illinois

Approximately 5 geodetic survey marks may be located in the area described. If marks will be disturbed by the abandonment, NGS requests 90-day advance notice to attempt their formal relocation. These marks are described on the attached file. Additional advice is provided at <http://geodesy.noaa.gov/marks/railroads/>

Dist	PID...	H V	Vert_Source	Approx..	Approx..	Stab	Designation.
....	MG0006	. 2	88/ADJUSTED	N414719	W0901317	A...	52
....	MG0005	. u	29/ADJ UNCH	N414749	W0901158	A...	53
....	MG0677	3	N414808	W0901527	CAMANCHE FIELD AVIATION BCN 29
....	AH3018	1 .	88/GPS OBS.	N414734	W0901240	A...	WHI84 1A
....	AH3019	1 .	88/GPS OBS.	N414740	W0901214	A...	WHI84 1B

#3

Freeborn & Peters LLP

January 5, 2007

Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Re: Surface Transportation Board Docket No. AB-6 (Sub-No. 435X); Docket No. AB-987X; The Burlington Northern and Santa Fe Railway Company Abandonment of Albany, Illinois

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Paralegal
Direct 312.360.6336
Fax 312.360.6596
bnettl@
freebornpeters.com

Dear Secretary Williams:

I am writing in regards to the January 25, 2006 decision in which the Surface Transportation board ordered that BNSF consult with USFWS Rock Island Field office prior to the commencement of any salvage activities regarding potential impacts to federally listed threatened or endangered species that may occur in the vicinity of the line. On December 18, I talked to Kristen Lundh from the USFWS Rock Island Field office regarding potential impacts to threatened or endangered species and she suggested I write a biological assessment letter in order to determine whether the proposed abandonment will have no effect on endangered or threatened species (according to the guidelines listed at <http://www.fws.gov/midwest/Endangered/section7/s7process/index.htm>).

Chicago

Springfield

The proposed abandonment may require the removal of the track materials such as the rails, ties, bridges and railroad structures but the roadbed will be left intact. BNSF bids its salvage packages out to independent contractors. The winning bidder will start work with the removal of the rails and metal parts of the track structure. Next the wooden ties are removed and separated into second hand ties, landscape quality ties and scrap ties (which are disposed of at an appropriate site). The bridges and crossings as well as any other structures are removed last. Culverts and the rail line embankment stay intact so as not to alter the prevailing waterflows along the line. Any bridge pilings are pulled out, cut off at ground level or broken off at or below the mud line. Steel bridges are dismantled and removed. If there are concrete abutments or piers involved, they may be left intact. BNSF salvage contractors are required not to place fills or other material in water bodies, including inland waterways. Contractors are also required to limit their activities to the width of the right of way. When the salvage process is complete, waterflows in the area should not be disrupted.

On December 18, 2006 I carefully reviewed the USFWS's Section 7 Consultation website for a list of species and critical habitat that "may be present" within the project area. There are five species that may be present: the eastern prairie fringed orchid (*Platanthera leucophaea*) prairie bush clover (*Lespedeza leptostachya*), Indiana bat (*Myotis sodalists*), the bald eagle (*Haliaeetus leucocephalus*), and the Higgins eye pearl mussel (*Lampsilis higginsii*).

Freeborn & Peters LLP

January 5, 2007

Page 2

The proposed abandonment will have no effect on the eastern prairie forged orchid, the prairie bush clover or the Indiana bat. According to the USFWS, there is no record of the eastern prairie forged orchid, the prairie bush clover or the Indiana bat in Whiteside and Rock Island County. See Exhibit A, June 28, 2005 letter from the USFWS. Since there is no record of any eastern prairie forged orchid, prairie bush clover or the Indiana bat in the vicinity of the proposed abandonment, the salvaging activities will have no effect on any of the species. The bald eagle is listed as wintering Whiteside and Rock Island counties. See Exhibit A. The proposed removal of track materials will not occur until the warmer months in the spring and summer, thus the abandonment will not affect the wintering eagles. Since the bald eagles will not be present in the vicinity of the proposed abandonment when salvaging activities will occur, there will be no effect on bald eagles. In the event that eagles are spotted in the vicinity of the proposed abandonment, BNSF will require its salvage contractors to take every measure and precaution to ensure that eagles are not harassed, harmed or disturbed nor will they clear any trees. The proposed abandonment will not adversely affect the Higgins eye pearlymussel. There is no record of the Higgins eye pearlymussel in the vicinity of the proposed abandonment. The closest known essential habitat for the Higgins eye pearlymussel is located in Cordova, Rock Island County, Illinois, which is approximately ten miles from Albany. See Exhibit A. Since there is no record of the Higgins eye pearlymussel in the vicinity of the proposed abandonment, salvaging activities will have no effect on the Higgins eye pearlymussel.

For these reasons, we conclude that the abandonment of 5.09 miles of railroad line between M.P. 20.31 to M.P. 25.40 in and near Albany Illinois will have no effect on the eastern prairie fringed orchid, prairie bush clover, Indiana bat, the bald eagle, or the Higgins eye pearlymussel.

Sincerely,



Brian Nettles

/bn

Enclosures



Kristen_Lundh@fws.gov
08/01/2008 11:41 AM

To Diana.Wood@stb.dot.gov
cc John.Sims@bnsf.com
bcc
Subject Fw: STB Docket No. AB-6 (Sub-No. 435X) Abandonment
Exemption for BNSFin Albany, IL

History:  This message has been replied to.

Diana,

We figured out why I don't have a copy of our response, Jody Millar responded while I was still on leave and she has the copies in her archive. Her concurrence is below. It was sent to John on December 18, 2007 via e-mail. Hopefully that is all you will need.

Kristen Lundh
U.S. Fish & Wildlife Service
Rock Island Ecological Services Field Office
1511 47th Ave.
Moline, IL 61265
309-757-5800 ext 215
fax: 309-757-5807

----- Forwarded by Kristen Lundh/R3/FWS/DOI on 08/01/2008 10:34 AM -----

"Sims, John A"
<John.Sims@bnsf.com>
08/01/2008 10:29 AM
To <Kristen_Lundh@fws.gov>
cc
Subject
FW: FW: STB Docket No. AB-6
(Sub-No. 435X) Abandonment
Exemption for BNSFin Albany, IL

-----Original Message-----

From: Jody_Millar@fws.gov [mailto:Jody_Millar@fws.gov]
Sent: Tuesday, December 18, 2007 10:27 AM
To: Sims, John A
Subject: Re: FW: STB Docket No. AB-6 (Sub-No. 435X) Abandonment
Exemption for BNSFin Albany, IL

John Sims: This responds to your request for our comments on the subject

action. Based on the finding of Pizzo & Assoc., we concur the project is not likely to adversely affect listed species. However, we also support the findings of Pizzo & Assoc. that prairie remnants found along the right-of-way should be managed to encourage and protect the native species and potentially promote habitat for listed plants.

Jody G. Millar
Assistant Field Supervisor
1511-47th Avenue
Moline, Illinois 61265
309-757-5800 x 202

"Sims, John A"
<John.Sims@bnsf.com>
To: <jody_millar@fws.gov>
12/18/2007 10:12 AM
cc: "Sims, John A"
<John.Sims@bnsf.com>
Subject: FW: STB Docket No. AB-6 (Sub-No. 435X) Abandonment Exemption for BNSF in Albany, IL

From: Sims, John A
Sent: Monday, December 03, 2007 9:58 AM
To: 'kristen_lundh@fws.gov'
Cc: Sims, John A

Subject: FW: STB Docket No. AB-6 (Sub-No. 435X) Abandonment Exemption
for
BNSF in Albany, IL

Kristen,
Just checking on the status of this request.
Thanks,
John

From: Sims, John A
Sent: Tuesday, October 30, 2007 8:34 AM
To: 'kristen_lundh@fws.gov'
Cc: 'Diana.Wood@stb.dot.gov'; DeBoever, Jake; Odom, Susan; Sims, John A
Subject: STB Docket No. AB-6 (Sub-No. 435X) Abandonment Exemption for
BNSF
in Albany, IL

Kristen,

Please reference Richard Nelson's (of your office) letter dated June
28,
2005, addressed to Brian Nettles (BNSF outside counsel) regarding
the
above-referenced rail line. Enclosed for your review is an electronic
copy
of an ecological assessment of the rail line performed by
Pizzo &
Associates, Ltd. After your review, please provide us with a
letter
regarding your suggested mitigation or finding of "No Adverse Effect."
We
will then submit a copy of your letter to the STB for final disposition.

If you have any questions, please contact me at (817) 352-2376.

Sincerely,
John Sims, Paralegal
BNSF - Law Dept
2500 Lou Menk Dr, 3rd Fl
Fort Worth, TX 76131-2828

From: Amber Address [mailto:ambera@pizzo.info]
Sent: Monday, October 29, 2007 2:54 PM
To: Sims, John A
Subject: Endangered Species Survey Report

Mr. Sims,

Pizzo & Associates, Ltd. is pleased to present the results of our
Threatened and Endangered Species Survey of the railway near Albany,
Illinois. Attached is our formal report, results from our Floristic
Quality Assessment, and list of plant species encountered during our
survey. If you have any questions concerning the report or our work,
please don't hesitate to contact Jack or myself.

Thank you for choosing Pizzo! In addition to consulting, we also
provide
ecological restoration, installation, brush clearing, and stewardship

services. If we can be of service to you in the future, please let me know!

Sincerely,
Amber Address.

Amber Address
Ecologist
10729 Pine Road
Leland, IL 60531
O#: 815.495.2300 x 105
M#: 815.826.0225
F#: 815.498.4406

[attachment "BNSF, Albany, IL FQI Data.pdf" deleted by Jody G
Millar/R3/FWS/DOI] [attachment "BNSF, Albany, IL, Species List.pdf"
deleted
by Jody G Millar/R3/FWS/DOI] [attachment "Exhibit A Title Sheet.pdf"
deleted by Jody G Millar/R3/FWS/DOI] [attachment "Pizzo T or E Species
Survey Report.pdf" deleted by Jody G Millar/R3/FWS/DOI]



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Rock Island Field Office
4469 48th Avenue Court
Rock Island, Illinois 61201
Phone: (309) 793-5800 Fax: (309) 793-5804

IN REPLY REFER
TO:

FWS/RIFO

June 28, 2005

Mr. Brian Nettles
Freeborn & Peters LLP
311 South Wacker Drive
Suite 3000
Chicago, Illinois 60606-6677

Dear Mr. Nettles:

This is in response to your letter of May 24, 2005, requesting endangered species information for the abandonment of 5.09 miles of railroad line between M.P. 20.31 to M.P. 25.40 in and near Albany, Rock Island and Whiteside Counties, Illinois. It is our understanding the proposed action may require the removal of track materials such as rails and ties, but the railbed will be left in tact.

To facilitate compliance with Section 7(c) of the Endangered Species Act of 1973, as amended, Federal action agencies are required to obtain from the Fish and Wildlife Service information concerning any species, listed or proposed to be listed, which may be present in the area of a proposed action.

Enclosed is a species list, including habitat requirements, of species that may occur in the above counties. Pursuant to Section 7 of the Endangered Species Act of 1973, as revised, it is the responsibility of the Federal action agency (agency), that licenses, permits, or funds the proposed activity, to use the species list and habitat descriptions we have provided to determine if any listed threatened or endangered species or designated critical habitats are present. If suitable habitat is found in the project area, surveys may be needed to determine if listed species are present, and this field office should be contacted for further assistance.

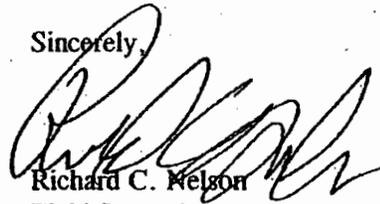
These comments provide technical assistance only and do not constitute the report of the Secretary of the Interior on the project within the meaning of Section 2(b) of the Fish and Wildlife Coordination Act, do not fulfill the requirements under Section 7 of the Endangered Species Act, nor do they represent the review comments of the U.S. Department of the Interior on any forthcoming environmental statement.

Mr. Brian Nettles

2

If you have any questions regarding our comments, please contact Kristen Lundh of my staff at (309) 793-5800 ext. 215.

Sincerely,



Richard C. Nelson
Field Supervisor

Enclosure

S:\Office Users\Kristen\Technical Assistance\Section 7
\2005\Illinois\Rock Island + Freeborn 6-28-05 (RR).doc

Habitat Descriptions for Federal Threatened and Endangered Species in Whiteside and Rock Island Counties, Illinois

The eastern prairie fringed orchid (*Platanthera leucophaea*) is listed as threatened and considered to potentially occur statewide in Illinois based on its historical records and habitat distribution, but we are unaware of any record for Whiteside or Rock Island Counties. It occupies mesic to wet grassland habitats. There is no critical habitat designated for this species. Federal regulations prohibit any commercial activity involving this species or the destruction, malicious damage, or removal of this species from Federal land or any other lands in knowing violation of State law or regulation, including State criminal trespass law. Growth of the prairie fringed orchid begins in May and flowering occurs in July. This species should be searched for whenever wet prairie remnants or other wet meadows are encountered.

The prairie bush clover (*Lespedeza leptostachya*) is listed as threatened and considered to potentially occur statewide in Illinois based on its historical records and habitat distribution, but we are unaware of any record for Whiteside or Rock Island Counties. It occupies dry to mesic prairies with gravelly soil. There is no critical habitat designated for this species. Federal regulations prohibit any commercial activity involving this species or the destruction, malicious damage, or removal of this species from Federal land or any other lands in knowing violation of State law or regulation, including State criminal trespass law. This species should be searched for whenever prairie remnants are encountered.

The endangered Indiana bat (*Myotis sodalis*) is known to occur in several Illinois counties, but we are unaware of any record for Whiteside or Rock Island Counties. **Potential habitat for this species occurs statewide, therefore, Indiana bats are considered to potentially occur in any area with forested habitat.**

Indiana bats migrate seasonally between winter hibernacula and summer roosting habitats. Winter hibernacula include caves and abandoned mines. Females form nursery colonies under the loose bark of trees (dead or alive) and/or cavities, where each female gives birth to a single young in June or early July. A single colony may utilize a number of roost trees during the summer, typically a primary roost tree and several alternates. The species or size of tree does not appear to influence whether Indiana bats utilize a tree for roosting provided the appropriate bark structure is present.

During the summer, the Indiana bat frequents the corridors of small streams with riparian woods as well as mature upland forests. It forages for insects along stream corridors, within the canopy of floodplain and upland forests, over clearings with early successional vegetation (old fields), along the borders of croplands, along wooded fencerows, over farm ponds, and in pastures.

Suitable summer habitat in Illinois is considered to have the following characteristics within a ½ mile radius of a project site:

- 1) forest cover of 15% or greater;

- 2) permanent water;
- 3) one or more of the following tree species: shagbark and shellbark hickory that may be dead or alive, and dead bitternut hickory, American elm, slippery elm, eastern cottonwood, silver maple, white oak, red oak, post oak, and shingle oak with slabs or plates of loose bark;
- 4) potential roost trees with 10% or more peeling or loose bark

If the project site contains any habitat that fits the above description, it may be necessary to conduct a survey to determine whether the bat is present. In addition, search for this species should be made prior to any cave-impacting activities. If habitat is present or Indiana bats are known to be present, they must not be harmed, harassed, or disturbed when present, and this field office should be contacted for further assistance.

The threatened bald eagle (*Haliaeetus leucocephalus*) is listed as wintering in Whiteside and Rock Island Counties. During the winter, this species feeds on fish in the open water areas created by dam tailwaters, the warm water effluents of power plants, and municipal and industrial discharges, or in power plant cooling ponds. The more severe the winter, the greater the ice coverage and the more concentrated the eagles become. They roost at night in groups in large trees adjacent to the river in areas that are protected from the harsh winter elements. They perch in large shoreline trees to rest or feed on fish. There is no critical habitat designated for this species. The eagle may not be harassed, harmed, or disturbed when present nor may nest trees be cleared.

The endangered Higgins eye pearl mussel (*Lampsilis higginsii*) is listed for the Mississippi River north of Lock and Dam 20 which includes Jo Daviess, Henderson, and Rock Island Counties, Illinois and Allamakee, Clayton, Clinton, Des Moines, Dubuque, Jackson, Lee, Louisa, Muscatine, and Scott Counties, Iowa. In addition, it is known from the Rock River downstream of the Steel Dam, Rock Island County, Illinois. Potentially, it may also occur in Adams, Carroll, Hancock, Pike and Whiteside Counties, Illinois upstream of Lock and Dam 22 on the Mississippi River. This species prefers sand/gravel substrates with a swift current and is most often found in the main channel border or an open, flowing side channel.

While there is no designated critical habitat, the Higgins eye Recovery Team has designated habitats essential to the recovery of the species. These areas include Allamakee County, Iowa (river miles 655.8-658.4R); Harper's Slough area, Allamakee County, Iowa (river mile 639-641.4R); Marquette-McGregor area, Clayton County, Iowa (river mile 634-636); McMillan Island area, Clayton County, Iowa (river mile 616.4-619.1R); Cordova, Rock Island County, Illinois (river mile 503-505.5L); and Sylvan Slough, Rock Island, Illinois (river mile 485.5-486L).

The State of Illinois has also designated certain mussel refuge areas that contain this species. Their regulations would affect the commercial harvest of mussels on these refuges. If project is located near a known Higgins eye mussel bed, it may be necessary to conduct a survey to determine the presence of the species.

The project lies within the range of the freshwater sheepnose (*Plethobasus cyphus*) and spectaclecase (*Cumberlandia monodonta*) mussels that are declining throughout their national range and are currently Federal Candidate species. Significant declines relative to their historical distribution and their small isolated remaining populations continue to be threatened due to habitat loss and degradation. We encourage early project coordination to avoid potential impacts to this mussel and its habitat.

The Federal candidate spectaclecase mussel is primarily a large river species occurring most often in riverine microhabitats sheltered from main currents. Substrates include mud to boulders in shallow riffles and shoals with slow to swift currents. Occurrences tend to be aggregated especially under slabs and bedrock shelves protected from the current. The spectaclecase mussel seldom moves and when found in streams, occurs mainly in flow refuges with little sediment turbidity.

The sheepnose mussel is primarily a larger-stream species occurring mainly in shallow shoal habitats with moderate to swift currents over coarse sand and gravel but includes mud, cobble, and boulders as well. This includes larger rivers with deep runs, while those specimens found in streams occur mainly in stable flow refuges with little sediment turbidity.

At a minimum, project evaluations should contain delineations of whether or not sheepnose mussel habitat occurs within project boundaries. In cases where the species is known to occur or potential habitat is rated moderate to high, surveys may be necessary. Please contact this office for further information should this species or their habitat be suspected.

Sims, John A

From: Sims, John A
Sent: Friday, August 25, 2006 8:16 AM
To: 'woodd@stb.dot.gov'
Cc: Sims, John A
Subject: FW: FW: Albany, IL - MP 20.31 to MP 25.40

#4

Ms. Wood,

See attached messages. This is regarding Condition #4 in the STB decision served on January 25, 2006.

If you have any questions, please call me at (817) 352-2376.

Sincerely,
John Sims, Paralegal
BNSF - Law Dept

-----Original Message-----

From: Marcia_Sieckman@es.blm.gov [mailto:Marcia_Sieckman@es.blm.gov]
Sent: Friday, August 25, 2006 6:41 AM
To: Sims, John A
Cc: Sims, John A; marcia_sieckman@blm.gov
Subject: Re: FW: Albany, IL - MP 20.31 to MP 25.40

This is to confirm that on August 24, 2006 we discussed that there are no federally granted rights-of-way for the Albany, IL trackage.

Marcia Sieckman
Supervisor, Natural Resources Team
Milwaukee Field Office
626 E. Wisconsin Ave. Suite 200
PH.414.297.4402
Fax 414.297.4405

"Sims, John A"
<John.Sims@bnsf.com>

08/24/2006 11:23 AM

To
<marcia_sieckman@blm.gov>
cc
"Sims, John A" <John.Sims@bnsf.com>
Subject
FW: Albany, IL - MP 20.31 to MP 25.40

See attached message regarding federally granted rights of way.

From: Batie, Richard A
Sent: Thursday, August 24, 2006 11:19 AM

To: Sims, John A
Cc: Odom, Susan
Subject: FW: Albany, IL - MP 20.31 to MP 25.40

John,

Attached below is Susan Odom's email explaining that there are no federally granted rights of way for the Albany, IL Trackage.

Rich Batie

-----Original Message-----

From: Odom, Susan
Sent: Thursday, August 24, 2006 11:10 AM
To: Batie, Richard A; Sims, John A
Subject: Albany, IL - MP 20.31 to MP 25.40

Rich,

The original subject right of way was acquired by Mississippi Railroad Company in 1865. There were no federal grants by act of congress involved. Please let me know if there is anything else you need.

Susan Odom
Associate Transaction Manager
THE STAUBACH COMPANY
for BNSF Network Development

BNSF Railway Company
2500 Lou Menk Drive
AOB - 3rd Floor
Fort Worth, TX 76131

817-352-2316 phone 817-352-7154 fax susan.odom@bnsf.com

Sims, John A

From: Sims, John A
Sent: Monday, November 20, 2006 3:27 PM
To: 'woodd@stb.dot.gov'
Cc: Sims, John A
Subject: FW: BNSF Railway Company Abandonment of Albany, Illinois

#5

Ms. Wood,

See attached messages. This is regarding Condition #5 in the STB decision served on January 25, 2006.

If you have any questions, please call me at (817) 352-2376.

Sincerely,
John Sims, Paralegal
BNSF - Law Dept

-----Original Message-----

From: Nettles, Brian [mailto:bnettl@freebornpeters.com]
Sent: Friday, November 17, 2006 9:20 AM
To: Sims, John A
Subject: FW: BNSF Railway Company Abandonment of Albany, Illinois

-----Original Message-----

From: Nicholas_Chevance@nps.gov [mailto:Nicholas_Chevance@nps.gov] On Behalf Of MWRO_Recplanner@nps.gov
Sent: Friday, November 17, 2006 7:58 AM
To: Nettles, Brian
Subject: BNSF Railway Company Abandonment of Albany, Illinois

We did receive your letter of August 25, 2006 concerning the above referenced item. We also received a phone call from Ms. Debra Benjamin concerning this letter. First allow me to apologize for the slow response. The letter was misplaced and was finally found yesterday afternoon.

ý We have no comment on your proposed action at this time.

ý In the future, you may address any electronic correspondence to this email address, or written requests for information to the street address below. This will ensure the Environmental Compliance staff has an opportunity to review your submittal.

Regional Environmental Coordinator
National Park Service
Midwest Regional Office
601 Riverfront Drive
Omaha, Nebraska 68102
402-661-1844
402-661-1982 (fax)

These comments have been provided as early technical assistance, and do not necessarily indicate the NPS' or the Department of the Interior's response to future environmental documents prepared in association with the project. Due to limited staff and the number of requests we receive for early coordination, we ask that companies/agencies assume we will have no comments on projects if they have not heard from us within 30 days of our receipt of the request.

Sincerely,

Regional Environmental Coordinator

#6

John Sims
BNSF Railway Company
"Sims, John A. <John.Sims@bnsf.com>

Re: STB Docket No. AB-6 (Sub-No. 435X) Abandonment Exemption for BNSF
Railway Company in Rock Island and Whiteside Counties, Illinois

Dear Mr. Sims:

On August 24, 2006 you provided me with your e-mail address so that we could inform you of the office you would need to contact for a permit to undertake the above rail abandonment and bridge removal work. While this information would usually be the responsibility of your offices to locate the appropriate authority, we felt this project in an environmentally sensitive area warranted our being involved.

The Rockford, Illinois office of the U.S. Army Corps of Engineers (U.S. ACE) has authority regarding wetland or floodplain permits for the location of this proposed project. Their phone number is 309-794-5369. In addition, the U.S. ACE referred us to the Illinois Department of Natural Resources (IDNR) for work in floodway locations, which applies to this project.

The IDNR office of authority was found to be the Whiteside County Area Office. We were instructed that projects involving "obstruction of flow" may need a permit. The term "obstruction" can refer to partial as well as total blocking or diverging of water flow. A further caveat of this consideration is the location of the watercourse and the watershed area it is draining. In the case of this proposed project, the location is rural and the applicable size of the watershed may not reach regulatory dimension. This IDNR office phone number is 217-782-4376.

The wood bridge should be completely removed. The steel bridge with large concrete abutments can be addressed in two ways. Either remove the steel superstructure with all its fittings and leave the abutments intact, the preferred alternative, or remove the abutments as well, to below the riverbed surface. Should the latter option be selected, we request that the resulting embankments be graded to less than 45 degree angle and stabilized by replanting with selections of native plant species, in consultation with the local Soil Conservation District Office.

We appreciate your company's diligence in this abandonment project. Should other questions arise, feel free to contact me at this e-mail or by phone at 312-353-5692.

Sincerely,

Norm West
Environmental Scientist, U.S. EPA-R5



West.Norman@epamail.epa.
gov
05/01/2007 10:42 AM

To Diana.Wood@stb.dot.gov
cc
bcc
Subject Stormwater concerns for the STB No. AB-6(Sub-No. 435X)
abandonment

Diana,

Regarding your inquiry about obtaining a requisite Section 402 NPDES stormwater permit for construction work at this project site; I reviewed the information provided and our response letter of January 10, 2006. In that the project involves a 5.09 mile stretch of rail, that exceeds one acre of land which will be disturbed and therefore a permit does need to be applied for from the State of Illinois EPA. As we indicated in our response letter, the railroad may specify that the contractor obtain this permit in the contract, but as is always the case, the railroad remains responsible for the work done being properly permitted.

I hope this provides adequate clarification. Should further question arise, feel free to get back to me.

Norm



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGIONS 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JAN 10 2006

#E1-1874
DZW

REPLY TO THE ATTENTION OF:

B-19J

Diana Wood
Case Control Unit
Surface Transportation Board
1925 K. Street, N.W., Suite 500
Washington, D.C. 20423

Re: Comments on a Proposed BNSF Railway Company-Abandonment In Rock Island and Whiteside Counties, Illinois: Docket No. AB-6(Sub No. 435X) and AB-987X

Dear Ms. Wood:

The U.S. Environmental Protection Agency (U.S. EPA)-Region 5 received the railroad's Senior Counsel inquiry letter of November 16, 2005 and the Surface Transportation Board (STB) Environmental Assessment (EA) concerning the BNSF Railway Company proposed 5.09 mile rail line abandonment at Albany, Illinois. This letter of comment is provided under the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

We are pleased to receive the EA for this project and appreciate the conditions indicated as appropriate prerequisites to abandonment activity. While it seems possible to carry out the proposed abandonment activities with minimal impacts to the environment, this is in a very sensitive area and special care is warranted. We defer to our fellow agencies regarding their respective areas of expertise, but specifically concur that the Rock Island offices of the US Fish and Wildlife Service needs to approve actions for this project to not only assure protection of endangered and threatened species, but also of their habitats.

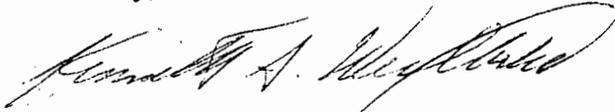
Our EPA concerns include the routine attention to disposal of creosote ties and recycling of rails and such as noted below, but also for the wetlands adjacent to this right-of-way (ROW). Because the southern portion of this rail ROW to be abandoned is an elevated path through sensitive wetlands, precautions should be specified in any contract work which go beyond the "BNSF's general practice". Commitments should be included which specify what precautions will be taken to assure protection of these wetlands during construction. These should include avoiding incidental spills, dumping, and debris on wetland areas, incidental damage to flora, no piling of materials or operating machinery in wetland areas, and attention to machinery maintenance to minimize noise and air pollution. Application for a Section 402 stormwater permit should also be submitted to the Illinois Environmental Protection Agency.

The final disposition of crossties preserved with creosote is an issue of concern per the July 3, 1984 Rebuttable Presumption Against Registration under the Federal Insecticide,

Fungicide, and Rodenticide Act, which states that wood treated with creosote should be buried in a non-hazardous waste landfill or recycled in landscaping applications as otherwise required by the State of Illinois. If rail steel, electrical and signal housings, bridge work and other materials are to be removed from this site, recycling of these materials should be addressed and documented.

We support the abandonment proposed, with the above precautions clearly specified and committed to in all related agreements and contracts. Thank you for the opportunity to provide comments on this project proposal. Should you have questions concerning these comments, please contact me or Norm West, of my staff, at (312)-353-5692 or by e-mail at west.norman@epa.gov.

Sincerely,



Kenneth A. Westlake, Chief
NEPA Implementation Section

Cc: Michael A. Smith, Esq.
Senior Counsel, BNSF Railway Company
Freeborn & Peters, Attorneys at Law
311 South Wacker Drive, Suite 3000
Chicago, Illinois 60606-6677