



CHICAGO DEPARTMENT OF TRANSPORTATION

CITY OF CHICAGO

233747

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Public Record

Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Karl Morell
Ball Janik LLP
655 15th Street NW, Suite 225
Washington, DC 20423

Re: BNSF Railway--Abandonment Exemption--in Cook County, IL, STB Docket No.
AB-6 (Sub-No. 482X)

Dear Board:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the City of Chicago, an Illinois municipal corporation, acting by and through its Department of Transportation ("Commenter").

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between Station 36+70 (north of the Chicago Sanitary and Ship Canal Bridge) and Station 149+87 (at the end of the track near Western Avenue).

A. Public Use Condition.

Commenter requests the Board to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. The justification for this condition is that the City of Chicago's bikeway facilities development plan, *The Chicago Trails Plan*, recommends establishing a trail in South Lawndale and this can serve as an alternate routing for such a trail. Further, the Chicago Department of Housing and Economic Development is proposing feasibility studies for a Paseo (walking path) to connect immediately

south of 27th Street to a 6-block large regional park in development on the former Celotex site. Also, immediately northeast of the crossing at 28th/Albany is a city-owned parcel being conveyed to the not-for-profit NeighborSpace to develop a community garden. The south end of the corridor provides a rare opportunity to offer public access to the north bank of the Sanitary and Ship Canal. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time because we have not had an opportunity to assemble or to review title, appraisal and environmental information, conduct feasibility and design studies, complete a trail plan or commence negotiations with the carrier.

2. An order barring removal or destruction of any potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use.

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commenter also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY.

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29, the City of Chicago is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by BNSF Railway.

The property appears to be former trackage of the Illinois Northern Railway (INR), a switching carrier initially owned by International Harvester (IH). IH sold its capital stock in the INR to a group of railroads, one of which was The Atchison, Topeka and Santa Fe Railway Company (ATSF). Later, ATSF (now part of BNSF) acquired all of the former INR interests in the Chicago area. This segment as described in the BNSF petition extends from Station 36+70 (north of the Chicago Sanitary and Ship Canal Bridge) to Station 149+87 (at the end of the track near Western Avenue), a distance of approximately 2.14 miles in Cook County, Illinois. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-6 (Sub-No. 482X).

A map depicting the right-of-way is attached.

The City of Chicago acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future

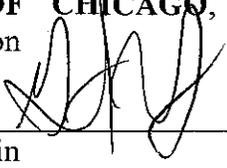
reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the Board.

Pursuant to 49 C.F.R. § 1002.2(e)(1), the filing fee for this request is waived.

By my signature below, I certify service upon BNSF Railway's representative Karl Morel, Ball Janik LLP, 655 15th St N.W., Washington, DC, by U.S. Mail, postage prepaid, first class, this ^{28th}_{29th} day of January, 2013.

Respectfully submitted,

CITY OF CHICAGO, an Illinois municipal corporation

By:  _____ 
Gabe Klein
Commissioner of Transportation

