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Opponents of BNSF freight yard bidding their time

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BNSF's announcement that it's ready to start construction of its new Edgerton freight yard will not necessarily be met with an immediate rush to try to stop the project with an injunction.

Lawyers representing groups trying to stop the project say they will likely let their ongoing litigation play out until BNSF gets to a point where it does something like turning dirt.

"We're monitoring the situation," said Melissa Lin Perrella, staff attorney for the Natural Resources Defense Council. "If it looks like BNSF is moving forward in a manner that's going to cause immediate and irreparable harm to the environment then we'll need to consider whether or not to pursue a preliminary injunction."

Mark Dugan, who is representing area residents, was taking a similar approach.

"Unless they physically start building the project, I doubt we'll move for an injunction," Dugan said recently. "We're certainly going to keep an eye on them. They can do whatever they think they need to do for funding...or make whatever announcements they need to make to move the project forward.

"If they start moving the project itself before the environmental litigation is resolved, we're going to have an issue with that."

BNSF was vague about when construction will begin on the nearly 500-acre freight hub. The railroad said it plans to begin "construction planning" before the end of the year with construction starting next year.

Meanwhile, the litigation is expected to last until after the first of the year. The litigation was sent to arbitration over the summer and wasn't settled. The plaintiffs filed a round of briefs early this month. More briefs are expected to be filed by both sides before the year's out.

Opponents are seeking to force BNSF to conduct a more exhaustive environmental analysis of the project before commencing. They contend that the environmental study done by the U.S. Army Corps of Engineers was insufficient to accurately assess the project's impact on the environment.

Matt Rose, chief executive of BNSF, said the railroad wasn't concerned about the litigation threatening the project.

"I think when the story is told here in terms of what we're doing to green the facility with electric cranes...we're not concerned about it. We're moving forward. We respect the process that everybody plays in. We'll have our day in court. What most people don't understand is how much infrastructure is going to go in to make this facility work for everybody.

"When that plan is fully vetted, we think we'll be very successful with the suit. We're moving forward. We're not waiting," Rose said.