

**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

MEMORANDUM

5/12/2015

TO: Office of Proceedings

FROM: Victoria Ruston, Director
Office of Environmental Analysis

RECOMMENDATION: STB Docket No. AB 33 (Sub-No. 268X): Removal of Existing Section 106 Condition

In an April 28, 2015 letter to the Union Pacific Railroad Company (UP), the Wisconsin Historical Society (SHPO) provided the opinion that approval of the abandonment in this proceeding would have **No Adverse Effect** on historic properties pursuant to Section 106 of the National Historic Preservation Act (see attached SHPO letter). The SHPO writes that the line includes several bridges that are contributing resources to two National Register-eligible parks (Estabrook Park and Lincoln Park).¹ However, the SHPO has provided the opinion that the Board's approval of the proposed abandonment would have no effect on these eligible resources. OEA concurs with this assessment as explained below.

The SHPO opinion is based, in part, on the UP plan to convey the line right-of-way to the County of Milwaukee (CMW) for trails use.² UP has been in negotiations with CMW to develop a rail banking agreement under a Notice of Interim Trails Use (NITU) first served on June 12, 2009. The NITU was filed by the Wisconsin Department of Transportation (DOT) on behalf of CMW. Since that time, the Board has extended the NITU several times, most recently on May 6, 2015, to allow the parties to continue their negotiations. In its recent motion (April 22, 2015) to request an extension of the NITU, the Wisconsin DOT states that CMW is committed to purchasing the line despite the time it has taken to develop an agreement with UP. Money for CMW to purchase the line

¹ The SHPO cautioned that the line right-of-way contains two known burial sites. Consequently, any ground-disturbing work must be authorized by the SHPO and be consistent with state and federal statutes. Any alteration to the bridges must also be coordinated with the SHPO.

² Any rail banking agreement would only apply to a 2.85-mile segment of the line from milepost 91.98 to the end of the line at milepost 89.13. The original UP Notice of Exemption identified the line as extending from milepost 92.21 to 89.13, a distance of 3.08 miles.

from UP is coming from a grant awarded through the Congestion Mitigation and Air Quality Improvement Program which has multiple requirements for its grantees. In this instance, the grant program, administered by the Federal Highway Administration and Wisconsin DOT, required the completion of a number of studies including environmental and design reports prior to issuance of the grant. Though time consuming, these studies ensured that any environmental, structural and historical issues that might result from conversion of the line were identified before any transfer of land between UP and CMW is made.

In sum, CMW and UP are very close to agreeing on the terms of the transfer of the line right-of-way for its conversion to a trail. Consequently, the SHPO has determined that the Board's approval of the proposed abandonment would not adversely affect historic properties since the rail corridor will remain largely intact. We agree.

Accordingly, OEA recommends that the current Section 106 condition attached to this decision be removed.

Attachment (1)

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Distribution: Office of Proceedings
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EXHIBIT A

WISCONSIN
HISTORICAL
SOCIETY

April 28, 2015

Mr. Olin Dirks
Union Pacific Railroad Company
1400 Douglas St
Omaha, NE 68179 – Mail Stop 1350

RE: Docket No. AB 33 (Sub-No. 268X) / WHS # 08-0323 MI
Union Pacific Rail-line Abandonment and Trail Conversion
Milwaukee County

Dear Mr. Dirks:

Per your request, please accept this correspondence as a reiteration of the SHPO's concurrence that the planned abandonment of the Union Pacific Rail line from MP 92.21 to MP 89.13 within the City of Milwaukee will not adversely affect the historic properties within the proposed abandonment area.

Please note, however, that since your original notification, both Estabrook Park and Lincoln Park have been listed on the National Register of Historic Places and many of the railroad bridges on that particular line have "contributing" status. We encourage the WisDOT to coordinate with their Cultural Resources Team, Bureau of Technical Services to ensure continued regulatory compliance while planning for the trail conversion.

Secondly, this portion of the line crosses two known human burial sites. All ground-disturbing work must be authorized by the State Historic Preservation Office prior to beginning work to be in compliance with Wis. Stats. § 157.70 and Wis. Admin. Code § HS 2.04, which involve the protection of human burial sites.

Feel free to contact me if you have any further questions or concerns.

Sincerely,

Kimberly Zuker Cook
Wisconsin Historical Society
Division of Historic Preservation – Public History

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