

#EO-1615

**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

**SUPPLEMENTAL ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 33 (Sub-No. 279X)**

March 1, 2011

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:
(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

Comments on the EA

RECOMMENDATION: Remove Section 106 Condition

In this proceeding, Union Pacific Railroad Company (UP) filed a notice of exemption to abandon a 0.2-mile line of railroad in Polk County, Iowa. By decision served on March 18, 2010, the Board imposed 4 environmental conditions and concluded that the proposed action would not significantly impact the quality of the human environment. Because the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f (NHPA), had not been completed at the time of the Board's decision, the Board imposed a condition requiring UP to: (a) retain its interest in, and take no steps to alter, the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way that are eligible for listing or are listed in the National Register of Historic Places (National Register) until the Section 106 process of the NHPA has been completed; (b) report back to the Board's Office of Environmental Analysis (OEA)¹ regarding any consultations with the State Historical Society of Iowa (the State Historic Preservation Office or SHPO) and the public; and (c) not file a consummation notice or initiate any salvage activities related to abandonment

¹ OEA was formerly known as the Board's Section of Environmental Analysis (SEA). The change from SEA to OEA became effective on September 1, 2010.

(including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed the condition.

New Comments On the Abandonment

Section 106 Condition

Pursuant to the Section 106 regulations of the NHPA at 36 C.F.R. § 800.5(b), and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register located within the right-of-way (the Area of Potential Effects or APE). The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of UP's historic report, the attached correspondence dated February 23, 2011 from the SHPO indicating its concurrence with OEA's determination, other relevant correspondence (attached), and the EA, which have been provided to the SHPO and made available to the public through posting on the Board's web site at <http://www.stb.dot.gov>.

Accordingly, the Board has satisfied its responsibilities under Section 106 of the NHPA in this proceeding, and OEA is recommending that the Board remove the Section 106 condition.

OEA CONTACT: Diana Wood 245-0302





SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

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February 14, 2011

Douglas W. Jones
Archaeologist and Review Compliance Manager
State Historic Preservation Office
State Historical Society of Iowa
600 East Locust
Des Moines, IA 50319-0290

Re: STB Docket No. AB 33 (Sub-No. 279X) – Union Pacific Railroad Company –
Abandonment Exemption – In Polk County, IA; **No Historic Properties Affected**
Finding

Dear Mr. Jones:

As you know, the Union Pacific Railroad Company (UP) filed a notice of exemption with the Surface Transportation Board (Board) seeking to abandon an approximately 0.2 mile railroad line in Polk County, Iowa. The Board's approval of the abandonment is considered an undertaking under Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) (NHPA) and is therefore covered under its provisions.

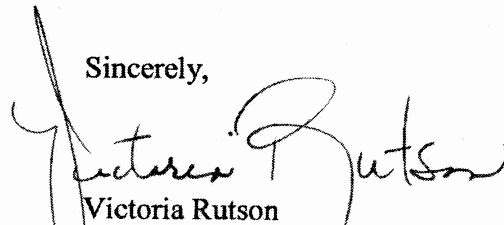
The Office of Environmental Analysis (OEA) is the office within the Board responsible for conducting the environmental review process pursuant to the National Environmental Policy Act (NEPA), including NHPA. OEA has reviewed the proposed project, and pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the NHPA at 36 C.F.R. § 800.5(c) and 36 C.F.R. § 800.8, finds that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National register) would be affected by the proposed abandonment. Therefore, the Board finds that there are **No Historic Properties Affected** for this undertaking in accordance with 36 C.F.R. § 800.4(d)(1). Please inform OEA within the 30 day specified time frame if you object to this finding.

Enclosed, please find a statement indicating our compliance with the documentation requirements of 36 C.F.R. § 800.11(d). The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of the railroad's Historic Report, all relevant correspondence, and

the Environmental Assessment, which have been provided to your office and made available to the public. OEA believes that our environmental review meets the intent and goals of NEPA, including 36 C.F.R. § 800.11 and 36 C.F.R. § 800.2(d)(2) (See 49 C.F.R. § 1105.8), and that the Section 106 process has been properly completed for this case.

OEA is committed to ensuring proper completion of the Section 106 process and we look forward to working with you in the future. If you have any questions, please do not hesitate to call me or Diana Wood at (202) 245-0302.

Sincerely,


Victoria Rutson
Director
Office of Environmental Analysis

CONCUR

NAME

Douglas W. Jones
REVIEW & COMPLIANCE PROJECT MANAGER, SPSI

DATE

2/23/2011

Attachments



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

February 14, 2011

Douglas W. Jones
Archaeologist and Review Compliance Manager
State Historic Preservation Office
State Historical Society of Iowa
600 East Locust
Des Moines, IA 50319-0290

Re: STB Docket No. AB 33 (Sub-No. 279X) – Union Pacific Railroad Company –
Abandonment Exemption – In Polk County, IA; **No Historic Properties Affected**
Finding

Dear Mr. Jones:

As you know, the Union Pacific Railroad Company (UP) filed a notice of exemption with the Surface Transportation Board (Board) seeking to abandon an approximately 0.2 mile railroad line in Polk County, Iowa. The Board's approval of the abandonment is considered an undertaking under Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) (NHPA) and is therefore covered under its provisions.

The Office of Environmental Analysis (OEA) is the office within the Board responsible for conducting the environmental review process pursuant to the National Environmental Policy Act (NEPA), including NHPA. OEA has reviewed the proposed project, and pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the NHPA at 36 C.F.R. § 800.5(c) and 36 C.F.R. § 800.8, finds that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National register) would be affected by the proposed abandonment. Therefore, the Board finds that there are **No Historic Properties Affected** for this undertaking in accordance with 36 C.F.R. § 800.4(d)(1). Please inform OEA within the 30 day specified time frame if you object to this finding.

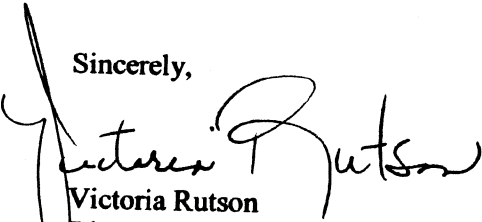
Enclosed, please find a statement indicating our compliance with the documentation requirements of 36 C.F.R. § 800.11(d). The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of the railroad's Historic Report, all relevant correspondence, and

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the Environmental Assessment, which have been provided to your office and made available to the public. OEA believes that our environmental review meets the intent and goals of NEPA, including 36 C.F.R. § 800.11 and 36 C.F.R. § 800.2(d)(2) (See 49 C.F.R. § 1105.8), and that the Section 106 process has been properly completed for this case.

OEA is committed to ensuring proper completion of the Section 106 process and we look forward to working with you in the future. If you have any questions, please do not hesitate to call me or Diana Wood at (202) 245-0302.

Sincerely,



Victoria Rutson
Director
Office of Environmental Analysis

Attachments

Statement of Compliance

36 C.F.R § 800.11(d)

Finding of No Historic Properties Affected. Documentation shall include:

- (1) A description of the undertaking, specifying the federal involvement, and its area of potential effects, including photographs, maps, drawings, as necessary;**
 - On October 20, 2009, the Union Pacific Railroad Company (UP) sent to the State Historic Preservation Officer (SHPO) a Historic Report as required by the Surface Transportation Board's (Board) environmental rules. See 49 C.F.R. § 1105.8(a). The Historic Report described the nature of the proposed abandonment and area of potential effects, the history of carrier operations in the area, and properties 50 years old or older. The railroad also included maps of the area.
- (2) A description of the steps taken to identify historic properties, including, as appropriate, efforts to seek information pursuant to 36 C.F.R. § 800.4(b);**
 - UP solicited comments from the Iowa SHPO, as well as other federal, state and local agencies regarding the proposed abandonment.
 - Pursuant to the requirements of the National Environmental Policy Act and Section 106 of the National Historic Preservation Act, the Board's Office of Environmental Analysis (OEA) prepared an Environmental Assessment (EA) that was served February 23, 2010. In the EA, OEA indicated that there are no buildings, bridges or structures on the line that are 50 years or older.
 - OEA placed all material regarding the proposed abandonment in the public docket and solicited comments from agencies, interested parties, and the public on the EA.
 - OEA received correspondence from the Iowa SHPO stating that, based on information provided by UP, it did not believe there were any historic properties in or eligible for inclusion on the National Register within the APE.
- (3) The basis for determining that no historic properties are present or affected.**
 - The railroad's Historic Report, as well as the SHPO and the Board's conclusions regarding National Register eligibility, OEA served the EA on agencies, interested parties and the public with a 15-day comment period. The comment period ended March 10, 2010 and OEA did not receive comments on issues pertaining to historic preservation.

On March 15, 2010, OEA prepared a Final EA that addressed public comments. The document was placed in the public docket.

No Historic Properties Affected

Based on the information provided to date, OEA has determined that the proposed rail abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places (National register). Accordingly, the Board finds that there are No Historic Properties Affected for this undertaking in accordance with 36 C.F.R. § 800.4(d)(1). Once 30 days have passed, OEA will recommend that the Board remove the Section 106 condition in this proceeding. Therefore, please inform OEA within the 30 day specified time frame if you object to the finding.

For your convenience, you may respond by marking the appropriate space below:

_____ SHPO concurs with the finding that no historic properties would be affected by this proposed rail line abandonment.

_____ SHPO does not concur with this finding and will submit additional comments within 30 days.

UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920
Chicago, Illinois 60606-1718

P 312 777 2066
F 312 777 2066

Mack H. Shumate, Jr. Senior General Attorney, Law Department

228765

February 4, 2011

VIA E-FILING

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W., Room 100
Washington, DC 20423-0001

ENTERED
Office of Proceedings
FEB 4 - 2011
Part of
Public Record

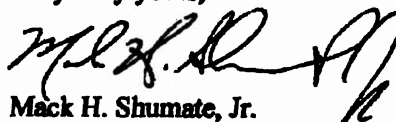
SATISFACTION SECTION 106 CONDITION

RE: Exempt Discontinuance of Service over the Ankeny Industrial Lead from Milepost 10.50 in Ankeny to Milepost 10.70 in Ankeny, a distance of .20 miles in Polk County, Iowa; STB Docket AB-33 (Sub-No. 279X)

Dear Ms. Brown:

Attached hereto as Exhibit A is the response from the Iowa State Historic Preservation Office indicating that there are no outstanding issues under Section 106 of the National Historic Preservation Act with regard to the above-referenced abandonment. Union Pacific respectfully requests that the Board acknowledge satisfaction of the Section 106 condition and issue a decision to that effect.

Very truly yours,


Mack H. Shumate, Jr.

Attachment

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EXHIBIT A

MAR 09 2010

090977095



March 4, 2010

State Historical Society of Iowa

C/O Jerome Thompson

600 East Locust

Des Moines, IA 50319-0290

RE: Exempt Discontinuance of Service over the Ankeny Industrial Lead from Milepost 10.50 in Ankeny to Milepost 10.70 in Ankeny, a distance of .20 miles in Polk County, Iowa; STB Docket AB-33 (Sub-No. 279X)

Dear Mr. Jerome Thompson:

In a letter dated September 14, 2009, Union Pacific Railroad Company ("Union Pacific") notified your office of its planned abandonment of a portion of the Ankeny Industrial Lead (the "Line") in Polk County, Iowa under STB Docket No. AB-33 (Sub-No. 279X). In that there are no structures on the Line fifty (50) years old or older, Union Pacific did not send a subsequent letter with photographs of any bridges or other structures on the Line.

The abandonment exemption was filed February 18, 2010. Even though there are no qualifying historic structures on the Line, the Surface Transportation Board ("STB") desires verification that your office sees no outstanding issues under Section 106 of the National Historic Preservation Act. Accordingly, if you concur that there are no outstanding Section 106 issues regarding the Line, please verify by signing and dating the duplicate original of this letter and return same to me in the enclosed self-addressed envelope, or if you prefer, you may respond via email to cgraham@up.com with a signed version of the letter in PDF format.

Thank you for your assistance in this matter. If you have any questions, please call me at 402/544-1643.

Sincerely,

Law Department

UNION PACIFIC RAILROAD
1400 Douglas St., Stop 1588, Omaha, NE 68179-1580
fx (402) 501-0127



State Historical Society of Iowa
600 East Locust
Des Moines, IA 50319-0290

No Outstanding Section 106 Issues:

By: _____

Title: _____

Dated: _____

Jonathan W. Jones
REVIEW & COMPLIANCE PROGRAM MANAGER, SHPO, SHSI
4/6/2010

Law Department

UNION PACIFIC RAILROAD
1400 Douglas St., Stop 1500, Omaha, NE 68179-1500
Ex. (402) 501-0127

ED-1606
DAW



Question Regarding a Rail line Abandonment
Diana Wood to: Doug Jones

02/08/2011 02:12 PM

Mr. Jones:

I'm working with Union Pacific (UP) on a 0.2-mile rail line abandonment in Polk County Iowa. UP filed its application with the Board in February 2010, and I prepared an environmental assessment shortly thereafter (based on agency scoping and information provided by UP). We did not hear back from a number of agencies during the 15-day comment period, so imposed a number of conditions, including a Section 106 condition (see page 4 of the attached EA) that required UP to further consult with your office.

Last Friday, UP sent a letter to the Board signifying that it received concurrence from your office and that the Section 106 process had been completed. The letter concluded that there were no "no outstanding Section 106 issues." My question is whether your concurrence is based on a "no adverse effect" finding or a "no historic properties affected" finding. I believe it would be the latter, given that the railroad has indicated there are no structures on the line that are 50 years old or older, but, do not want to make the wrong assumption when writing up my recommendation to the Board to remove the Section 106 condition. Could you please let me know as soon as possible, as I know the railroad would like to complete the abandonment process soon.

Thanks so much!

Diana



EA.pdf



mapattachment#40576.pdf



UP ltr and SHPO's Concurrence 2-11.pdf

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

SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS

ED-1416

POST ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
STB DOCKET NO. AB-33 (Sub-No. 279X)

March 15, 2010

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

SEA served an Environmental Assessment (EA) for this proceeding on February 23, 2010 for public review and comment. In the EA, SEA recommended two (2) environmental conditions and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

SEA received one comment (see attached) letter after the issuance of the EA. The Conservation and Recreation Division of the Iowa Department of Natural Resources (DNR) commented that it had searched its data base to determine if the proposed abandonment would have an impact on rare species and significant natural communities, and found that no site specific records exist within the project area. DNR, however, cautioned that its records are not based on actual field surveys and that additional studies and/or mitigation may be warranted if such species are encountered during planning or construction – or in this case, the salvage process. Based on this request, SEA is recommending a condition that requires the Union Pacific Railroad Company (UP) to consult with DNR's Conservation and Recreation Division prior to initiating salvage activities to determine if the proposed abandonment would impact any rare species and/or significant natural communities.

DNR also recommended that its Environmental Services Division be contacted to determine if construction – or in this case, salvage activities – would result in ground disturbance of one or more acres and thus require a storm water discharge permit. DNR further mentioned that it administers fugitive dust regulations, which may apply to the salvage process. DNR provided contact information in both issue areas for further clarification. SEA is not certain if UP intends to disturb any of the underlying soil during salvage on the roughly 2.42 acres encompassing the proposed abandonment, and is therefore recommending a new condition that requires UP to consult with DNR's Environmental Services Division prior to initiating the salvage process to determine if any permits are required.

Conclusions

The EA comment period has ended. Accordingly, SEA recommends that the two conditions recommended in the EA as well as the two new conditions recommended in this document be imposed upon any decision granting abandonment authority. SEA concludes that if the following conditions are imposed, the proposed action would not significantly affect the quality of the human environment.

1. Prior to commencement of any salvage activities, the Union Pacific Railroad Company (UP) shall consult with the U.S. Army Corps of Engineers (Corps) regarding potential impacts to waters of the United States, including wetlands, and shall comply with the reasonable requirements of the Corps.
2. UP shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. UP shall report back to the Section of Environmental Analysis (SEA) regarding any consultations with the State Historic Preservation Office and the public. UP may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.
3. Prior to commencement of any salvage activities, UP shall contact the Iowa Department of Natural Resources (DNR), Conservation and Recreation Division, regarding potential impacts to rare species and/or significant natural communities and shall comply with its reasonable requirements.
4. Prior to commencement of any salvage activities, UP shall consult with DNR's Environmental Services Division regarding its storm water and fugitive dust emissions regulations and shall comply with its reasonable requirements.

SEA CONTACT: Diana Wood
202-245-0302
woodd@stb.dot.gov

Distribution: Ann Newman, Office of Proceedings
SEA Chron
ECT

Attachment: (1)



RE: No Historic Properties Affected Finding for a Rail line Abandonment 

Diana Wood to: Jones, Doug [DCA]

02/14/2011 02:35 PM

Doug:

I've sent the "No Historic Properties Affected" letter in today's mail, but in the interest of time, am also sending it to you electronically. Please let me know if you have any questions or if you need additional information. Thanks for all your help.

Best regards,

Diana



Ltr to SHPONoAdverseEffect2-11.pdf



EA.pdf



UP ltr and SHPO's Concurrence 2-11.pdf



EO-1606.pdf



EO-1416.pdf

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

"Jones, Doug [DCA]"

Diana, It appears that this would be a "No His...

02/08/2011 03:51:10 PM

From: "Jones, Doug [DCA]" <Doug.Jones@iowa.gov>
To: "Diana.Wood@stb.dot.gov" <Diana.Wood@stb.dot.gov>
Cc: "Jones, Doug [DCA]" <Doug.Jones@iowa.gov>, "Christian, Ralph [DCA]" <Ralph.Christian@iowa.gov>, "Strand, June [DCA]" <June.Strand@iowa.gov>
Date: 02/08/2011 03:51 PM
Subject: RE: Question Regarding a Rail line Abandonment

Diana,

It appears that this would be a "No Historic Properties Affected" finding that we would concur with if that finding would be provided to us for consultation.

Douglas W. Jones, Archaeologist and Review and Compliance Program Manager
State Historic Preservation Office
State Historical Society of Iowa
(515) 281-4358

From: Diana.Wood@stb.dot.gov [mailto:Diana.Wood@stb.dot.gov]
Sent: Tuesday, February 08, 2011 1:13 PM
To: Jones, Doug [DCA]
Subject: Question Regarding a Rail line Abandonment

Mr. Jones:

I'm working with Union Pacific (UP) on a 0.2-mile rail line abandonment in Polk County Iowa. UP filed its application with the Board in February 2010, and I prepared an environmental assessment shortly thereafter (based on agency scoping and information provided by UP). We did not hear back from a number of agencies during the 15-day comment period, so imposed a number of conditions, including a Section 106 condition (see page 4 of the attached EA) that required UP to further consult with your office.

Last Friday, UP sent a letter to the Board signifying that it received concurrence from your office and that the Section 106 process had been completed. The letter concluded that there were no "no outstanding Section 106 issues." My question is whether your concurrence is based on a "no adverse effect" finding or a "no historic properties affected" finding. I believe it would be the latter, given that the railroad has indicated there are no structures on the line that are 50 years old or older, but, do not want to make the wrong assumption when writing up my recommendation to the Board to remove the Section 106 condition. Could you please let me know as soon as possible, as I know the railroad would like to complete the abandonment process soon.

Thanks so much!

Diana

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