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OEA

SERVICE DATE – JANUARY 4, 2021

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 1302X

City of Temple, Texas – Abandonment Exemption –in Bell County, Tex.

Docket No. AB 1309X

**Temple and Central Texas Railway, LLC – Discontinuance Exemption –
in Bell County, Tex.**

BACKGROUND

In this proceeding, the City of Temple, Texas and Temple & Central Texas Railway, LLC (TCTR) filed a joint notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 in connection with the abandonment and discontinuance, respectively, of a line of railroad in Bell County, Texas. The rail line proposed for abandonment extends approximately 6.3 miles from approximate milepost 0.0 in Belton, Texas to milepost 6.277 in Smith, Texas (the Line). A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If the notice becomes effective, the City of Temple would be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way. Because the discontinuance would not involve salvage of the rail line, this Draft EA focuses on the environmental effects of abandonment of the Line.

DESCRIPTION OF THE LINE

The Line was built in the late 1880s, with a right-of-way varying in width between 50 and 100 feet. It connects east Belton to south of the City of Temple, passing through light industrial, agricultural, and residential land use areas. Track remains throughout the Line, as does a historic bridge listed on the National Register of Historic Places as the Missouri, Kansas, & Texas Railroad Bridge at the Leon River. There may be culverts in place along the Line, however the City of Temple intends to leave all culverts in place to preserve prevailing waterflows through the right-of-way.

ENVIRONMENTAL REVIEW

The City of Temple submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly as a result of the proposed abandonment of the Line, including salvage. The City served the

E&H Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)]¹ implementing the National Environmental Policy Act. The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to the City of Temple, no local traffic has moved over the Line over the last thirty years, and there is no overhead traffic on the Line. Therefore, the proposed abandonment would not result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. Nor would the proposed abandonment adversely impact the development, use and transportation of energy resources or recyclable commodities or the transportation of ozone-depleting materials.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. If the Board should grant abandonment authority, the City of Temple, with contractor support, intends to salvage in the following way:

1. Unbolting the track materials or rails,
2. Using specialized machinery placed on the railroad right-of-way, removing the rails and related steel (angle bars, tie plates, spikes, switches, and any other metal parts),
3. Raising the wooden ties from the ballast with a tool designed for minimum disruption of ground material.
4. Leaving culverts, ballast, and right-of-way intact so as not to alter the prevailing waterflows along the Line.
5. Requiring the City's salvage contractors to limit their activities to the width of the right-of-way and to avoid the placement of fills or other material in water bodies, including inland waterways.
6. Removing road crossings and remediating by repaving with gravel, asphalt, or concrete, as required by governing authority, and dismantling and removing any signals.

¹ The E&H Report is available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records," selecting "Filings" in the "Search for" dropdown menu; entering "AB" "1302" "0" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on December 8, 2020.

According to the City of Temple, the proposed abandonment is compatible with local land uses. The restoration of road crossings planned as part of salvage would also increase safety in those areas by removing roadway impediments. The Department of Agriculture's Natural Resource Conservation Service commented that the proposed abandonment would not involve the irreversible conversion of farmland and is exempt from the provisions of the Farmland Protection Policy Act. The Department of Interior's Bureau of Land Management (BLM) commented that there is no federal interest (surface or subsurface) in the area of the project. The City of Temple states that no wildlife sanctuaries or refuges, national or state parks or forests would be affected by the proposed abandonment.

The City of Temple requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species. To date, USFWS has not provided comments. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.² Six protected threatened or endangered species are located in the area of the proposed abandonment. There are five species of birds: golden-cheeked warbler (*Dendroica chrysoparia*), least tern (*Sterna antillarum*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), and whooping crane (*Grus americana*). One amphibian was identified, the Salado salamander (*Eurycea chisholmensis*). There was also one species of clam identified as a candidate for listing, the Texas fawnsfoot (*Truncilla macrodon*). According to the IPaC report, there is no critical habitat for these species in the project area.

OEA has determined that the endangered least tern and threatened piping plover and red knot would not be affected because, per IPaC, these species need only be considered for wind energy projects, not rail abandonments. OEA has determined that the remaining two endangered bird species, the golden-cheeked warbler and whooping crane, and the Salado salamander would not be affected by the proposed rail line abandonment as individuals of these species are likely not present in the types of habitat present in the right-of-way of an unused railbed. The Texas fawnsfoot would likely not be affected by the proposed abandonment because no work in waterways is contemplated. OEA is providing USFWS Austin Ecological Services Field Office a copy of this Draft EA for its review.

BLM's Oklahoma Field Office noted in its comments that there were not any USFWS listed species for the area of interest, but that the project lies within the migration route of a candidate species, the monarch butterfly. Consequently, BLM recommends that any reclamation efforts involving planting conducted by the City of Temple or its contractors include planting of vegetation that aids the reproduction and further proliferation of the monarch butterfly.

² <https://ecos.fws.gov/ipac/> (Last accessed December 30, 2020)

According to the City of Temple, the proposed action would not require any permits under Section 404 of the Clean Water Act, and no designated wetlands or 100-year flood plains would be adversely affected. To date, OEA has not received comment from the U.S. Army Corps of Engineers (the Corps) in this proceeding. The Water Quality Division of the Texas Commission on Environmental Quality (TCEQ) commented that a Section 404 permit from the Corps (Fort Worth District) may be required, so OEA is recommending that any decision granting abandonment authority be conditioned to include consultation with the Corps to confirm whether permitting is necessary. TCEQ's Water Quality Division also noted that permitting under Section 402 of the Clean Water Act may be required if certain conditions are met. Accordingly, OEA is recommending that any decision granting abandonment authority include a condition requiring the City of Temple to consult with TCEQ to determine whether Section 402 permitting is necessary.

According to the Texas Coastal Management Program, Bell County is not in a designated coastal zone.

OEA believes that any air emissions associated with abandonment activities would be temporary and would not have a significant impact on air quality. Similarly, any noise related to abandonment activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, and with the mitigation measures discussed above, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to the following agencies for review and comment: the Corps (Fort Worth District), USFWS (Austin Ecological Services Field Office), and the TCEQ Water Quality Division.

HISTORIC REVIEW

In 1961, Belton Railroad Company ("Belton Railroad") purchased approximately seven miles of railroad between Smith, Texas and Belton, Texas from Missouri-Kansas-Texas Railway. *See Belton R.R. Co.—Acquisition & Operation*, FD 21163 (ICC served Feb. 1, 1961). The Line had originally been built by Missouri-Kansas-Texas Railway, known as the Katy, in 1882. Belton Railroad commenced operations on June 1, 1961.

Georgetown Railroad Company ("Georgetown") acquired the Line and interim trackage rights over the Line in 1991. *See Georgetown R.R. Co.—Acquisition & Operation Exemption—Belton R.R. Co.*, FD 31856 (ICC served May 21, 1991); *Georgetown R.R. Co.—Trackage Rights Exemption—Belton R.R. Co.*, FD 31857 (ICC served April 1, 1991).

In 2010, the City of Temple, a noncarrier at the time, petitioned the Board to acquire the Line, and the trackage rights to operate over the Line, from Georgetown. Concurrently, TCTR filed a notice of exemption to operate over the Line pursuant to a Railroad License and Operating Agreement with the City, and the trackage rights granted to Georgetown to operate over the Line. The Board permitted the City of Temple to acquire the Line and permitted TCTR to operate over the Line. *See City of Temple, Tex.—Acquisition Exemption—Georgetown R.R. Co.*, FD 35446 (STB served Feb. 10, 2011); *Temple & Central Texas Ry., Inc.—Operation Exemption—City of Temple, TX*, FD 35447 (STB served Dec. 10, 2010). The City of Temple now intends to “railbank” the Line—convert the Line to a public trail for pedestrian and bicycle use.

The City of Temple’s E&H Report includes a rehabilitation feasibility report by Sparks Engineering regarding the necessary conditions and steps to be taken to preserve the Missouri, Kansas, and Texas (MKT) Railroad Bridge over the Leon River, a National Register-listed property, and allow for the City of Temple’s contemplated pedestrian and trails use following salvage of the Line.

The City of Temple served the E&H Report on the Texas Historical Commission (THC, State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).³ SHPO commented that the MKT Railroad bridge over the Leon River was listed on the National Register of Historic Places in 1990, and noted that there would be no adverse effects on historic properties provided that the conditions and rehabilitation feasibility report for the historic bridge included in the City of Temple’s submission will be used to plan rehabilitation and reuse of the bridge for pedestrian and/or bicycle recreation. SHPO’s archaeological comments note that no identified historic properties, archeological sites, or other cultural resources are present or affected, however, if cultural materials are encountered during project activities, that work should cease in the immediate area (though it may continue where no cultural materials are present) and the City of Temple should contact the THC’s Archeology Division at 512-463-6096 to consult on further actions that may be necessary to protect the cultural remains. Accordingly, OEA is recommending that any decision authorizing abandonment include a condition requiring that the City of Temple cease work near any such discovery and notify OEA, SHPO, and any interested federally recognized Tribes to determine appropriate protective measures and next steps regarding culturally significant findings.

³ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act. Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. *See* 36 C.F.R. § 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found at a link on the bottom of the Board’s website overlooking historic preservation at <https://prod.stb.gov/resources/environmental/historic-preservation-overview>.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.5(b), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment, as conditioned, would not adversely affect historic properties listed in or eligible for inclusion in the National Register. 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 this Draft EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://prod.stb.gov>. Guidance regarding the Board's historic preservation review process is available on the Board's website at <https://prod.stb.gov/resources/environmental/historic-preservation-overview>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool to identify federally recognized Tribes that may have ancestral connections to the project area.⁴ The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: Apache Tribe of Oklahoma; Comanche Nation, Oklahoma; Coushatta Tribe of Louisiana; Tonkawa Tribe of Indians of Oklahoma; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma. Accordingly, OEA is sending a copy of this Draft EA to these Tribes for review and comment.

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority:⁵

1. Prior to commencement of any abandonment-related salvage activities, the City of Temple shall consult with the U.S. Army Corps of Engineers and, if applicable, shall comply with its reasonable requirements.
2. The City of Temple shall, prior to commencement of any abandonment-related salvage activities, consult with the Texas Commission on Environmental Quality's

⁴ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed December 30, 2020).

⁵ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with these conditions is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

Water Quality Division regarding its stormwater requirements and shall comply with its reasonable requirements.

3. Should the City of Temple conduct any planting associated with abandonment-related salvage activities, it shall consult with the Bureau of Land Management to ensure that the planting selected aid proliferation of the monarch butterfly.
4. The City of Temple shall comply with the Rehabilitation Feasibility Report by Sparks Engineering regarding measures to be taken to preserve the Missouri-Kansas-Texas Railroad Bridge over the Leon River.
5. In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during the City's abandonment-related salvage activities, the City will immediately cease all work and notify the Office of Environmental Analysis (OEA), interested federally recognized tribes, and the Texas State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, interested Federally recognized tribes, the City, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Board's Federal Register notice of the proposed abandonment.

The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁶

TRAIL USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29). The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁷

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

As of March 17, 2020, all filings and other submissions should be submitted electronically through the Board's website at <https://prod.stb.gov>. To submit a comment on the Draft EA, select "File an Environmental Comment" under "Need Assistance?" on the Board's home page. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats. **Please refer to Docket No. AB-1302X in your comments on the Draft EA** and to all correspondence addressed to the Board regarding this proposed abandonment. If you have any questions, please contact Adam Assenza by email at adam.assenza@stb.gov or by phone at 202-245-0301.

Date made available to the public: January 4, 2021.

Comment due date: January 19, 2021.

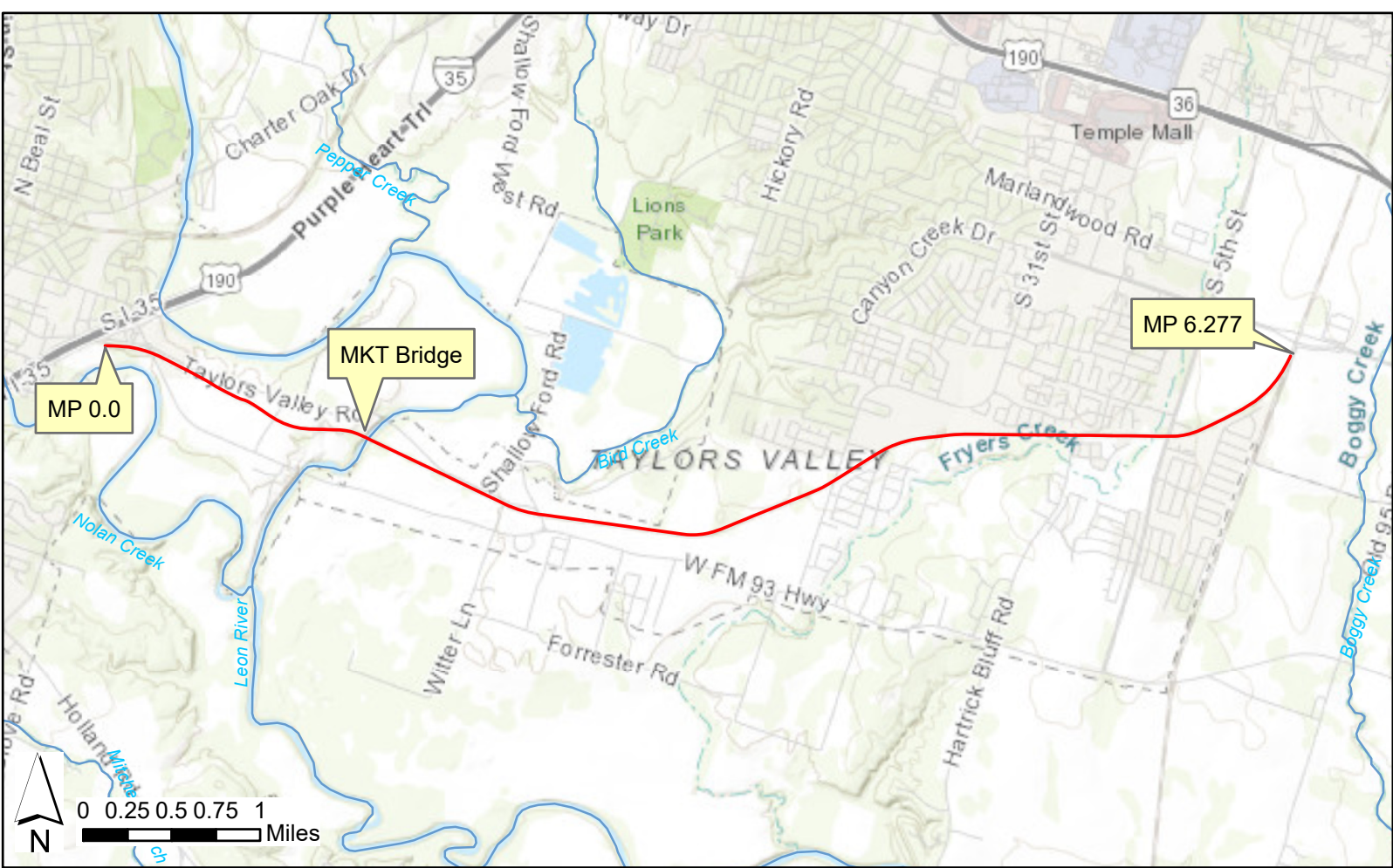
⁶ Board decisions are available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records," selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "1302" "0" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁷ Id.

Docket No. AB 1302X, et al.

By the Board, Danielle Gosselin, Acting Director, Office of Environmental Analysis.

Attachment



Area Surrounding the Line



Missouri, Kansas & Texas Railroad Bridge at Leon River

	Docket No. 1302X City of Temple, Texas Abandonment Exemption in Bell County, Tex. Docket No. 1309X Temple and Central Texas Railway, LLC Discontinuance Exemption in Bell County, Tex.	Legend — the Line	Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.	 Texas
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