

**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

SUPPLEMENTAL FINAL ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 290 (Sub-No. 355X)

April 14, 2015

RECOMMENDATION: Remove Section 106 Condition

In this proceeding, the Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) filed a notice of exemption (the Board) to abandon an approximately 12.63 mile line of railroad in Scott County, Tennessee (the Line). Because the Section 106 process of the National Historic Preservation Act (NHPA), 54 U.S.C. § 30618 (formerly 16 U.S.C. § 470f), had not been completed at the time of the Board's March 5, 2015 decision, the Board imposed a condition requiring CNOTP 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 (the Area of Potential Effect) that are eligible for listing or 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 OEA regarding any consultations with the Tennessee Historical Commission (the State Historical Preservation Officer or SHPO) and the public, and (c) 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.

New Comment on the Abandonment

Section 106 Condition

On April 14, 2015, OEA received a letter from the SHPO dated April 9, 2015 in which the SHPO states that the proposed abandonment would not affect any properties listed in or eligible for listing in the National Register. OEA has reviewed the available information and concurs with the comments of the SHPO. Accordingly, pursuant to the Section 106 regulations of NHPA, and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not adversely affect historic properties listed in or eligible for listing 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, the EA, and this document, which have been provided to the SHPO and made available to the public on the Board's website

at <http://www.stb.dot.gov>. We therefore recommend that the Section 106 condition in this proceeding be removed.

New Condition To Address Unanticipated Discoveries Of Archaeological Resources

In its April 9, 2015 letter, the SHPO states that, should any archaeological remains be discovered during abandonment activities, operations should cease and CNOTP should contact the SHPO in order to determine what further action, if any, would be necessary to comply with the Section 106 process. In response to the SHPO's concerns regarding discoveries of archaeological resources, OEA is recommending that the Board impose the following new condition:

In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) shall immediately cease all work and notify the Board's Office of Environmental Analysis (OEA) and the Tennessee Historical Commission (the State Historic Preservation Officer or SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, the railroad, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

Conclusions

For the reasons stated above, OEA recommends that the Board: (1) remove the Section 106 condition that was imposed in the March 5, 2015 decision and (2) impose a new condition to address the SHPO's concerns regarding unanticipated discoveries of archaeological resources. The two remaining environmental conditions are self-executing conditions that do not require formal action by the Board and should remain unchanged. Accordingly, the revised conditions are as follows:

1. Prior to the commencement of any salvage activities, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) shall consult with the National Geodetic Survey (NGS). If NGS identifies geodetic station markers that may be affected by the proposed abandonment, CNOTP shall notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS.
2. Prior to the commencement of any salvage activities, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) shall consult with the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of salvage activities on federally listed threatened and endangered species in the project area and shall comply with the reasonable recommendations of USFWS to mitigate any potential impacts. CNOTP shall report the results of any consultations with USFWS to the Board's Office of Environmental Analysis.

3. In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) shall immediately cease all work and notify the Board's Office of Environmental Analysis (OEA) and the Tennessee Historical Commission (the State Historic Preservation Officer or SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, the railroad, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

If the above conditions are imposed, OEA believes that the proposed action will not significantly affect the quality of the human environment.

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