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BEFORE THE
SURFACE TRANSPORTATION BOARD

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May 5, 2025
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Public Record

Docket No. AB-33 (Sub-No. 102X)

UNION PACIFIC RAILROAD COMPANY—DISCONTINUANCE OF SERVICE
EXEMPTION—IN BANNOCK AND BINGHAM COUNTIES, ID

REQUEST TO FILE NOTICE TO PARTIALLY CONSUMMATE ABANDONMENT

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In this docket, the Surface Transportation Board authorized Union Pacific Railroad Company to abandon an approximately 21.49-mile line of railroad known as the Gay Branch from milepost 0.03 to the end of the line at milepost 21.52, subject to completion of the section 106 process of the National Historic Preservation Act (NHPA). *See Union Pac. R.R.—Discontinuance of Serv. Exemption—In Bannock & Bingham Counties, ID*, AB 33 (Sub-No. 102X) (STB served Nov. 7, 1996) (*Gay Branch Discontinuance*). Union Pacific requests a waiver of the Board’s no-partial-consummation policy so it can file a notice of consummation for the portion of the Gay Branch between milepost 1.42 and milepost 1.47 to facilitate removal of a railroad bridge passing over Interstate 15 (I-15) as part of an Idaho Transportation Department (ITD) project to address safety, mobility, and capacity concerns on I-15. The Idaho State Historic Preservation Office (SHPO) has concluded that the bridge’s removal would not adversely affect historical properties and that partial consummation of the abandonment would not compromise satisfactory completion of the historic preservation process for the remaining portions of the Gay Branch. Accordingly, the Board should find that good cause exists to allow Union Pacific to file a notice of consummation for the portion of the Gay Branch between milepost 1.42 and milepost 1.47.

BACKGROUND

In 1996, Union Pacific filed a notice of exemption to abandon and discontinue operations over the Gay Branch. Before the exemption became effective, the Board reopened the proceeding and subjected the exemption of the abandonment to the conditions that Union Pacific shall (a) take no steps to alter the historical integrity of all sites and structures on the right-of-way until the section 106 historic preservation process is completed; (b) consult with the Shoshone-Bannock Tribes prior to salvaging the right-of-way; and (c) consult with ITD prior to salvaging the railroad bridge passing over I-15. *See Gay Branch Discontinuance*, slip op. at 1.¹ Union Pacific discontinued operations over the Gay Branch on November 8, 1996. *See* Attachment A (Letter from Union Pacific to Board). However, Union Pacific never completed the section 106 process and thus has not consummated the abandonment.

Last year, ITD approached Union Pacific about removing the railroad bridge on the Gay Branch passing over I-15. ITD told Union Pacific that it was in the process of improving the I-15 corridor in eastern Idaho, the existing roadway geometry does not comply with current geometric design standards in the immediate vicinity of the bridge, and removing the bridge would allow ITD to update the roadway geometry in the immediate vicinity of the bridge, thereby improving a segment of I-15 that exhibits a higher-than-average vehicle crash rate. ITD also told Union Pacific that it had consulted with the SHPO as part of the environmental process for its highway improvement project and the SHPO had concluded that removing the bridge would not have an adverse effect on historic properties. *See also* Attachment B (Letter from IDT to Surface Transportation Board).

¹ The Board's decision describes the location of the bridge as "milepost 80.77." *See id.* The milepost reference is to mileposts on I-15, not mileposts along the Gay Branch.

In the interest of cooperating with ITD, Union Pacific has engaged with the SHPO to complete the section 106 historic process so it can consummate the abandonment of the Gay Branch and remove that legal impediment to removing the railroad bridge. However, the timeframe for completing the section 106 process is uncertain. Therefore, to facilitate ITD's highway improvement project, Union Pacific requests a waiver of the Board's no-partial-consummation policy. The SHPO has confirmed that partial consummation of the abandonment to permit removal of the railroad bridge will not compromise satisfactory completion of the historic preservation process for the remaining portions of the Gay Branch. *See* Attachment C (Letter from SHPO to Union Pacific). The Shoshone-Bannock Tribes, with whom the Board required Union Pacific to consult before salvaging the right-of-way, supports the ITD project and removal of the bridge. *See* Attachment D (Letter from Shoshone-Bannock Tribes to the Board).

DISCUSSION

Under the Board's policy for consummating rail line abandonments, when an abandonment is subject to a historic reporting condition under NHPA, a railroad generally may not file a notice of consummation for any part of the line until the historic review process is completed and the condition is removed. *See Consummation of Rail Line Abandonments That Are Subject to Historic Preservation and Other Environmental Conditions*, EP No. 678 (STB served Apr. 23, 2008). However, the Board's consummation policy recognizes that "in some cases there can be an overriding need for partial consummation and that partial consummation could be in the public interest." *Id.*, slip op. at 4. The Board has specifically recognized that partial consummation could be in the public interest where necessary "to complete a highway project that is important to the community." *Id.* Thus, "for good cause shown, a railroad may make a request to file a notice of consummation for a portion of the line prior to formal removal of a section 106 condition." *Id.* In

such cases, the Board's "primary concern in considering such requests will be to assure that partial consummation would not compromise satisfactory completion of the historic preservation process."

Id.

Union Pacific's request fits squarely within the "good cause" exception to the no-partial-consummation policy. As described above and in the attached letter from ITD, partial consummation to allow removal of the railroad bridge is decidedly in the public interest. Removal of the bridge is necessary to complete safety, mobility, and capacity improvements to I-15. Specifically, removal of the bridge will allow ITD "to update the vertical geometry of I-15 in the immediate vicinity of the existing structure, addressing a segment of interstate that exhibits a higher than average crash rate." Attachment B. The community interest in completing the highway project is further demonstrated by the attached letter from the Shoshone-Bannock Tribes, which supports ITD's project, including removal of the bridge, to address safety concerns on I-15 in the vicinity of the bridge. *See* Attachment D (noting the fatal crash rate for the highway segment near the bridge "is two times higher than the statewide average for interstates").

Granting Union Pacific's request would not compromise satisfactory completion of the historic preservation process for the Gay Branch. In approving ITD's highway project, the SHPO determined that the project, including removal of the bridge, would have no adverse effect on historic properties. Further, Union Pacific and the SHPO are now engaged in the section 106 process with regard to the remaining portions of the Gay Branch, and the SHPO has confirmed its belief "that partial consummation of the abandonment for the ITD project will not compromise the satisfactory completion of the historic preservation process under Section 106." Attachment C.

CONCLUSION

The Board should waive its no-partial-consummation policy and allow Union Pacific to file a notice of consummation for the portion of the Gay Branch between milepost 1.42 and milepost 1.47.

Respectfully submitted,

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/s/ Michael L. Rosenthal
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Attorneys for Union Pacific Railroad Company

May 5, 2025

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May, 2025, I caused a copy of the foregoing document to be served by first-class mail, postage prepaid, on all parties of record in Docket No. AB-33 (Sub-No. 102X).

/s/ Michael L. Rosenthal

Law Department

UNION PACIFIC RAILROAD COMPANY



1416 DODGE STREET
OMAHA, NEBRASKA 68179-0001
FAX (402) 271-5610

November 14, 1996

Vernon A. Williams, Secretary
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

RE: Docket No. AB-33 (Sub No. 102X) Bingham County, Idaho (Gay Branch)

Dear Mr. Williams:

This will follow-up my letter of November 8, 1996 in which I advised that Union Pacific Railroad Company had discontinued operations over the portion of the Gay Branch between Mileposts 0.03 and 21.52 effective November 8, 1996. Union Pacific also will physically abandon and salvage the track structure on this portion of the Gay Branch pursuant to the Surface Transportation Board's decision served October 9, 1996.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph D. Anthofer". The signature is written in a cursive, flowing style with a large initial "J".

Joseph D. Anthofer
General Attorney
(402) 271-4315



**Your Safety • Your Mobility
Your Economic Opportunity**

Exhibit B
IDAHO TRANSPORTATION DEPARTMENT

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(208) 334-8000 • itd.idaho.gov
(208) 584-4343 DMV.Idaho.Gov

Surface Transportation Board
395 E Street SW
Washington, DC 20423

Subject: Removal of the UPRR Gay Branch overpass (UPRR Structure 811566M); Idaho Department of Transportation (ITD) Key Number 23346 I-15, Northgate Interchange to Fort Hall Interchange project.

Dear Surface Transportation Board:

ITD is working with the Union Pacific Railroad (UPRR) to remove the UPRR Gay Branch Railroad overpass structure to improve the safety and mobility for the nearly 30,000 vehicles that utilize Interstate 15 (I-15) every day. ITD is requesting the Surface Transportation Board strongly consider UPRR's request for consummation of the portion of the railroad line associated with the Gay Branch Railroad overpass structure prior to formal removal of the Section 106 condition.

ITD is currently in the process of improving the I-15 corridor in eastern Idaho. The purpose of the project is to address the safety, mobility, and capacity of I-15 in Bannock and Bingham Counties. In the immediate vicinity of the UPRR Gay Branch overpass structure, the existing roadway geometry does not comply with current geometric design standards. Removal of the UPRR Gay Branch Railroad overpass at milepost 80.7 will allow ITD to update the vertical geometry of I-15 in the immediate vicinity of the existing structure, addressing a segment of interstate that exhibits a higher than average crash rate.

During development of the project, ITD completed an environmental document, which has been approved by the Federal Highway Administration (FHWA). As a requirement of the environmental process, ITD consulted with the Idaho State Historic Preservation Office (SHPO), which concurred with ITD's finding of "No Adverse Effect" for the project, including determination that the Gay Branch Railroad overpass structure is exempt from Section 4(f) evaluation via an exception per 23 CFR 774.13(a)(3).

Consummation of the portion of the railroad line in the vicinity of the UPRR Gay Branch railroad overpass structure is needed to complete the described safety and mobility improvements to I-15. It has been determined that the historic preservation condition applies to other sections of the railroad line that will not be disturbed by the I-15 project.

I thank you in advance for your consideration of this worthy safety and mobility improvement to our Interstate system.

Respectfully yours,

L. Scott Stokes
Director, Idaho Transportation Department



22 April 2025

Christine A. Neuharth
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Union Pacific Railroad Company
1400 Douglas Street - Stop 1580
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caneuhar@up.com

Via Email

**RE: Gay Branch Line Abandonment / SHPO Rev. No. 2025-419;
2022-876; 1994-1267 / STB: AB-33 (Sub-No. 102X)**

Dear Ms. Neuharth:

Thank you for consulting with our office on the above-referenced project. The Idaho State Historic Preservation Office (SHPO) is providing comments to the Surface Transportation Board (STB) and the Union Pacific Railroad Company (UPRR) pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR § 800.

STB initiated consultation with our office for the proposed abandonment of the Gay Branch Line located in Bingham and Bannock Counties, Idaho, in April 1994 (SHPO Rev. No. 1994-1267). At that time, our office recommended a cultural resources survey to evaluate the abandonment's potential effects on historic properties.

In September 2022, the Idaho Transportation Department (ITD) and the Federal Highway Administration (FHWA) consulted with our office on project to widen Interstate 15 (I-15) from two to three lanes, which called for the removal of the bridge spanning I-15. ITD and FHWA completed consultation for that undertaking which resulted in a finding of no adverse effect to historic properties.

While FHWA and ITD have addressed the partial abandonment of the line over I-15, STB and UPRR remain responsible for the broader abandonment process. Based on current information and ongoing coordination, the Idaho SHPO believes that partial consummation of the abandonment for the ITD project will not compromise the satisfactory completion of the historic preservation process under Section 106.

Thank you for the opportunity to comment. Please note that our response does not affect the review timelines afforded to other consulting parties. If you have any questions or the scope of work changes, please contact me via phone or email at 208.488.7463 or ashley.molloy@ishs.idaho.gov.

Sincerely,



Ashley L. Molloy, M.A.
Historical Review Officer
Idaho State Historic Preservation Office

The SHOSHONE-BANNOCK TRIBES

FORT HALL INDIAN RESERVATION
PHONE (208) 478-3700
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FORT HALL BUSINESS COUNCIL
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January 17, 2025

Surface Transportation Board
395 E Street SW
Washington, DC 20423
a@stb.govrcp

Subject: Support for the Idaho Department of Transportation (ITD) Key Number 23346 I-15, Northgate Interchange to Fort Hall Interchange project and removal of the Gay Branch Railroad overpass.

Dear Surface Transportation Board:

On behalf Shoshone-Bannock Tribes, I am writing in support of the Idaho Department of Transportation (ITD) Key Number 23346 I-15, Northgate Interchange to Fort Hall Interchange project, which will remove the Union Pacific Railroad, Gay Branch Railroad structure (811566M UPRR) over I-15.

The purpose of the project is to address the safety, mobility, and capacity concerns of the existing Interstate (I)-15 south of the Northgate Interchange (IC) (MP 72.6) to north of the Fort Hall IC (MP 80.9) in Bannock and Bingham Counties. The project is needed as this section of the interstate has been identified as an area of safety concern. The fatal crash rate for this segment is 1.4, which is two times higher than the statewide average for interstates.

The I-15, Northgate IC to Fort Hall IC project begins south of the Northgate IC (Exit 73) at MP 72.6 and ends approximately one mile north of the Fort Hall IC (Exit 80) at MP 80.9. The project is approximately eight miles in length. The proposed improvements include reconstructing and widening I-15 from two lanes to three lanes in each direction, which will also include constructing a 10-foot wide paved median shoulder with median barrier or guardrail. The proposed improvements will be replacing all the overcrossings, underpasses, canal bridges, and includes removing the Gay Branch Railroad overpass at MP 80.7.

The Shoshone-Bannock Tribes has been involved in the planning process throughout the project and give consent/approval for the removal of the Gay Branch Railroad overpass and associated track.

If you have any questions regarding Shoshone-Bannock Tribes support, please reach out to me directly. Thank you in advance for your consideration of this project.

Respectfully yours,



Lee Juan Tendoy
Tribal Chairman