

SERVICE DATE – NOVEMBER 29, 2019

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 33 (Sub-No. 321X)

**Union Pacific Railroad Company – Abandonment Exemption –
in Sheboygan County, Wis.**

BACKGROUND

In this proceeding, Union Pacific Railroad Company (UP) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Sheboygan County, Wisconsin. The rail line proposed for abandonment extends 1.36 miles from Milepost 148.2 to Milepost 149.5 in Sheboygan. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad would be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

UP submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. UP served the Environmental 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 The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to UP, the Line has been out of service for over two years and no local or overhead traffic has moved over the Line in that time. Therefore, no traffic would need to be rerouted if the proposed abandonment were approved. Accordingly, the proposed abandonment would not adversely impact the development, use, and transportation of energy resources or recyclable commodities; adversely impact the transportation of ozone-depleting materials; or

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 33 (Sub-No. 321X).

result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Salvage and disposal of a rail line typically include the 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. UP states that, if abandonment were authorized, it would remove remaining track materials such as rails and ties, leaving the right-of-way, bridges, and culverts in place. UP states that while ballast will typically be left in place, it may be removed if of exceptional quality suitable for resale or to make the right-of-way suitable for a planned future use. UP plans to conduct salvage activities by using the existing right-of-way for access, along with existing public and private road crossings, and no new access roads are contemplated, which would result in minimal soil disturbance.

Land Use

According to UP, the right-of-way along the Line is generally 50 to 100 feet wide. Adjacent land use consists primarily of residential, commercial, recreational, and light industrial uses as well as transportation corridors. The National Geodetic Survey (NGS) responded that there are no geodetic marks in the project area, and that no further consultation with NGS is required.

Transportation and Safety

Because the Line is out of service, no freight traffic would be diverted from rail to truck transportation. The Line crosses several local roadways at grade. The Wisconsin Department of Transportation (WisDOT) submitted a comment encouraging the preservation of the transportation corridor, advising UP of Sheboygan County's interest in the corridor for trail use, and noting its view regarding UP's compliance with the *WisDOT Abandoned Railroad Line Salvage and Clean-up Policy/Standards/Procedures* when performing abandonment and related activities, including the coordination of efforts to restore state and local roadways. Accordingly, OEA is recommending that any decision granting abandonment include a condition requiring UP to consult with WisDOT prior to commencement of salvage operations. OEA is providing WisDOT with a copy of this EA.

Coastal Zone Compliance

Because Sheboygan County is a coastal county subject to the Wisconsin Coastal Management Program (WCMP), OEA contacted staff of WCMP to determine whether the proposed abandonment would require state coastal management consistency certification under the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*). WCMP staff agreed with OEA's determination that the proposed rail line abandonment would not require consistency certification. OEA is forwarding this EA to the WCP for their review.

Water Resources

As stated above, UP plans to conduct salvage activities by using the existing right-of-way for access. According to UP, salvage activities would not cause sedimentation or erosion of the soil, and UP does not anticipate any dredging or use of fill. UP states that debris would not be discarded along the right-of-way, and any work along the right-of-way would be subject to appropriate measures to prevent or control spills from fuels, lubricants, or any other pollutant materials.

The US Army Corps of Engineers (USACE), St. Paul District Regulatory Office noted in its comment that project work appears to be confined to an existing rail alignment and grade and would not impact any waterways or wetlands. USACE also noted that if there is no discharge of fill material into a Water of the United States or adjacent wetlands, then no Clean Water Act Section 404 authorization would be required. USACE states that the applicable National Flood Insurance Program Flood Insurance Rate Maps there are no federally mapped floodplains in the rail line abandonment project area of potential effects, however, recommends that UP coordinate with local officials and with the State of Wisconsin regarding the applicability of a floodplain permit prior to the abandonment/deconstruction. Accordingly, OEA recommends no specific mitigation related to impacts to waterways or wetlands. OEA is providing a copy of this EA to the USACE for review and comment.

UP does not anticipate any excavation or other ground-disturbance activity, or the need for related storm water mitigation measures. According to UP, the proposed abandonment would not result in the discharge of wastewater or storm water and would not need a permit under Section 402 of the Clean Water Act (33 U.S.C. § 1342). Since OEA has not received comment from the Wisconsin Department of Natural Resources (DNR) regarding the need for a permit under Section 402, OEA is recommending that any decision authorizing abandonment also include a condition requiring UP to consult with DNR prior to commencement of salvage activities in order to determine whether a Section 402 permit, or other relevant DNR permit, is required. OEA is providing a copy of this EA to DNR for review and comment.

Hazardous Materials

UP states that it is not aware of any release of hazardous substances on or near the Line. WisDOT stated in its comment that there were 15 hazardous sites near the project but did not identify them with names or locations. OEA researched publicly available information regarding federally listed remediation sites near the Line and did not identify any that would be affected by the proposed abandonment and related salvage operations. Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

Biological Resources

UP 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. OEA conducted a search of the USFWS Information, Planning, and Conservation (IPaC) system and received an official species list identifying four federally listed threatened species, though no endangered species, that may exist in the area of the proposed abandonment: the Northern long-eared bat (*Myotis septentrionalis*), the red knot (*Calidris canutus rufa*), the Eastern prairie fringed orchid (*Platanthera leucophaea*), and the pitchers thistle (*Cirsium pitcher*).² However, due to the temporary nature of the proposed salvage activities, the absence of suitable habitat within the right-of-way, and because the project does not otherwise present a risk to the species, OEA concludes that the species are not present in the project area, per USFWS guidance, and therefore no mitigation is required. OEA is forwarding this EA to USFWS.

Air Quality

Because salvage activities would be limited in scope and areal extent, and any air emissions associated with the proposed abandonment would be temporary, OEA believes that these activities would not have a significant impact on air quality.

Noise

OEA believes that any noise impacts from the proposed abandonment would be temporary and should not have a significant local impact.

Summary

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to the following agencies: DNR, WisDOT, USFWS, and USACE.

HISTORIC REVIEW

UP served the Historic Report on the Wisconsin State Historic Preservation Officer (SHPO), pursuant to 49 C.F.R. § 1105.8(c).³ The SHPO has submitted comments stating that one railroad structure, a rail depot eligible for inclusion in the National Register of Historic

² U.S. Fish and Wildlife Service, Information, Planning, and Conservation System, <http://ecos.fws.gov/ipac> (last visited November 25, 2019).

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 on the Board's website at [https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation of 106 in Rail Abandonments.pdf](https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation%20of%20106%20in%20Rail%20Abandonments.pdf).

Places (National Register), is located within the right-of-way, or Area of Potential Effect (APE). SHPO added that, the project as currently defined, will not adversely affect this historic property. OEA has reviewed the report and the information provided by the SHPO and has determined that the proposed abandonment will not adversely affect any historic properties eligible for inclusion in the National Register.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at www.stb.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the US Department of Housing and Urban Development's Tribal Directory Assessment Tool (TDAT) 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: the Citizen Potawatomi Nation, Oklahoma; the Forest County Potawatomi Community of Wisconsin; the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; the Hannahville Indian Community, Michigan; the Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; the Little Traverse Bay Bands of Odawa Indians, Michigan; the Menominee Indian Tribe of Wisconsin; the Miami Tribe of Oklahoma; the Ottawa Tribe of Oklahoma; and the Prairie Band Potawatomi Nation. Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

- 1. The Union Pacific Railroad Company (UP) shall consult with the Wisconsin Department of Transportation prior to commencing salvage activities and comply with their reasonable requirements.**
- 2. The Union Pacific Railroad Company (UP) shall consult with the Wisconsin Department of Natural Resources prior to commencing salvage activities in order to determine whether a Section 402 permit, or other relevant DNR permit, is required.**

⁴ Tribal Directory Assessment Tool, <https://egis.hud.gov/TDAT/> (last visited November 25, 2019).

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the line would 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 Federal Register notice.

TRAILS 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).

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

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Adam Assenza, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 33 (Sub-No. 321X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Adam Assenza, the environmental

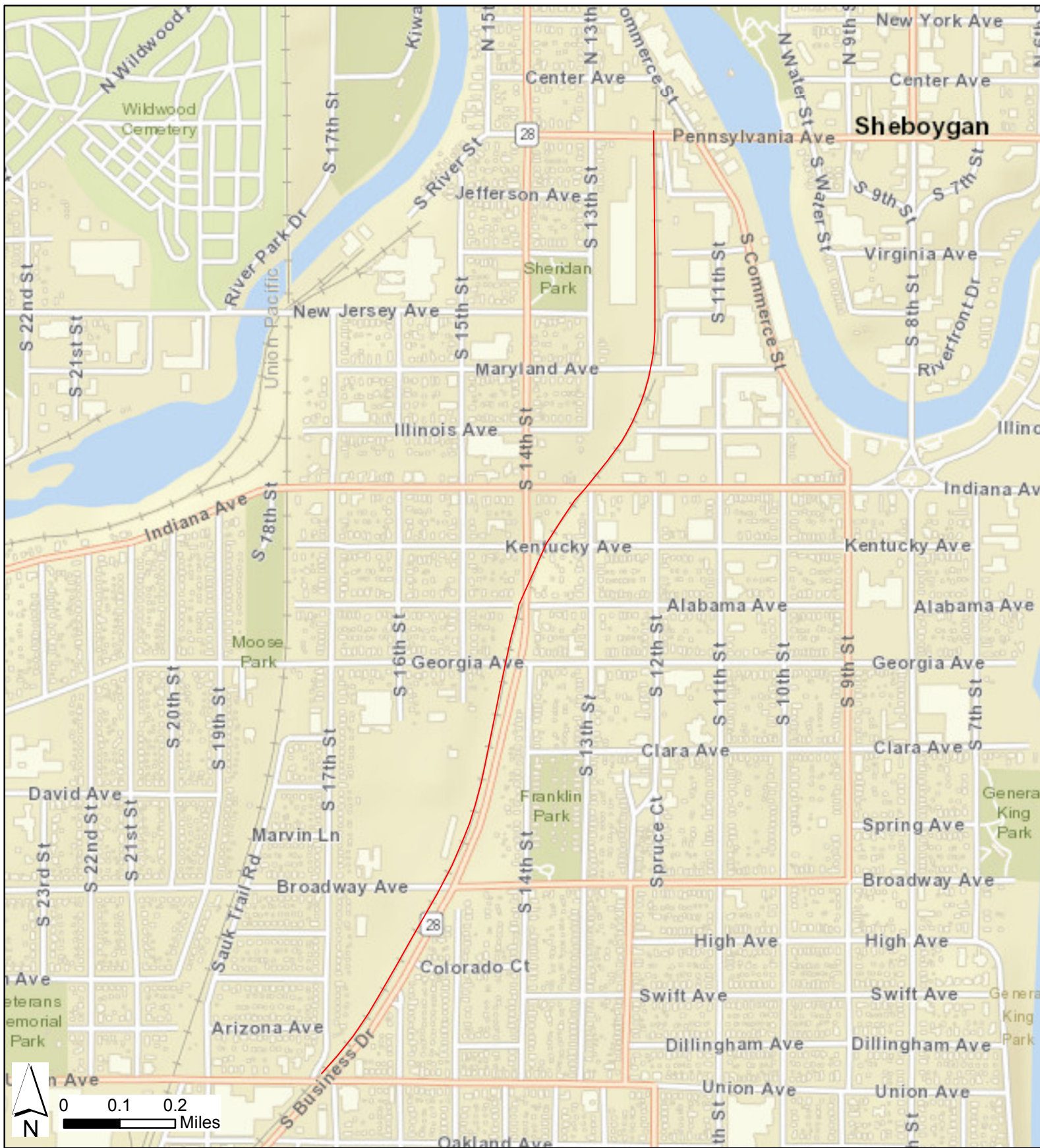
contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at Adam.Assenza@STB.gov.

Date made available to the public: November 29, 2019.

Comment due date: December 16, 2019.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment



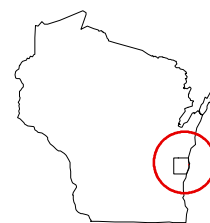
DOCKET NO. AB 33 (Sub-No. 321X)

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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.



Location in State