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OEA

SERVICE DATE – DECEMBER 21, 2020

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

**SUPPLEMENTAL FINAL ENVIRONMENTAL
ASSESSMENT**

Docket No. AB 33 (Sub-No. 343X)

**Union Pacific Railroad Company – Abandonment
Exemption – in Harris County, Tex.**

ABANDONMENT TYPE

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

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

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

On August 21, 2020, Union Pacific Railroad Company (UP) filed a notice with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.50 seeking authority to abandon two perpendicular segments of rail line extending approximately 1.24 miles from milepost. 0.98 to milepost 1.31 (within the Commerce Street right-of-way near Bastrop Street to near Velasco Street) and from milepost 1.71 to milepost 2.62 (from near Sherman Street to near the Buffalo Bayou Hike and Bike Trail) (the Line), in Harris County, Texas. By decision served on October 9, 2020, the Board imposed a historic preservation condition for the entire Line, pursuant to Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108.

The Section 106 historic preservation condition imposed by the Board in its October 9, 2020 decision requires 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 (the Area of Potential Effects) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the NHPA has been completed; (b) report back to the Board's Office of Environmental Analysis (OEA) regarding any consultations with the Texas Historical Commission (SHPO) and the public; and (c) not file a 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.

On April 29, 2020, UP received a letter from the SHPO concurring with the information provided by UP in its Environmental and Historic Report (Report). UP submitted a copy of the SHPO's letter to OEA on December 4, 2020. The Report found that no historic properties are present or would be affected by the proposed abandonment. SHPO also noted that if historic

properties are discovered or unanticipated effects on historic properties are found during abandonment-related salvage, work should cease in the immediate area but would be able to continue where no historic properties are present. Finally, the letter stated that SHPO should be contacted if any further consultation is required. Because the Line follows existing paved roadways for a majority of the right-of-way and the urban landscape is likely already disturbed, OEA believes that the potential for the presence of significant historic properties in the immediate area of the proposed abandonment is very low. Therefore, OEA is not recommending an additional unanticipated discoveries condition.

Pursuant to the Section 106 regulations of the NHPA at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that UP's proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register.¹ 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.

Conclusions

OEA recommends that the Board remove the Section 106 condition imposed in its October 9, 2020 decision. The following condition imposed in the October 9, 2020 decision should remain unchanged:²

Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.) and the Board's environmental regulations at 49 C.F.R. § 1105.9, Union Pacific Railroad Company (UP) shall consult with the Texas General Land Office and obtain state coastal management consistency certification, if necessary. UP may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis and the Board has removed this condition.

OEA believes that the proposed action will not significantly affect the quality of the human environment.

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

¹ The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of UP's Report, all relevant correspondence, the Draft EA, the Final EA and this Supplemental Final EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <https://prod.stb.gov/>.

² 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 this condition is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.