



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

Memorandum to File

TO: AB 433 (Sub-No. 2X) Environmental Correspondence

FROM: Office of Environmental Analysis

DATE: May 3, 2021

SUBJECT: Request to Vacate a Portion of a NITU Subject to an Existing Section 106 Condition

Background

On November 1, 1995, the Board's predecessor, the Interstate Commerce Commission, authorized Idaho Northern & Pacific Railroad Company (IN&P) to: (1) abandon approximately 83.1 miles of rail line between milepost 1.0 near Weiser and milepost 84.1 at Rubicon, in Washington and Adams counties, Idaho (the Line); and (2) discontinue trackage rights over a rail line owned and operated by Union Pacific Railroad Company (UP) between milepost 0.0 and milepost 1.0 in Weiser, Idaho. The exemption became effective on December 1, 1995 and was subject to several conditions including a requirement that IN&P retain its interest in and take no steps to alter the historic integrity of all structures on the Line that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act (NHPA).

By decision and notice of interim trail use or abandonment (NITU) served December 28, 1995, a 180-day period was authorized for the Idaho Department of Parks and Recreation to negotiate with IN&P for interim trail use/rail banking of the Line's right-of-way under the National Trails System Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29.

On January 3, 1997, UP was authorized to acquire the Line. See Union Pac. R.R.—Acquis. Exemption—Idaho N. & Pac. R.R., FD 33305 (STB served Jan. 3, 1997). On February 28, 1997, a replacement NITU was issued for the Line's right-of-way, substituting Friends of the Weiser River Trail, Inc. (Friends) as the trail sponsor and UP as the new owner of the Line. By letter filed June 19, 1997, UP notified the Board that it had reached an interim trail use/rail banking agreement with Friends, and on August 13, 1997, UP further notified that Board that it had conveyed the right-of-way (including ballasts, bridges, and culverts) between milepost 0.5 near Weiser and milepost 84.1 at Rubicon to Friends.

On April 1, 2021, Friends filed a request under 49 C.F.R. § 1152.29(d)(2) to partially vacate the NITU served on February 28, 1997. Specifically, Friends seeks to terminate interim trail use/rail banking on an approximately 28,992 square foot strip of land, which is a portion of Lots 1-6, Block 17, in Weiser located along the northern edge of the Line's right-of-way (the Subject Parcel).

Parcel Review

Because the Section 106 process has not been completed in this case, the Board's Office of Environmental Analysis (OEA) performed a desktop review of available information to assess whether there are any buildings, historic districts, structures, sites, or objects located within the Subject Parcel. OEA reviewed the following:

- The Idaho State Historic Preservation Office's website (<https://history.idaho.gov/location/shpo/>), which did not have any detailed resource information available to review online.
- Google street view ([Google Street View](#)), which did not show any buildings at this location, or immediately adjacent, with potential architectural significance.
- The Weiser, Idaho area for National Register listings ([National Register Listings Washington County Idaho](#)), which did not identify any listings in this area.
- Historical United States Geological Survey (USGS) maps from 1894, which indicated that there weren't any buildings or structures at this location.
- Historic aerial photograph of this area from 1955 (<https://historicaerials.com/viewer>), which showed that no visible buildings at this location.
- A USGS map from 1971, which did not show any buildings or structures at this location.
- Historic aerial photograph of this area from 1981, which did not show any buildings at this location.
- Historic aerial photograph of this area from 1994, which showed a few new buildings towards East 10th Street. These buildings were constructed between 1982 and 1994; and thus, are modern (Google street view was utilized and OEA confirmed that the building (a trailer home) was modern).

After examining the background information, aerial photographs, and historic maps, OEA has determined that historic properties do not appear to be located on the Subject Parcel. Therefore, pursuant to the Section 106 regulations of the NHPA at 36 C.F.R. § 800.4(d)(1), OEA has determined that vacating the NITU for the Subject Parcel would not affect historic properties listed in or eligible for inclusion in the National Register. Accordingly, the Board has satisfied its responsibilities under Section 106 of the NHPA for the Subject Parcel, and OEA is recommending that the Board remove the Section 106 condition for the Subject Parcel. However, the original Section 106 condition should be retained for the remainder of the Line's right-of-way.¹

¹ Compliance with the conditions imposed in the November 1, 1995 decision, including the Section 106 condition, is not required with respect to the remainder of the Line's right-of-way covered by the interim trail use/rail banking agreement for the duration of the agreement. However, those conditions would apply to any portion of the Line's right-of-way for which interim trail use/rail banking is terminated in the future.