

Division of Environment
Curtis State Office Building
1000 SW Jackson St., Suite 400
Topeka, KS 66612-1367



Phone: 785-296-1535
Fax: 785-296-4264
www.kdheks.gov

Ashley D. Goss, Acting Secretary

Laura Kelly, Governor

Comments by: KDHE

Transmittal Date: December , 2021

This form provides notification and the opportunity for your agency to review and comments on this proposed project as required by Executive Order 12372. Review Agency, please complete Parts II and III as appropriate and return to the contact person listed below. Your prompt response will be appreciated.

Return To: Joshua Wayland, Surface Transportation Board, c/o VHB
Attention: Environmental Filing, Docket No. FD 36500
940 Main Campus Dr., Suite 500
Raleigh, NC 27606

PART I

REVIEW AGENCIES/COMMISSION

☐ Aging	☐ Education	☐ State Forester
☐ Agriculture	☐ Geological Survey, KS	☐ Transportation
☐ Biological Survey	☒ Health & Environment	☐ Water Office, KS
☐ Conservation Commission	☐ Historical Society	☐ Wildlife & Parks
☐ Corporation Commission	☐ Social & Rehabilitation	☐ Commerce

PART II

AGENCY REVIEW COMMENTS

COMMENTS: (Attach additional sheet if necessary) Re: Docket No. FD 36500, Canadian Pacific Railway Limited, et al. – Control of Kansas City Southern, et al.; Notice of Intent to Prepare an Environmental Impact Statement
Kevin Heit, Bureau of Waste Management comments are enclosed for this project.
Please see the enclosed comments submitted from Christopher Wierman, Delbert Smith, Seth Mettling, Wyatt Harness and Brett Tavener, Bureau of Environmental Remediation.
Connie Ellis, Bureau of Air: BOA has no comments.
Tom Stiles, Bureau of Water: Does not appear to have any issues for BOW to consider.

PART III

RECOMMENDED ACTION COMMENTS:

☐ Clearance of the project should be granted.	☒ Clearance of the project should not be delayed but the Applicant should (in the final application) address and clarify the question or concerns indicated above.
☐ Clearance of the project should not be granted.	☐ Request the opportunity to review final application prior to submission to the federal funding agency.
☐ Clearance of the project should be delayed until the issues or questions above have been clarified.	
☐ Request a State Process Recommendation in concurrence with the above comments	

DIVISIONS/ AGENCY/ COMMISSION:

Donna Fisher, Director's Office
Phone: 785.291.3092
Email: donna.fisher@ks.gov

Office of the Secretary
Curtis State Office Building
1000 SW Jackson St., Suite 540
Topeka, KS 66612-1368



Phone: 785-296-0461
www.kdheks.gov

Ashley D. Goss, Acting Secretary

Laura Kelly, Governor

MEMORANDUM

TO: Donna Fisher

CC: Ken Powell, Julie Coleman

FROM: Kevin Heit – Bureau of Waste Management

DATE: November 22nd, 2021

RE: Intergovernmental Agency Review requested by US Surface Transportation Board on behalf of the Canadian Pacific Acquisition of Kansas City Southern for proposed merger of the afore mentioned railway corporations. Proposed areas of impact in Kansas are in Linn, Crawford, and Cherokee Counties.

The Canadian Pacific Railway Limited (CP) & Kansas City Southern (KCS), and any respective contractor(s) should review the attached Technical Guidance Document and ensure all waste is properly disposed. Waste that does not meet the definition of clean rubble or construction/demolition waste should be disposed at a permitted municipal solid waste landfill. If further information is required, I may be reached via email at kevin.heit@ks.gov or by phone at (785) 296-1757.



Construction and Demolition Wastes and Clean Rubble

Technical Guidance Document SW-1994-G2

Construction and Demolition (C&D) waste is solid waste generated during construction or demolition activities. Clean rubble is also generated during construction or demolition activities, but it differs in composition from C&D waste. This document explains the definitions of C&D waste and clean rubble and acceptable methods for disposal of both.

Construction and Demolition Waste

Definition of C&D waste

C&D waste is defined in KSA 65-3402 (u) as:

- solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities;
- untreated wood and untreated sawdust from any source;
- treated wood from construction or demolition projects;
- small amounts of municipal solid waste generated by the consumption of food and drinks at construction or demolition sites, including, but not limited to, cups, bags and bottles;
- furniture and appliances from which ozone depleting chlorofluorocarbons have been removed in accordance with the provisions of the federal clean air act;
- solid waste consisting of motor vehicle window glass; and
- solid waste consisting of vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm related cleanup.

Such wastes include, but are not limited to, bricks, concrete, and other masonry materials, roofing materials, soil, rock, wood, wood products, wall or floor coverings, plaster, drywall, plumbing fixtures, electrical wiring, electrical components containing no hazardous materials, non-asbestos insulation and construction related packaging.

Other statutes and regulations further refine the definition:

Construction related packaging means small quantities of packaging wastes that are generated in the construction, remodeling or repair of structures and related appurtenances. "Construction related packaging" does not include packaging wastes that are generated at retail establishments selling construction materials, chemical containers generated from any source or packaging generated during maintenance of existing structures. *KSA 65-3402(dd)*

Furniture and appliances do not include computer monitors and other computer components, televisions, videocassette recorders, stereos, and similar waste electronics.
KAR 28-29-300(a)(4)(A)

Treated wood includes wood treated with any of the following:

- (i) Creosote;
- (ii) oil-borne preservatives, including pentachlorophenol and copper naphthenate;

Disposal options for C&D wastes

Acceptable C&D wastes may be disposed of in either a municipal solid waste landfill (MSWLF) or in a C&D landfill. Both MSWLFs and C&D landfills must be approved by KDHE through a permit process. But because of the relatively inert nature of the wastes disposed in C&D landfills, these landfills do not have to meet design standards as strict as those for MSWLFs.

Most C&D landfills will, on occasion, receive waste that is not appropriate for disposal. Therefore, all C&D landfills should conduct waste screening (i.e., inspect incoming waste and remove unacceptable materials) and maintain a dumpster or roll-off container onsite for unacceptable wastes which are received at the landfill. Waste screening is covered in Technical Guidance Document SW 02-01, and storage of unapproved wastes screened from construction and demolition landfills is addressed in Bureau of Waste Management Policy 02-01.

Clean Rubble

Definition of clean rubble

According to KSA 65-3402 (w), "Clean rubble means the following types of construction and demolition waste: concrete and concrete products including reinforcing steel, asphalt pavement, brick, rock and uncontaminated soil as defined in rules and regulations adopted by the secretary."

KSA 65-3415b lists "clean rubble" as a waste which is exempt from the state solid waste tonnage fee. The definition of "construction and demolition waste" in KSA 65-3402(u) states: "Clean rubble that is mixed with other construction and demolition waste during demolition or transportation shall be considered to be construction and demolition waste."

Clean rubble that is brought separately to a construction and demolition landfill or a municipal solid waste landfill is not subject to the tonnage fee, even if the clean rubble is mixed with construction and demolition waste or municipal solid waste upon disposal.

Disposal of clean rubble

The stable nature of the materials in clean rubble means it may be disposed of with C&D waste, or it may be disposed of separately at a clean rubble site. However, clean rubble that is mixed with other C&D waste during demolition or transportation is considered to be C&D waste and must be disposed of at either a MSWLF or at a C&D landfill.

Unlike a C&D landfill, state statutes do not require a solid waste permit for operation of a site that accepts only clean rubble. However, a clean rubble site may be subject to local city or county requirements such as local approval (zoning or land use) and local ordinances.

Approval from the Division of Water Resources (DWR) may be required if the site is located in the 100-year flood plain. The operation and appearance of the site must not create a public nuisance or adversely affect the public health or the environment.

For additional information regarding the proper management of solid or hazardous waste in Kansas, you may visit the Bureau of Waste Management website at <http://www.kdheks.gov/waste/> or contact the Bureau at: (785) 296-1600, bwm_web@kdheks.gov, or the address at the top of this document.

Division of Environment
Curfis State Office Building
1000 SW Jackson St., Suite 410
Topeka, KS 66612-1367



Phone: 785-296-1660
Fax: 785-559-4262
www.kdheks.gov

Ashley D. Goss, Acting Secretary

Laura Kelly, Governor

MEMORANDUM

TO: Donna Fisher
FROM: Christopher Wierman
DATE: November 23, 2021
RE: Intergovernmental Agency Review requested by Surface Transportation Board for Railroad Merger and Improvements in Cherokee County

The Kansas Department of Health and Environment Bureau of Environmental Remediation (KDHE/BER), Assessment and Restoration Section, Dry Cleaner / Superfund Unit, has not identified contaminated Drycleaner sites within the vicinity of the proposed project.

The following identified Superfund site may impact the proposed work:
Cherokee County Superfund within Cherokee County (KDHE ISL: C3-011-00012)
(also see Cherokee Co Operable Unit 8 Railroad; KDHE ISL: C3-011-73152)

During the lead and zinc ore mining period within the Cherokee County Superfund Site (Site) railroad construction used ballast material from surrounding mine process waste piles to join conventional large-scale railroads to individual mining operations. Residual heavy metals including lead and zinc may be present in the railroad ballast if the ballast material came from mine process waste, colloquially known as chat. Potential contamination transport mechanisms include leaching into native soil underlying the rail bed chat, airborne dust, and surface water runoff. Site workers and adjacent residents may, therefore, be exposed to contaminated materials from historic lead-zinc mining within Cherokee County (via ingestion, inhalation, and/or dermal contact exposure pathways) due to the railroad improvement activities. The primary ecological receptor exposure routes to the chemicals of concern are heavy metals-contaminated mine waste and soil ingestion.

Staff members or representatives for the Surface Transportation Board, Canadian Pacific Railway Limited, et al., Kansas City Southern, et al. or Cherokee County are welcome to come and view the KDHE/BER files in accordance with the Kansas Open Records Act. Please contact me at (785) 296-5548 or by email at christopher.wierman@ks.gov if you have any questions.

Division of Environment
Curtis State Office Building
1000 SW Jackson St., Suite 410
Topeka, KS 66612-1367



Phone: 785-296-1660
Fax: 785-559-4261
www.kdheks.gov

Lee A. Norman, M.D., Secretary

Laura Kelly, Governor

MEMORANDUM

TO: Donna Fisher
FROM: Delbert Smith
DATE: November 15, 2021
RE: Intergovernmental Agency Review requested by Surface Transportation Board (Canadian Pacific Railroad / Kansas City Southern Railroad Merger).

The Kansas Department of Health and Environment Bureau of Environmental Remediation (KDHE/BER), Assessment and Restoration Section, Spills Unit, has no identified contaminated spill sites within the vicinity of the proposed project.

Staff members or representatives for Surface Transportation Board, Canadian Pacific Railroad, or the Kansas City Southern Railroad are welcome to come and view the KDHE/BER files in accordance with the Kansas Open Records Act. Please contact me at (785) 368-7301 or by email at delbert.smith@ks.gov if you have any questions.

Division of Environment
Curtis State Office Building
1000 SW Jackson St., Suite 410
Topeka, KS 66612-1367



Phone: 785-296-1660
Fax: 785-559-4261
www.kdheks.gov

Ashley D. Goss, Acting Secretary

Laura Kelly, Governor

TO: Donna Fisher
FROM: Seth Mettling
DATE: December 2, 2021
RE: Intergovernmental Agency Review, requested by requested by the Surface Transportation Board

Redevelopment Section – Brownfield Program notes no known sites within the project area. Clearance for the project should be granted.

Staff members or representatives for the Surface Transportation Board are welcome to come and view the KDHE/BER files in accordance with the Kansas Open Records Act. Please contact me at 785.296.5519 or by email at seth.mettling@ks.gov if you have any questions or concerns.

Division of Environment
Curtis State Office Building
1000 SW Jackson St., Suite 410
Topeka, KS 66612-1367



Phone: 785-296-1660
Fax: 785-559-4261
www.kdheks.gov

Lee A. Norman, M.D., Secretary

Laura Kelly, Governor

MEMORANDUM

TO: Donna Fisher
FROM: Wyatt Harness
DATE: November 18, 2021
RE: Intergovernmental Agency Review requested by Surface Transportation Board regarding the CP/KCS Railway Merge Project

The Kansas Department of Health and Environment Bureau of Environmental Remediation (KDHE/BER), Assessment and Restoration Section, Orphan Sites Unit, has not identified any sites within the vicinity of the project which would be impacted by or would impact the proposed project.

Staff members or representatives for the Surface Transportation Board are welcome to come and view the KDHE/BER files in accordance with the Kansas Open Records Act. Please contact me at (785) 296-1681 or by email at Wyatt.Harness@ks.gov if you have any questions.

Division of Environment
Curtis State Office Building
1000 SW Jackson St., Suite 410
Topeka, KS 66612-1367



Phone: 785-296-1660
Fax: 785-559-4261
www.kdheks.gov

Lee A. Norman, M.D., Secretary

Laura Kelly, Governor

MEMORANDUM

TO: Donna Fisher
FROM: Brett Tavener
DATE: November 16, 2021
RE: Intergovernmental Agency Review for Canadian Pacific Acquisition of Kansas City Southern

The Kansas Department of Health and Environment Bureau of Environmental Remediation (KDHE/BER), Storage Tank Section, was not able to identify any specific storage tank facilities based on the information provided (the information provided did not designate a specific location in Kansas for an environmental review). Clearance for the project should be granted.

Staff members or representatives for Surface Transportation Board or their consultant are welcome to come and view the KDHE/BER files in accordance with the Kansas Open Records Act. Please contact me at 785-291-3105 or brett.tavener@ks.gov if you have any questions or concerns.