



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

October 17, 2022

Larry Heady
THPO
Delaware Tribe of Indians 125
Dorry Lane
Grants Pass, OR 97527

**Re: Docket No. FD 36500, Canadian Pacific Railway Limited, et al.—Control of—
Kansas City Southern, et al.; Initiation of Section 106 Consultation**

Dear Mr. Heady,

The purpose of this letter is to initiate Section 106 consultation with the Delaware Tribe of Indians regarding the above referenced project.

On October 29, 2021, Canadian Pacific Railway Limited, et al. (CP) and Kansas City Southern, et al. (KCS) (collectively, Applicants) filed an application with the Surface Transportation Board (Board) seeking authorization for CP to acquire KCS. This acquisition would create the first railroad to connect Canada, the United States, and Mexico. CP's system runs east to west across Canada, connecting the east and west coast ports. It runs south into the U.S. Midwest and connects with KCS in Kansas City. KCS runs from Kansas City to the Gulf Coast and into Mexico. The combination of these two railroads would be an 'end-to-end' merger because the CP and KCS railroad networks do not overlap (see the interactive map on the Board-sponsored project-website here: <https://cp-kcsmergereis.com/maps.htm>).

The Proposed Acquisition is an undertaking subject to the Board's federal jurisdiction. If the Board authorizes this Proposed Acquisition, CP and KCS would combine to form an integrated system to be known as Canadian Pacific Kansas City (CPKC), which would be the first railroad to connect Canada, the United States, and Mexico. As part of the review process, OEA has prepared a Draft Environmental Impact Statement (Draft EIS) that assesses the potential environmental impacts of the Proposed Acquisition (see <https://cp-kcsmergereis.com/draft-eis.htm> to review this document). OEA is also evaluating the potential impacts of the Proposed Acquisition on historic properties, in accordance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108), the Section 106 implementing regulations (36 C.F.R. Part 800), and the Board's environmental regulations (49 C.F.R. Part 1105).

Consistent with past practice in merger cases and the Board's regulations at 49 C.F.R. § 1105.8(b)(1), OEA focused the Section 106 review on 25 planned capital improvements that CP and KCS intend to add within the existing rail right-of-way (ROW) if the Board authorizes the Proposed

Acquisition. The 25 planned capital improvements would include adding 10 new passing sidings, extending 13 existing sidings, adding a section of double track, and adding a section of facility working track along the CPKC network within the rail ROW. The planned capital improvements are the only outcomes of the Proposed Acquisition that could have the potential to affect cultural resources. The location of these capital improvements are listed in the table below and their locations are displayed at <https://cp-kcsmergereis.com/maps.htm>.

Capital Improvement Location	County	State
Gentry	Benton	AR
Mena/MP 377	Polk	AR
MP 75	Ogle	IL
Bellevue/MP 24	Jackson	IA
Camanche	Clinton	IA
Deer Creek	Clinton	IA
Letts	Louisa	IA
Moravia	Monroe	IA
Ottumwa	Wapello	IA
Turkey River/MP 71	Clayton	IA
Washington/MP 255	Washington	IA
Mansfield	De Soto	LA
Loring	Sabine	LA
Singer	Beauregard	LA
Asbury	Jasper	MO
Blue Valley	Jackson	MO
Grandview	Cass/Jackson	MO
Laredo	Grundy	MO
MP 186	McDonald	MO
MP 341	Livingston	MO
Newton	Sullivan	MO
MP 247	Adair	OK
Cave Springs	Adair	OK
Spiro	Le Flore	OK
Heavener	Le Flore	OK

The APE as defined in 36 C.F.R. § 800.16(d), is the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties if any such properties exist. The archaeology APE for the Phase I archaeological survey is confined within the existing rail ROW, where ground disturbing activities could potentially occur.

We have been notified by the Department of the Interior that you may have a cultural interest in the areas of the capital improvements; therefore, we are reaching out to request that

you provide information regarding your tribe's interest in participating as a Consulting Party under Section 106 for this project by filling out the attached questionnaire. Please return to Alan Tabachnick at Alan.Tabachnick@stb.gov. OEA also requests your comments on the APE and the potential impacts of the Proposed Acquisition and planned capital improvements.

If you have any questions or would like to discuss the proposal in more detail, please contact Alan Tabachnick at 202-245-0367 (e-mail address: Alan.Tabachnick@stb.gov). We look forward to your participation in the Board's environmental and historic review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Danielle Gosselin". The signature is fluid and cursive, with the first name "Danielle" and last name "Gosselin" clearly distinguishable.

Danielle Gosselin
Acting Director
Office of Environmental Analysis

Consultation Questionnaire

Docket No. FD 36500, Canadian Pacific Railway Limited, et al. – Control of – Kansas City Southern, et al.;

Project Name: Canadian Pacific Acquisition of Kansas City Southern Railway

Please check all the appropriate response(s) that apply from the list below and use the back of this form or additional sheets if you wish to make further comments:

_____ We have no interests in the proposed acquisition of Kansas City Southern Railway by Canadian Pacific Railway and further consultation with our Tribe is not necessary.

_____ We want to continue to receive project information by mail and participate in the public involvement process.

_____ We have interest in the proposed acquisition of Kansas City Southern Railway by Canadian Pacific Railway and want to participate as a Consulting Party in the Section 106 process.

Delaware Tribe of Indians designated contact for the Canadian Pacific and Kansas City Southern Railway merger:

Name: _____

Email: _____

Phone: _____

Signed: _____

Date: _____

Please email to:

Alan Tabachnick
Alan.Tabachnick@stb.gov

Or mail to:

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