



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

August 12, 2022

Elizabeth Tombs
 Tribal Historic Preservation Officer
 Cherokee Nation
 PO Box 948
 Tahlequah, Oklahoma 74465

Re: Cultural Resources Survey in Support of the Proposed Acquisition of Kansas
 City Southern Railway by the Canadian Pacific Railway

Dear Ms. Toombs,

The Surface Transportation Board's (Board's) Office of Environmental Analysis (OEA) is pleased to submit this Cultural Resources Survey Report in support of the OEA's review of a proposal by Canadian Pacific Railway et al. (CP) and Kansas City Southern Railway et al. (KCS) for CP to acquire KCS (Proposed Acquisition). 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 is preparing an Environmental Impact Statement (EIS) that will assess the potential environmental impacts of the Proposed Acquisition. 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. Of the 25 planned capital improvements, five are in counties where the Cherokee Nation may have a cultural interest.

Capital Improvement Location	County	State
Gentry	Benton	AR
MP 247	Adair	OK

Capital Improvement Location	County	State
Cave Springs	Adair	OK
Spiro	Le Flore	OK
Heavener	Le Flore	OK

On behalf of OEA, Vanasse Hangen Brustlin, Inc. (VHB), OEA's third-party contractor, undertook background research, field survey, and documentation of historic properties within the Area of Potential Effects (APE) for the planned capital improvements.

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. Based on our coordination with you, we understand that your interest in this project is confined to the archaeological APE; however, reporting for the above-ground APE will be provided upon request.

Arkansas

The Phase I archaeological survey documented a single Isolated Find within the APE for the planned Gentry capital improvement, and OEA has determined that it is not eligible for the National Register of Historic Places (National Register). No new archaeological sites were recorded within the planned Gentry capital improvement APE. A single new site (3PL1649) was identified within the APE for the planned MP 377 (Mena) capital improvement, and OEA has determined that the portion of that site located within the APE is not eligible for the National Register. The Proposed Acquisition and associated planned capital improvements would have no effect on eligible archaeological sites in Arkansas, as none were located in the APE.

Oklahoma

The Phase I Archaeological Survey identified 13 new archaeological sites within the APE. Of these sites, 11 were determined to lack integrity and significant data potential under Criterion D of the National Register. Two sites, 34AD283 and 34AD286, both located within the APE for the MP 247 (Baron) capital improvement location, were determined eligible for the National Register. These eligible sites are located within the reservation boundaries of the Cherokee Nation. The Proposed Acquisition and associated planned capital improvements would have no adverse effect on the eligible archaeological sites (34AD283 and 34AD286) because the planned new siding at MP 247 (Baron) would be located entirely within the existing limits of the current railroad berm and ballast in the areas adjacent to the eligible archaeological sites. This design would prevent any alterations that would affect the data potential of these sites, which is the quality that makes the properties eligible for the National Register.

OEA's determinations are supported by the findings presented in the attached reports, prepared by VHB. If you have any questions about the reports, or require additional information, please do not hesitate to contact Alan Tabachnick, Historic Preservation Specialist, at alan.tabachnick@stb.gov or 202-245-0367.

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
Director
Office of Environmental Analysis
Surface Transportation Board

Attachments:

- Arkansas Phase I Archaeological Survey
- Oklahoma Phase I Archaeological Survey