



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

Mark Wolfe
 State Historic Preservation Officer
 Texas Historical Commission
 P.O. Box 12276
 Austin, TX 78711

November 17, 2021

By email to mark.wolfe@thc.texas.gov

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**

Dear Mark Wolfe:

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>).

As part of the approval process, the Board must evaluate 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). As a concurrent process, the Board's Office of Environmental Analysis (OEA) has initiated preparation of an Environmental Impact Statement (EIS) under the National Environmental Policy Act by issuing a Notice of Intent to Prepare an EIS (NOI) in the *Federal Register* on November 12, 2021. The issuance of the NOI began the scoping period, the first step in the environmental and historic review process. A copy of the NOI is available here: <https://cp-kcsmergereis.com/documents.htm> .

The EIS will analyze the potential environmental and historic impacts related to the proposed acquisition and assist the Board with making its decision about whether to approve, approve with conditions, or deny the application. The statute setting forth the procedures for Board review of acquisitions at 49 U.S.C. § 11325 and the Board's implementing regulations at 49 C.F.R. § 1180.4 (2000) require that the Board complete its review within approximately 15

months after the application is accepted for a “major” transaction such as this, and OEA must complete the environmental and historic review process before the Board issues a final decision.

Description of the Proposed Undertaking

The Proposed Undertaking in this case is the proposed acquisition of KCS by CP. According to the Applicants, the purpose of the proposed acquisition is to combine America’s two smallest but fastest-growing Class I railroads to build a more efficient and more competitive rail network. The Applicants state that the proposed acquisition would further the need for expanded and more capable and efficient transportation infrastructure while simultaneously advancing the interests of current and future customers in more reliable and economical rail transportation options serving important North-South trade flows. The Applicants also state that the proposed acquisition would generate environmental benefits by reducing truck transportation on highways in North America by more than 60,000 trucks annually, resulting in less congestion, less maintenance, and improved safety on those roads, as well as less noise pollution in the places where those trucks would have driven, and lowered air emissions, including greenhouse gas emissions.

The proposed acquisition would involve: (1) changes in level of operations (e.g., an increase in average trains per day) on certain segments of the combined rail network that would exceed the Board’s thresholds for environmental review at 49 C.F.R. § 1105.7(e); (2) changes in activity at some rail yards and intermodal facilities (e.g., an increase in the average number of train cars loaded and unloaded per day) that would exceed the Board’s thresholds for environmental analysis; and (3) capital improvements within the existing rail right-of-way. No construction of new rail lines that would require a license from the Board or abandonments of existing rail lines are planned. Consistent with past practice in merger cases, OEA will focus the Section 106 review on the capital improvement projects that the Applicants would undertake as part of the proposed acquisition because those projects are the only components of the proposed acquisition that could have the potential to affect cultural resources.

The capital improvement projects that the Applicants have proposed include adding new passing sidings or extending existing passing sidings at 24 locations within the rail right-of-way in Louisiana, Oklahoma, Arkansas, Kansas, Minnesota, Illinois, Iowa, and Missouri. The Applicants also propose to add approximately four miles of double track within the right-of-way along the KCS Pittsburg Subdivision in Missouri and to add approximately five miles of facility working track within the right-of-way adjacent to the International Freight Gateway intermodal terminal in Missouri. The interactive map on the Board-sponsored project website shows the locations of the proposed capital improvements within the rail right-of-way. There is no construction planned within the state of Texas.

Area of Potential Effects

The area of potential effects (APE) for historic properties will be defined in accordance with 36 C.F.R. Part 800, 49 C.F.R. § 1105.8, and precedent set by previous mergers. OEA expects that the APE for the proposed acquisition will comprise 26 discontinuous linear areas

corresponding to the 26 locations set forth above where capital improvements are planned. Each component area of the APE will extend the length of the proposed capital improvement project and will extend the width of the rail right-of-way to encompass the entire area within which ground disturbing activities could potentially occur. In addition, OEA proposes to add a 500-foot buffer to each component area of the APE (250 feet on either side of the right-of-way and 250 feet at each end) to account for potential setting, visual, noise, or other impacts from construction activities. Based on the information available to date, OEA anticipates that all of the construction activity would take place within the existing right-of-way and may be in previously disturbed areas. The APE will be further refined as additional information about the proposed acquisition and its potential to affect cultural resources becomes available.

Request for Comments and Consultation

OEA requests that you provide information regarding your 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 proposed APE and the potential effects of the proposed acquisition. We will be following up with you soon to discuss the Section 106 process and to answer any questions you may have.

How to Comment

We also encourage you to file your written comments electronically through the Board-sponsored website, www.CP-KCSMergerEIS.com. Written comments can also be submitted electronically on the Board's website www.stb.gov by clicking on the "E-FILING" link, then clicking on "Environmental Comments." Alternatively, your written comments may be sent by 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

Please make sure to refer to Docket No. FD 36500 in all correspondence, including E-filings, addressed to the Board. **All scoping comments must be sent no later than December 17, 2021.**

Public Scoping Meetings

Additionally, to provide an opportunity for the public to provide oral comments, OEA will hold six online public scoping meetings for the EIS and the Section 106 process on the dates listed below. We invite you to attend those meetings if you are interested. You can attend the online public scoping meetings in one of two ways:

- Join online at: <https://bit.ly/cp-kcs>.

- Project information will be available for review at this link prior to the public meeting dates.
- Join by phone by calling toll free at (888) 788-0099 and using the call-in information below:

Date	Time (CST)	Meeting ID	Passcode
Tuesday, November 30, 2021	6-8 PM	899 9411 9431	336859
Wednesday, December 1, 2021	2-4 PM	834 1445 3134	140066
Thursday, December 2, 2021	6-8 PM	860 6003 9544	510488
Tuesday, December 7, 2021	6-8 PM	891 6903 1796	598592
Wednesday, December 8, 2021	2-4 PM	884 5338 0280	470936
Thursday, December 9, 2021	6-8 PM	899 8627 2409	227867

Next Steps

Following the end of the scoping period on December 17, 2021, OEA will review the comments and then issue a Final Scope of Study for the EIS, which will also include the scope of the concurrent Section 106 process. OEA will then issue a Draft EIS for public review and comment, followed by a Final EIS addressing the comments and completing the environmental and historic review process. At this time, OEA anticipates issuing the Draft EIS in the spring of 2022. In the meantime, OEA may contact you with questions or queries pertaining to the resources under your jurisdiction or purview.

Please complete the attached Consultation Questionnaire to provide feedback on your interest in participating in the Section 106 process. Additional information on this project and the Board's environmental and historic review process is available on the Board-sponsored project website at www.CP-KCSMergerEIS.com. 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,



Danielle Gosselin
Acting Director
Office of Environmental Analysis

Consultation Questionnaire

Texas Historical Commission

Docket No. FD 36500, Canadian Pacific Railway Limited, et al. – Control of – Kansas City Southern et al.; Notice of Intent to Prepare an Environmental Statement

Project Name: Canadian Pacific Railway 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 interest in the proposed acquisition of Kansas City Southern Railway by Canadian Pacific Railway and further consultation is not required.

_____ 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.

Name of Texas Historical Commission designated contact for the proposed acquisition of Kansas City Southern Railway by Canadian Pacific Railway:

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