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May 1, 2019
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May 1, 2019

VIA US Mail

TO: See Attached Service List

RE: Proposed Abandonment of the US Steel Industrial Lead from Milepost 2.4 near Baytown to Milepost 4.63 near Cedar Bayou, a total distance 2.23 miles located in Harris County and Chambers County, Texas, STB Docket No. AB-33 (Sub-No. 339X)

To whom it may concern:

On or after May 21, 2019, Union Pacific Railroad Company ("UP") expects to file with the Surface Transportation Board ("STB" or "Board") a Notice of Exemption seeking authority to abandon a portion of the U.S. Steel Industrial Lead from Milepost 2.4 in Baytown to Milepost 4.63 at the Eastside of Cedar Bayou, a total distance of 2.23 miles, located in Harris and Chambers Counties, Texas (collectively the "Line"). Attached is a Combined Environmental and Historic Report describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

Union Pacific is providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC, Telephone (202) 245-0291 and refer to the above Docket No. AB-33 (Sub-No. 339X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to OEA (with a copy to our representative) would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. Our representative in this matter is Jeremy M. Berman who may be contacted by telephone at 402-544-4735 or by mail at 1400 Douglas St., Stop 1580, Omaha, NE 68179.

Sincerely,

A handwritten signature of Jeremy M. Berman in black ink, followed by the printed name "Jeremy M. Berman".

Jeremy M. Berman

Attachment

Docket No. AB-33 (Sub-No. 339X)

Service List

State Clearinghouse (or Alternate):

Director, State Grants Team
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, Texas 78711

U.S. Army Corps of Engineers:

U.S. Army Corps of Engineers
Fort Worth District
3801 Zoo Park Drive
Waco, Texas 76708

State Environmental Protection Agency:

Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711

National Park Service (Regional Office):

Regional Director
National Park Service - Texas Region
2904 Swiss Avenue
Dallas, Texas 75204

Environmental Protection Agency (Regional Office):

U.S. Environmental Protection Agency - Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

U.S. Natural Resources Conservation Service:

U.S. Natural Resources Conservation Service
Waco Service Center
5040 S. Loop 340
Waco, Texas 76706

State of Texas Historic Preservation Office:

Texas Historical Commission Main Office
P.O. Box 12276
Austin, Texas 78711

National Geodetic Survey:

Geodetic Services Division
SMCC-3 #9209
NOAA N/NGS2
1315 E-W Highway
Silver Spring, Maryland 20910

U.S. Fish and Wildlife Service:

U.S. Fish and Wildlife Service
Austin Ecological Services Field Office
10711 Burnet Road, Suite 200
Austin, Texas 78758

Head of McLennan County, Texas:

McLennan County Clerk
215 N. 5th Street, Room 223-A
Waco, Texas 76701

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 339X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN HARRIS AND CHAMBERS COUNTY, TX
(U.S. STEEL INDUSTRIAL LEAD)**

Combined Environmental and Historic Report

UNION PACIFIC RAILROAD COMPANY
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1400 Douglas St, #1580
Omaha, NE 68179
402-544-4735 (Tel.)
402-501-0129 (FAX)
jmberman@up.com

Dated: May 1, 2019

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 339X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN HARRIS AND CHAMBERS COUNTY, TX
(U.S. STEEL INDUSTRIAL LEAD)**

Combined Environmental and Historic Report

Union Pacific Railroad Company ("UP") submits this Combined Environmental and Historic Report ("EHR") pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, for an exempt abandonment of a portion of the U.S. Steel Lead from Milepost 2.4 near Baytown to Milepost 4.63 at Cedar Bayou, a distance of 2.23 miles in Harris and Chambers Counties, Texas (the "Line"). The Line traverses U.S. Postal Service Zip Codes 77520 and 77523. UP anticipates that it will file a Notice of Exemption to abandon the Line on or after May 20, 2019. There is one bridge structure on the Line 50 years or older. Responses received thus far to UP's letters are also attached.¹

ENVIRONMENTAL REPORT
49 C.F.R. § 1105.7(e)

(1) Proposed action and alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed

¹ Union Pacific previously filed for abandonment of the Line in Docket No. AB-33 (Sub-No. 324X). Union Pacific obtained abandonment authority in that docket but did not file a notice of consummation within the time period prescribed by 49 C.F.R. § 1152.29(e)(2). Union Pacific is seeking new abandonment authority in this docket but is including environmental correspondence from Docket No. AB-33 (Sub-No. 324X) because the relevant agencies recently reviewed the proposed abandonment of the Line in that docket.

action. Include a readable, detailed map and drawings clearly delineating the project.

Response: The proposed action involves an exempt abandonment of a portion of the U.S. Steel Lead from Milepost 2.4 near Baytown to Milepost 4.63 at Cedar Bayou, a distance of 2.23 miles in Harris and Chambers Counties, Texas. A map of the Line is attached as **Attachment No. 1**.

The Line was constructed around 1968 by Missouri Pacific. The starting point for the Line is a connection at Baytown with a railroad originally built by Houston and North Shore, an electric interurban predecessor to Missouri Pacific. The Line continued to Cedar Bayou in order to serve the U.S. Steel mill, spanning the bayou with a lift bridge span relocated from Houma, Louisiana. The steel mill closed permanently in 1988 and the site was redeveloped as the Cedar Point Industrial Park. The Line is laid with 112lb jointed rail. There are three bridges on the Line, one of which, the Cedar Bayou Bridge, has been in place for 50 or more years. Union Pacific and the Texas Historical Commission are parties a Memorandum of Agreement, attached hereto as **Attachment No. 2**, which provides for satisfaction of the Section 106 conditions imposed by the Board in Docket No. AB-33 (Sub-No. 324X). The Memorandum of Agreement ("MOA") remains in place and will be binding on the removal of the Cedar Bayou Bridge under authority granted in this docket.

UP's real property interest in the Line is approximately 95% reversionary in nature. Based upon information in UP's possession, the Line does not contain federally granted right-of-way. Any documentation in UP's possession with regard to ownership of the Line will be made available to those requesting it.

It is UP's intention to salvage the track material on the Line and vacate the SR-

146 overpass so that it may be removed to facilitate the Grand Parkway project. The salvage process will include the unbolting of the trackage and removal of all rails, ties and other track material from the Line as follows: With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) will be removed. Next the wooden ties will be raised from among the ballast with a tool designed for minimum disruption of the ground material. The ties will then be separated into three groups as follows: (1) good quality ties that would be re-used in rail service, (2) landscape-quality ties that would be re-sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into truck trailers or containers and shipped by UP's salvage contractor to an EPA approved disposal site or to a cogeneration facility.

Culverts and right-of-way grading will remain intact so as not to alter the prevailing drainage and water flows along the Line. Ballast will typically be left in place, but may be removed if it is of exceptional quality - thus suitable for resale - or to make the right of way more suitable for a planned future use. Finally, all grade road crossings will be removed and remediated, then resurfaced with gravel, asphalt or concrete, as required by governing road authority. Any railroad signals will also be dismantled and removed.

UP's salvage work for abandonments is performed by experienced rail material salvagers. Each salvage contract includes detailed information on any environmental or historical conditions imposed by the Board. Completed work is independently inspected by a UP roadmaster or other maintenance official to ensure compliance with UP standards of quality and all contractual obligations, including Board imposed conditions,

if applicable.

After the proposed abandonment, the Baytown area will continue to receive rail service from Union Pacific via the UP Baytown subdivision, and the remaining portion of the U.S. Steel Lead. Cedar Bayou will continue to receive rail service via UP's Cedar Bayou Industrial Lead. BNSF also has operations in Baytown and Nearby Eldon, TX. The area reached by the Line is well served by highways and local roads, being paralleled by SR-146 and Hwy 99, and crossed by several local roads.

No local traffic has moved to or from the Line in the past two years and there is no overhead traffic. No complaint regarding cessation of service has been filed, is pending, or has been ruled upon in favor of a complainant in at least two years.

(2) Transportation System. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

Response: Given that no traffic uses the Line, the proposed abandonment will have no impact on area transportation systems and patterns.

(3) Land Use.

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 49 C.F.R. § 1105.9.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

Response:

- (i) UP is unaware of any adverse effects on local and existing land use plans. The Harris and Chambers County Clerks have been contacted. To date, UP has not received a response.
- (ii) The Natural Resources Conservation Service ("NRCS") has been contacted. To date, UP has not received a response.
- (iii) Not Applicable.
- (iv) The property proposed for abandonment is suitable for a public purpose in the form of a corridor for utilities such as sanitary sewer lines, roads or highways, or other forms of mass transportation, energy production or transmission. The property may also be suitable for conservation as a hike/bike trail.

(4) Energy.

- (i) Describe the effect of the proposed action on transportation of energy resources.
- (ii) Describe the effect of the proposed action on recyclable commodities.
- (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.
- (iv) If the proposed action will cause diversions from rail to motor carriage of more than:
 - (A) 1,000 rail carloads a year, or
 - (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

Response: (i) There are no effects on the transportation of energy resources.

- (ii) There are no recyclable commodities moved over the Line.
- (iii) There will be no change in energy consumption from the proposed action.
- (iv)(A)(B) UP does not anticipate that there will be any rail-to-motor diversion.

(5) Air. (i) If the proposed action will result in either:

(A) an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) an increase in rail yard activity of at least 100% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. §10901 (or §10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

Response: UP does not anticipate any such effects.

(5) Air. (ii) If the proposed action affects a class 1 or nonattainment area under the Clean Air Act, and will result in either:

(A) an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or

(B) an increase in rail yard activity of at least 20% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. §10901 (or 49 U.S.C. §10505), or a case involving

the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

Response: There will be no increase in rail traffic, rail yard activity, or truck traffic as a result of the proposed action.

(5) Air. (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

Response: The proposed action will not affect the transportation of ozone depleting materials.

(6) Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) an incremental increase in noise levels of three decibels Ldn or more or

(ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

Response: Not applicable.

(7) Safety.

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

(iii) If there are any known hazardous waste sites or sites where there

have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

Response: (i) The proposed action will have no detrimental effects on public health

and safety.

(ii) The proposed action will not affect the transportation of hazardous materials.

(iii) There are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the subject right-of-way.

(8) Biological resources.

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

Response: (i) and (ii). The U.S. Fish and Wildlife Service and the National Park

Service were contacted. Responses from the U.S. Fish and Wildlife

Service are attached as **Attachment No. 3**. No response has been

received from the National Park Service. Also, the Line does not appear to

enter any national or state parks or forests, wildlife sanctuaries, or

refuges.

(9) Water.

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state

whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

Response: (i) The U.S. Environmental Protection Agency Region 6 office and the Texas Commission on Environmental Quality have been contacted. To date there has been no response.

(ii) The U. S. Army Corps of Engineers (Corps) has been contacted. As indicated on page 2 of the MOA, the Corp declined to participate in the MOA.

(iii) UP does not anticipate that there will be any requirements for Section 402 permits.

(10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Response: There are no known adverse environmental impacts. All other responses received from agencies are attached as **Attachment No. 5**.

HISTORIC REPORT
49 C.F.R. § 1105.8(d)

(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action:

Response: See **Attachment No. 1.**

(2) A written description of the right-of-way (including approximate widths to the extent known), and the topography and urban and/or rural characteristics of the surrounding area:

Response: The right of way commences at S Main St in Baytown and ends on the East side of Cedar Bayou. The Westernmost portion of the right of way runs through residential areas with the balance running through open land zoned for open space, general commercial, and livable center development. Various portions of the Right of Way are 50, 100, and 160 feet wide. The topography is flat.

(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area:

Response: The MOA contains requirements for photographs of the Cedar Bayou Bridge. These photographs can be provided to the Board if desired.

(4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations to the extent such information is known:

Response: See **Attachment No. 1.**

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

Response: See UP's response to question (1) in the Environmental Report for a brief history and description.

(6) A brief summary of documents in the carrier's possession, such as engineering

drawings, that might be useful in documenting a structure that is found to be historic:

Response: The MOA contains requirements for documentation of the Cedar Bayou Bridge.

(7) An opinion (based on readily available information in the UP's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities):

Response: The Cedar Bayou Bridge is the only such site or structure. The MOA contains requirements for documenting the Cedar Bayou Bridge prior to its removal.

Attached as **Attachment No. 6** is a notification from the Texas Historical Commission that it has reviewed the area to be abandoned and has no concerns.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

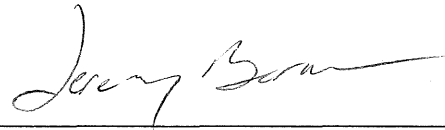
Response: UP does not have any such readily available information.

(9) Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified non-railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way. Photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the locations and type of the site (i.e., prehistoric or native American):

Response: Not applicable.

Dated this 1st day of May, 2019.

Respectfully submitted,



UNION PACIFIC RAILROAD COMPANY

Jeremy M. Berman

General Attorney

1400 Douglas St, #1580

Omaha, NE 68179

402-544-4735 (Tel.)

402-501-0129 (FAX)

jmberman@up.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Combined Environmental and Historic Report in Docket No. AB-33 (Sub-No. 339X), the Abandonment and Discontinuance of Service on the U.S. Steel Industrial Lead in Harris and Chambers Counties, Texas was served by First Class U.S. Mail, postage prepaid, on the 1st day of May, 2019, on the following parties:

State Clearinghouse (or Alternate):

Director, State Grants Team
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, Texas 78711

U.S. Army Corps of Engineers:

U.S. Army Corps of Engineers
Fort Worth District
3801 Zoo Park Drive
Waco, Texas 76708

State Environmental Protection Agency:

Texas Commission on Environmental
Quality
P.O. Box 13087
Austin, Texas 78711

National Park Service (Regional Office):

Regional Director
National Park Service - Texas Region
2904 Swiss Avenue
Dallas, Texas 75204

**Environmental Protection Agency
(Regional Office):**

U.S. Environmental Protection Agency -
Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

**U.S. Natural Resources Conservation
Service:**

U.S. Natural Resources Conservation
Service
Waco Service Center
5040 S. Loop 340
Waco, Texas 76706

**State of Texas Historic Preservation
Office:**

Texas Historical Commission Main Office
P.O. Box 12276
Austin, Texas 78711

National Geodetic Survey:

Geodetic Services Division
SMCC-3 #9209
NOAA N/NGS2
1315 E-W Highway
Silver Spring, Maryland 20910

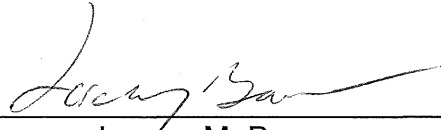
U.S. Fish and Wildlife Service:

U.S. Fish and Wildlife Service
Austin Ecological Services Field Office
10711 Burnet Road, Suite 200
Austin, Texas 78758

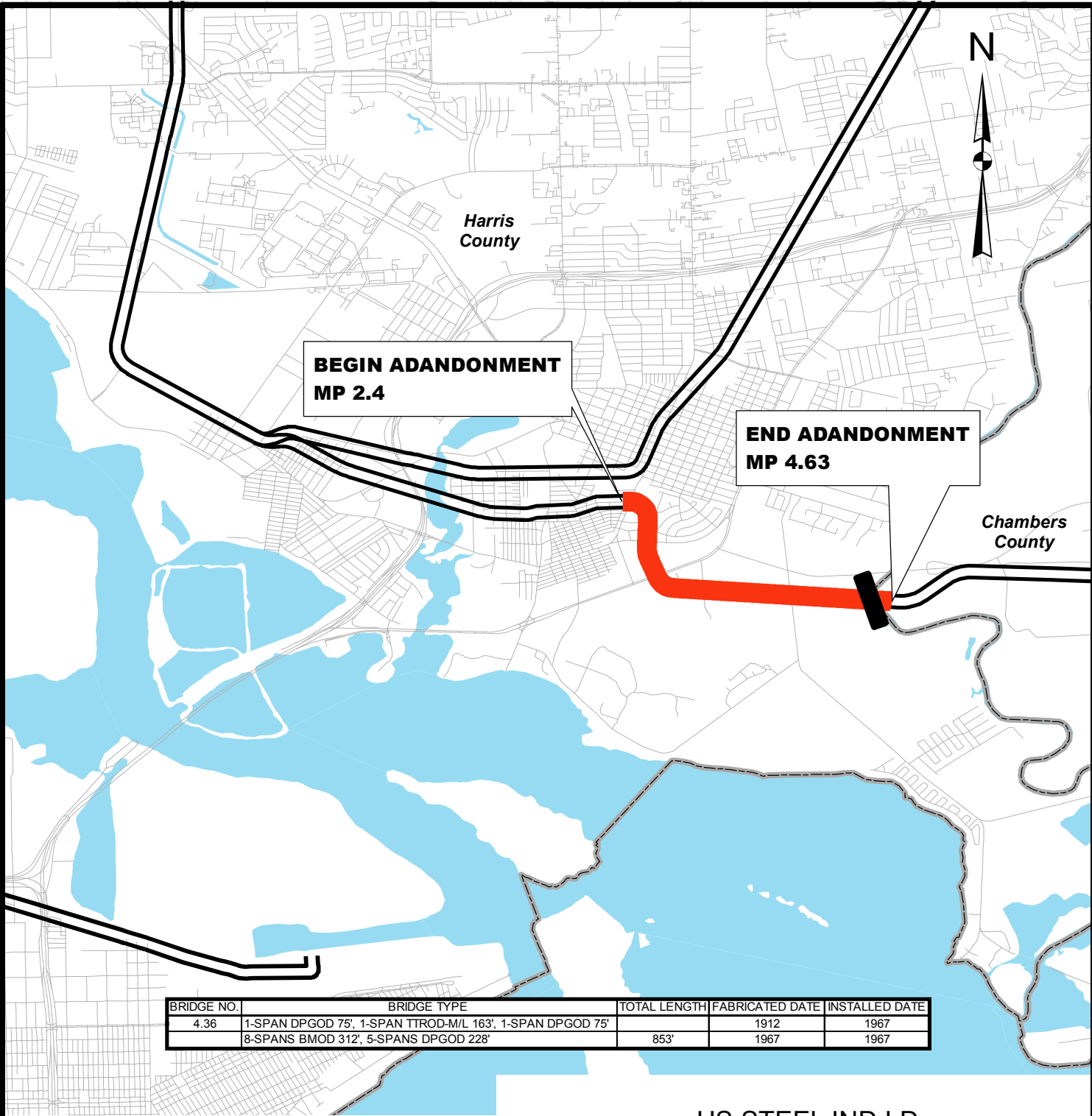
Head of McLennan County, Texas:

McLennan County Clerk
215 N. 5th Street, Room 223-A
Waco, Texas 76701

Dated this 1st day of May, 2019.

A handwritten signature in cursive script, appearing to read "Jeremy Berman", written in black ink.

Jeremy M. Berman



BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	FABRICATED DATE	INSTALLED DATE
4.36	1-SPAN DPGOD 75', 1-SPAN TTROD-M/L 163', 1-SPAN DPGOD 75'		1912	1967
	8-SPANS BMOD 312', 5-SPANS DPGOD 228'	853'	1967	1967

US STEEL IND LD

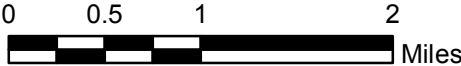
UNION PACIFIC RAILROAD CO.
MP 2.4 TO MP 4.63
TOTAL OF 2.23 MILES IN HARRIS COUNTY
AND CHAMBERS COUNTY
IN TEXAS

Legend

-  ABANDONMENT
-  OTHER TRACKS
-  OTHER ROADS
-  50 + YEAR OLD STRUCTURES

UNION PACIFIC RAILROAD CO.
US STEEL IND LD
TEXAS

INCLUDING STRUCTURES



MEMORANDUM OF AGREEMENT
AMONG
THE SURFACE TRANSPORTATION BOARD,
THE TEXAS HISTORICAL COMMISSION,
THE UNION PACIFIC RAILROAD COMPANY,
AND THE TEXAS DEPARTMENT OF TRANSPORTATION
REGARDING DOCKET NO. AB 33 (SUB-NO. 324X)
UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN BAYTOWN, TEXAS

WHEREAS, Union Pacific Railroad Company (UP) on March 9, 2017, filed a Notice of Exemption with the Surface Transportation Board (the Board) under 49 C.F.R. § 1152.50 to abandon and discontinue service over a 2.23-mile portion of a line of railroad known as the U.S. Steel Industrial Lead (the Line) between Milepost 2.4 and Milepost 4.63 in Harris and Chambers Counties, Texas, in Docket No. AB 33 (Sub-No. 324X); and in an April 27, 2017 decision, the Board imposed certain conditions under Section 106 of the National Historic Preservation Act (NHPA); and

WHEREAS, the proposed abandonment would include removal and salvage of the vertical lift bridge at the Cedar Bayou (Bridge); and

WHEREAS, the Board is the lead federal agency for the purposes of compliance with the NHPA for this abandonment; and

WHEREAS, the Board has determined that the rail line abandonment constitutes an Undertaking under Section 106 of the NHPA, 54 U.S.C. § 306108, and has consulted with the Texas Historical Commission (the State Historic Preservation Officer or SHPO) pursuant to Section 106 of NHPA, and its implementing regulations, 36 C.F.R. § 800; and

WHEREAS, removal of the Bridge is the only feasible option because the bridge is currently not operable; a buyer willing to purchase, relocate, and preserve the bridge has not been identified; and the United States Coast Guard (Coast Guard) considers the bridge to be a potential hazard to navigation; and

WHEREAS, based on the recommendation of a qualified historical consultant and in consultation with the SHPO, the Board determined that the Bridge is eligible for listing in the National Register of Historic Places (the National Register) under Criterion C for its design and

engineering, meeting Criteria Consideration B for moved properties, pursuant to 36 C.F.R. § 800.4; and

WHEREAS, the Board, in consultation with the SHPO pursuant to 36 C.F.R. § 800.5, determined that the removal of the Bridge would constitute an adverse effect to a National Register-eligible historic property; and

WHEREAS, the Board consulted with the Advisory Council on Historic Preservation (ACHP), notifying the ACHP that an adverse effect determination had been made in accordance with 36 C.F.R. § 800.6(a)(1); and

WHEREAS, in a letter dated November 18, 2016, the ACHP declined to participate in this Memorandum of Agreement (MOA); and

WHEREAS, UP is the project proponent and has been invited to participate in this consultation and to sign this MOA as an Invited Signatory; and

WHEREAS, the Historic Bridge Foundation, the Harris County Historical Commission, and the Chambers County Historical Commission have been invited to participate in this consultation as Consulting Parties; and

WHEREAS, the Historic Bridge Foundation has agreed to participate in this consultation as a Consulting Party; and

WHEREAS, the United States Army Corps of Engineers (Corps) declined to participate in this MOA citing Corps rules and regulations providing that "jurisdiction of the Secretary of Transportation and the Coast Guard over bridges and causeways includes authority to approve the removal of such structures when the owners thereof desire to discontinue their use." *Department of Defense, Department of the Army, Engineers Corps; Regulatory Program, Federal Register Part II (July 19, 1977), pg. 37143*; and

WHEREAS, in a letter dated July 28, 2018, the Coast Guard declined to participate in this MOA but set forth conditions related to the Bridge removal work; and

WHEREAS, the Texas Department of Transportation (TxDOT) will be performing the removal of the Bridge on behalf of UP and has been invited to participate to sign this MOA as an Invited Signatory with regard to the Coast Guard's conditions related to the Bridge removal work only; and

WHEREAS, pursuant to 36 C.F.R. § 800.6, the Board has consulted with the SHPO and UP regarding ways to avoid, minimize, or mitigate potential effects to the historic resource as a result of the proposed abandonment, and the Board, the SHPO, and UP have all agreed upon the measures described below under "Stipulations;" and

WHEREAS, the definitions listed in 36 C.F.R. § 800.16 are applicable throughout this MOA.

NOW, THEREFORE, the Board, the SHPO, and UP agree that this Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties. The execution of this MOA by the parties hereto and its subsequent submission to the ACHP in accordance with 36 C.F.R. § 800.6(b)(1)(iv), shall, pursuant to 36 C.F.R. § 800.6(c), be considered to be an agreement with the ACHP for the purposes of Section 110(1) of the NHPA. Execution and submission of the MOA, and implementation of its terms, evidences that the Board has afforded the ACHP an opportunity to comment on the proposed action relating to the Line, and that the Board has taken into account the effects of the abandonment on historic properties and is satisfying the requirements of Section 106 of the NHPA.

STIPULATIONS

The Board shall ensure that the following measures are carried out:

I. DOCUMENTATION

As mitigation for removal of the Cedar Bayou Bridge, UP shall complete photographic and written documentation for the property subject to the provisions outlined below. Once the photographic documentation and written documentation and narratives have been approved by the SHPO, and following the completion of the Board's abandonment process, the Board will notify UP that it may commence with the removal of the Cedar Bayou Bridge. The actions that implement this MOA shall include the following:

- 1. Recordation of Historic Properties.** Prior to removal of any portion of the Bridge, UP shall complete documentation equivalent to the *Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation, HABS/HAER Standards* (Standards). This shall include, as described below: measured drawings; professional quality digital photographs, printed on archival paper with an accompanying archival "gold" compact disc (CD); and an architectural and historical narrative, all in an archive-stable format.
 - A. Photographs.** UP shall complete photographic documentation of the Bridge. This documentation shall include no more than 20 digital photographs to include, to the extent feasible, all four elevations of the bridge, bridge details, and at least one context photograph. The documentation shall include a photograph key showing the location and view direction of each image. Final versions of the photographs shall be professionally printed on 8½ x 11", acid-free, 100-year archival paper, and the digital photographs shall be submitted electronically on archival CDs.
 - B. Architectural and Historical Narrative.** The narrative shall contain a description of the bridge, information on the construction in its original location over the St. Francis River in Cody, Arkansas, and the relocation of the bridge to Cedar Bayou. In addition to the

circumstances and history of its move, the narrative shall include: a summary history of the Missouri Pacific Railroad in Arkansas and Texas, construction of the U.S. Steel Lead, and the acquisition by UP; a history of the development of truss bridges and movable spans, with emphasis on vertical lift bridges; and a history of the firm Waddell and Harrington, its two principal engineers, and its successor firms.

- C. **Measured Drawings of the Bridge.** The documentation shall include reproduction of all existing drawings of the current bridge, minus duplicates. A site plan/aerial photograph of the bridge and the U.S. Geological Survey quadrangle map of the area shall also be included. The final version of these drawings shall be submitted on archival CDs and printed in hard copy on 11 x 17, acid-free, 100-year archival paper. No new drawings shall be produced.
2. **Public Dissemination of Historic Documentation.** Also prior to the removal of any portion of the Cedar Bayou Bridge, UP shall prepare an article for public audiences describing the Cedar Bayou Bridge and a history of its construction and move. The article shall be of an appropriate length for publication in railroad and/or bridge history magazine(s) to maximize the availability of the information and shall use language appropriate for readability by the general public. UP will reach out to various railroad magazines and websites and will ensure that the article is published in some capacity. Proof of publishing will be sent to the SHPO.

II. REVIEW AND COMMENT

- A. Prior to the start of demolition activity, UP shall prepare the draft HAER documentation in accordance with Stipulation I and shall distribute it via electronic mail or CD to the Board and via the electronic THC Review and Compliance (eTRAC) system or CD to the SHPO for review. The Board and the SHPO shall review and provide comments to UP within 30 calendar days of receipt of the photographic documentation.
- B. If comments requiring material change are provided to UP regarding the HAER documentation, UP shall revise the narrative and drawings in response to the comments, as needed, and resubmit the report within 30 calendar days of receipt of comments. If no comments requiring material changes are provided to UP by the end of the 30-day comment period, UP shall finalize the HAER narrative and drawings as described in Stipulation III and submit a final copy to the Board and the SHPO within 15 calendar days of the end of the comment period.
- C. UP shall prepare the draft public narrative and measured drawings in accordance with Stipulations I.B. and I.C. and shall distribute them via electronic mail or CD to the Board and via eTRAC or CD to the SHPO for review within 180 calendar days of the execution of this MOA. The Board and the SHPO shall review and provide comments to UP within 30 calendar days of receipt of the draft HAER narrative and measured drawings.
- D. If comments requiring material change are provided to UP regarding the public narrative or measured drawings, UP shall revise the narrative and drawings in response to the

comments, as needed, and resubmit the report within 30 calendar days of receipt of comments. If no reasonable comments requiring material change are provided to UP by the end of the 30-day comment period, UP shall finalize the HAER narrative and measured drawings as described in Stipulation III and submit a final copy to the Board and the SHPO within 15 calendar days of the end of the comment period.

III. FINALIZATION

- A. Final HAER documentation shall be produced on acid-free, 100-year archival paper, with the photographs and drawings on archival CDs.
- B. Upon finalization of the HAER documentation, UP shall submit copies of the documentation to the Texas SHPO, the Surface Transportation Board Office of Environmental Analysis (the OEA), the Baytown library and the Houston Metropolitan Research Center. Documentation shall be made available in print on acid-free, 100-year archival paper and electronically on archival CDs.
- C. Upon finalization of the article for public dissemination, UP shall submit the article to a railroad historical magazine for publication. If the article is not accepted for publication by the initial magazine, UP shall submit the article for publication to two additional magazines. UP shall also submit the public article to the website www.bridgehunter.com. Proof of publications and/or publication attempts shall be submitted to the Texas SHPO.
- D. The documentation shall be considered final upon issuance of a written notice from the Board that all comments have been satisfactorily addressed. However, the parties acknowledge that, if the bridge is determined by UP to be subject to imminent failure or other physical breakdown, UP would notify the Board and the SHPO and would commence the bridge removal immediately in coordination with the Board.
- E. UP shall bear the cost for document production and delivery in Stipulations I, II and III.
- F. OEA shall post a summary of the historic documentation, along with photographs of the bridge, on the interactive Rail Heritage Map on the Board's Railroad Map Depot. OEA shall also submit an article to the Historic Bridge Foundation describing the Railroad Map Depot and the Rail Heritage Map.

IV. BRIDGE REMOVAL

UP and TxDOT acknowledge the following requirements of the Coast Guard regarding the removal of the Bridge:

- 1. The Bridge is to be removed in its entirety including removal of all piers 5 feet below the mud line.
- 2. Following the removal of the Bridge, the TxDOT will provide the Bridge Administration Branch of the Coast Guard with confirmation that the Bridge was removed in accordance

with the requirements set forth in the July 28, 2018 letter from the Coast Guard to TxDOT.

3. TxDOT shall obtain approval from Coast Guard Sector Houston-Galveston before the operation begins.

V. DURATION

This MOA will expire if the terms have not been implemented within three years of execution. At such time, and prior to work continuing on the Undertaking, the Board shall either (a) execute a new MOA pursuant to 36 C.F.R. § 800.6, or (b) request comment from, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. Prior to such time, the Board may consult with the signatories to reconsider the terms of the MOA and amend it, including extension of its duration, in accordance with Stipulation IX below. The Board shall notify the signatories as to the course of action it will pursue.

VI. UNANCTIPATED DISCOVERIES

If the Board determines after bridge removal has commenced, that the Undertaking will affect a previously unidentified property that may be eligible for inclusion in the National Register, the Board will address the discovery in accordance with 36 C.F.R. § 800.13(b)(3). The Board may assume the discovered property to be eligible for the National Register in accordance with 36 C.F.R. § 800.13(c).

VII. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the Board shall consult with such party to resolve the objection. If the Board determines that such objection cannot be resolved, the Board will:

- A. Forward all documentation relevant to the dispute, including the Board's proposed resolution, to the ACHP. The ACHP shall provide the Board with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Board shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories and provide them with a copy of this written response. The Board will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the 30-day time period, the Board may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Board shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the MOA, and provide them and the ACHP with a copy of such written response.
- C. The Board's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remains unchanged.

VIII. MONITORING AND REPORTING

Each year following the execution of this MOA until it expires, is terminated, or stipulations I through III are completed, UP shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such a report shall include all proposed scheduling changes and disputes or objections received in UP's efforts to carry out the terms of this MOA.

IX. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

X. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation IX, above. If within 30 days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the Undertaking, the Board must either (a) execute a new MOA pursuant to 36 C.F.R. § 800.6, or (b) request comment from, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. The Board shall notify the signatories as to the course of action it will pursue. Under no circumstances shall UP be obligated to restore any portion of the bridge that has been demolished or removed under the terms of this MOA.

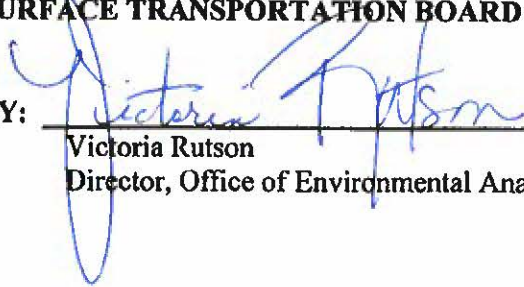
Execution of this MOA by the Board and SHPO and implementation of its terms evidence that the Board has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.

ACCEPTED AND AGREED

SIGNATORY PARTIES:

SURFACE TRANSPORTATION BOARD

BY:



Victoria Rutson
Director, Office of Environmental Analysis

DATE:

Oct. 25, 2018

TEXAS STATE HISTORIC PRESERVATION OFFICER

BY: Mark Wolfe **DATE:** 9/11/18
Mark Wolfe
State Historic Preservation Officer

Invited Signatory:

UNION PACIFIC RAILROAD COMPANY

BY: Chris Goble DATE: 10/4/18
Chris Goble
AVP Real Estate

Invited Signatory:

TEXAS DEPARTMENT OF TRANSPORTATION

BY: James M Bass DATE: 10/19/18

Concurring Signatory:

HISTORIC BRIDGE FOUNDATION

BY: Kitty Henderson

DATE: 10/22/18

Kitty Henderson
Executive Director



In Reply Refer To:
FWS/R2/TCESFO

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Texas Coastal Ecological Services Field Office

17629 El Camino Real, Suite 211

Houston, Texas 77058

281/286-8282 / (FAX) 281/488-5882



February 1, 2016

Thank you for your request for threatened and endangered species, fish and wildlife, environmental, and/or aquatic resources information, comments, and/or recommendations within the United States Fish and Wildlife Service (Service) Texas Coastal Ecological Service's area (Houston Office) of responsibility.

In order to obtain information regarding fish and wildlife resources concerning a specific project or project area, we recommend that you first utilize the Service developed Information, Planning, and Conservation (IPaC) System. The IPaC system is designed for easy, public access to information about the natural resources for which the Service has trust or regulatory responsibility. Examples include threatened and endangered species, migratory birds, National Refuge lands, and National Wetlands Inventory wetlands. One of the primary goals of the IPaC system is to provide this information in a manner that assists people in planning their activities within the context of natural resource conservation. The IPaC system also assists people through the various regulatory consultation, permitting and approval processes administered by the Fish and Wildlife Service, helping achieve more effective and efficient results for both the project proponents and natural resources.

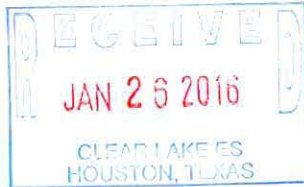
The IPaC system can be found at the following website address: <http://ecos.fws.gov/ipac/>. Please note, by requesting an Official Species List you will receive an official consultation response letter and tracking number. If you still have questions concerning your project as it relates to fish and wildlife resources after visiting the IPaC system, please feel free to contact our office at the letterhead address above. We will be happy to assist you.

Sincerely,

Charles Ardizzone
Field Supervisor

To Clear Lake

UNION PACIFIC RAILROAD
1400 Douglas Street Omaha, Nebraska 68179



January 6, 2016

State Clearinghouse (or Alternate):

Denise S. Francis
Director, State Grants Team
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, Texas 78711

U.S. Army Corps of Engineers:

U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Rd.
Galveston, Texas 77550

State Environmental Protection Agency:

Texas Commission on Environmental Quality
5425 Polk St., Suite H
Houston, Texas 77023

National Park Service (Regional Office):

National Park Service - Intermountain Region
12795 Alameda Parkway
Denver, Colorado 80225

Environmental Protection Agency (Regional Office):

U.S. Environmental Protection Agency - Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

U.S. Natural Resources Conservation Service:

U.S. Natural Resources Conservation Service
Bryan Service Center
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802

State of Texas Historic Preservation Office:

Texas Historical Commission Main Office
P.O. Box 12276
Austin, Texas 78711

National Geodetic Survey:

Geodetic Services Division
SMCC-3 #9209
NOAA N/NGS2
1315 E-W Highway
Silver Spring, Maryland 20910

U.S. Fish and Wildlife Service:

U.S. Fish and Wildlife Service
Southwest Region (2) Office
500 East McCarty Lane
San Marcos, Texas 78666

Head of Harris County, Texas:

Stan Stanart
Harris County Clerk
201 Caroline
Houston, Texas 77002

Head of Chambers County, Texas:

Heather Hawthorne
Chambers County Clerk
P.O. Box 728
Anahuac, Texas 77514

Re: Proposed Abandonment of the US Steel Industrial Lead from Milepost 2.4 near Baytown to Milepost 4.63 near Cedar Bayou, a total distance of 2.23 miles located in Harris County and Chambers County, Texas, STB Docket No. AB-33 (Sub-No. 324X)

To Whom It May Concern:

Union Pacific Railroad Company plans to request authority from the Surface Transportation Board (STB) to abandon and discontinue service on the US Steel Industrial Lead from Milepost 2.4 near Baytown, Texas to Milepost 4.63 near Cedar Bayou, Texas, a total distance of 2.23 miles located in Harris County and Chambers County, Texas. A map of the proposed abandonment and discontinuance shown in red is attached.



Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 40 C.F. R. Part 1105.7, this is to request your assistance in identifying any potential effects of this action as indicated in the paragraphs below. We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

LOCAL AND/OR REGIONAL PLANNING AGENCIES. State whether the proposed action is consistent with existing land use plans. Please describe any inconsistencies.

U.S. SOIL CONSERVATION SERVICE. State the effect of the proposed action on any prime agricultural land.

U.S. FISH AND WILDLIFE SERVICE (And State Game and Parks Commission, If Addressed). State (1) whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects, and (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

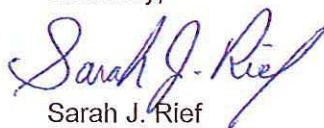
STATE WATER QUALITY OFFICIALS. State whether the proposed action is consistent with applicable Federal, State or Local water quality standards. Please describe any inconsistencies.

U.S. ARMY CORPS OF ENGINEERS. State (1) whether permits under Section 404 of the Clean Water Act (33 U.S. C. § 1344) are required for the proposed action and (2) whether any designated wetlands or 100-year flood plains will be affected. Please describe the effects.

U.S. ENVIRONMENTAL PROTECTION AGENCY AND STATE ENVIRONMENTAL PROTECTION (OR EQUIVALENT AGENCY). (1) Identify any potential effects on the surrounding area, (2) identify the location of hazardous waste sites and known hazardous material spills on the right-of-way and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

Thank you for your assistance. Please send your reply to the undersigned.

Sincerely,



Sarah J. Rief
Legal Assistant - Law Department
Union Pacific Railroad Company
1400 Douglas Street, MS 1580
Omaha, Nebraska 68179
Phone: (402) 544-0438
Email: sjrief@up.com

Attachment





United States Department of the Interior

FISH AND WILDLIFE SERVICE
Texas Coastal Ecological Services Field Office
17629 El Camino Real #211
Houston, TX 77058

Phone: (281) 286-8282 Fax: (281) 488-5882

<http://www.fws.gov/southwest/es/TexasCoastal/>
http://www.fws.gov/southwest/es/ES_Lists_Main2.html



In Reply Refer To:

September 08, 2017

Consultation Code: 02ETTX00-2017-SLI-1991

Event Code: 02ETTX00-2017-E-04011

Project Name: Union Pacific Railroad US Steel Industrial Lead Abandonment

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The U.S. Fish and Wildlife Service (Service) field offices in Clear Lake, Tx, and Corpus Christi, Tx, have combined administratively to form the Texas Coastal Ecological Services Field Office. A map of the Texas Coastal Ecological Services Field Office area of responsibility can be found at: <http://www.fws.gov/southwest/es/TexasCoastal/Map.html>. All project related correspondence should be sent to the field office responsible for the area in which your project occurs. For projects located in southeast Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; 17629 El Camino Real Ste. 211; Houston, Texas 77058. For projects located in southern Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; P.O. Box 81468; Corpus Christi, Texas 78468-1468. For projects located in six counties in southern Texas (Cameron, Hidalgo, Starr, Webb, Willacy, and Zapata) please write: Santa Ana NWR, ATTN: Ecological Services Sub Office, 3325 Green Jay Road, Alamo, Texas 78516.

The enclosed species list identifies federally threatened, endangered, and proposed to be listed species; designated critical habitat; and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project.

New information from updated surveys, changes in the abundance and distribution of species, changes in habitat conditions, or other factors could change the list. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation for updates to species list and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

Candidate species have no protection under the Act but are included for consideration because they could be listed prior to the completion of your project. The other species information should help you determine if suitable habitat for these listed species exists in any of the proposed project areas or if project activities may affect species on-site, off-site, and/or result in "take" of a federally listed species.

"Take" is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. In addition to the direct take of an individual animal, habitat destruction or modification can be considered take, regardless of whether it has been formally designated as critical habitat, if the activity results in the death or injury of wildlife by removing essential habitat components or significantly alters essential behavior patterns, including breeding, feeding, or sheltering.

Section 7

Section 7 of the Act requires that all Federal agencies consult with the Service to ensure that actions authorized, funded or carried out by such agencies do not jeopardize the continued existence of any listed threatened or endangered species or adversely modify or destroy critical habitat of such species. It is the responsibility of the Federal action agency to determine if the proposed project may affect threatened or endangered species. If a "may affect" determination is made, the Federal agency shall initiate the section 7 consultation process by writing to the office that has responsibility for the area in which your project occurs.

Is not likely to adversely affect - the project may affect listed species and/or critical habitat; however, the effects are expected to be discountable, insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effects. The Federal agency or the designated non-Federal representative should seek written concurrence from the Service that adverse effects have been eliminated. Be sure to include all of the information and documentation used to reach your decision with your request for concurrence. The Service must have this documentation before issuing a concurrence.

Is likely to adversely affect - adverse effects to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable, insignificant, or beneficial. If the overall effect of the proposed action is beneficial to the listed species but also is likely to cause some adverse effects to individuals of that species, then the proposed action "is likely to adversely affect" the listed species. An "is likely to adversely affect" determination requires the Federal action agency to initiate formal section 7 consultation with this office.

No effect - the proposed action will not affect federally listed species or critical habitat (i.e., suitable habitat for the species occurring in the project county is not present in or adjacent to the action area). No further coordination or contact with the Service is necessary. However, if the project changes or additional information on the distribution of listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered.

Regardless of your determination, the Service recommends that you maintain a complete record

of the evaluation, including steps leading to the determination of affect, the qualified personnel conducting the evaluation, habitat conditions, site photographs, and any other related articles.

Please be advised that while a Federal agency may designate a non-Federal representative to conduct informal consultations with the Service, assess project effects, or prepare a biological assessment, the Federal agency must notify the Service in writing of such a designation. The Federal agency shall also independently review and evaluate the scope and contents of a biological assessment prepared by their designated non-Federal representative before that document is submitted to the Service.

The Service's Consultation Handbook is available online to assist you with further information on definitions, process, and fulfilling Act requirements for your projects at:

http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf

Section 10

If there is no federal involvement and the proposed project is being funded or carried out by private interests and/or non-federal government agencies, and the project as proposed may affect listed species, a section 10(a)(1)(B) permit is recommended. The Habitat Conservation Planning Handbook is available at:

http://www.fws.gov/endangered/esa-library/pdf/HCP_Handbook.pdf

Service Response

Please note that the Service strives to respond to requests for project review within 30 days of receipt, however, this time period is not mandated by regulation. Responses may be delayed due to workload and lack of staff. Failure to meet the 30-day timeframe does not constitute a concurrence from the Service that the proposed project will not have impacts to threatened and endangered species.

Proposed Species and/or Proposed Critical Habitat

While consultations are required when the proposed action may affect listed species, section 7(a)(4) was added to the ESA to provide a mechanism for identifying and resolving potential conflicts between a proposed action and proposed species or proposed critical habitat at an early planning stage. The action agency should seek concurrence from the Service to assist the action agency in determining effects and to advise the agency on ways to avoid or minimize adverse effect to proposed species or proposed critical habitat.

Candidate Species

Candidate species are species that are being considered for possible addition to the threatened and endangered species list. They currently have no legal protection under the ESA. If you find you have potential project impacts to these species the Service would like to provide technical assistance to help avoid or minimize adverse effects. Addressing potential impacts to these species at this stage could better provide for overall ecosystem health in the local area and avert potential future listing.

Several species of freshwater mussels occur in Texas and four are candidates for listing under the ESA. The Service is also reviewing the status of six other species for potential listing under the ESA. One of the main contributors to mussel die offs is sedimentation, which smothers and suffocates mussels. To reduce sedimentation within rivers, streams, and tributaries crossed by a project, the Service recommends that that you implement the best management practices found at: <http://www.fws.gov/southwest/es/TexasCoastal/FreshwaterMussels.html>.

Candidate Conservation Agreements (CCAs) or Candidate Conservation Agreements with Assurances (CCAAs) are voluntary agreements between the Service and public or private entities to implement conservation measures to address threats to candidate species. Implementing conservation efforts before species are listed increases the likelihood that simpler, flexible, and more cost-effective conservation options are available. A CCAA can provide participants with assurances that if they engage in conservation actions, they will not be required to implement additional conservation measures beyond those in the agreement. For additional information on CCAs/CCAAs please visit the Service's website at <http://www.fws.gov/endangered/what-we-do/cca.html>.

Migratory Birds

The Migratory Bird Treaty Act (MBTA) implements various treaties and conventions for the protection of migratory birds. Under the MBTA, taking, killing, or possessing migratory birds is unlawful. Many may nest in trees, brush areas or other suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals or eggs. If project activities must be conducted during this time, we recommend surveying for active nests prior to commencing work. A list of migratory birds may be viewed at <http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html>.

The bald eagle (*Haliaeetus leucocephalus*) was delisted under the Act on August 9, 2007. Both the bald eagle and the golden eagle (*Aquila chrysaetos*) are still protected under the MBTA and BGEPA. The BGEPA affords both eagles protection in addition to that provided by the MBTA, in particular, by making it unlawful to "disturb" eagles. Under the BGEPA, the Service may issue limited permits to incidentally "take" eagles (e.g., injury, interfering with normal breeding, feeding, or sheltering behavior nest abandonment). For more information on bald and golden eagle management guidelines, we recommend you review information provided at <http://www.fws.gov/midwest/eagle/pdf/NationalBaldEagleManagementGuidelines.pdf>.

The construction of overhead power lines creates threats of avian collision and electrocution. The Service recommends the installation of underground rather than overhead power lines whenever possible. For new overhead lines or retrofitting of old lines, we recommend that project developers implement, to the maximum extent practicable, the Avian Power Line Interaction Committee guidelines found at <http://www.aplic.org/>.

Meteorological and communication towers are estimated to kill millions of birds per year. We recommend following the guidance set forth in the Service Interim Guidelines for

Recommendations on Communications Tower Siting, Constructions, Operation and Decommissioning, found online at:

<http://www.fws.gov/habitatconservation/communicationtowers.html>, to minimize the threat of avian mortality at these towers. Monitoring at these towers would provide insight into the effectiveness of the minimization measures. We request the results of any wildlife mortality monitoring at towers associated with this project.

We request that you provide us with the final location and specifications of your proposed towers, as well as the recommendations implemented. A Tower Site Evaluation Form is also available via the above website; we recommend you complete this form and keep it in your files. If meteorological towers are to be constructed, please forward this completed form to our office.

More information concerning sections 7 and 10 of the Act, migratory birds, candidate species, and landowner tools can be found on our website at:

<http://www.fws.gov/southwest/es/TexasCoastal/ProjectReviews.html>.

Wetlands and Wildlife Habitat

Wetlands and riparian zones provide valuable fish and wildlife habitat as well as contribute to food control, water quality enhancement, and groundwater recharge. Wetland and riparian vegetation provides food and cover for wildlife, stabilizes banks and decreases soil erosion. These areas are inherently dynamic and very sensitive to changes caused by such activities as overgrazing, logging, major construction, or earth disturbance. Executive Order 11990 asserts that each agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial value of wetlands in carrying out the agency's responsibilities. Construction activities near riparian zones should be carefully designed to minimize impacts. If vegetation clearing is needed in these riparian areas, they should be re-vegetated with native wetland and riparian vegetation to prevent erosion or loss of habitat. We recommend minimizing the area of soil scarification and initiating incremental re-establishment of herbaceous vegetation at the proposed work sites. Denuded and/or disturbed areas should be re-vegetated with a mixture of native legumes and grasses. Species commonly used for soil stabilization are listed in the Texas Department of Agriculture's (TDA) Native Tree and Plant Directory, available from TDA at P.O. Box 12847, Austin, Texas 78711. The Service also urges taking precautions to ensure sediment loading does not occur to any receiving streams in the proposed project area. To prevent and/or minimize soil erosion and compaction associated with construction activities, avoid any unnecessary clearing of vegetation, and follow established rights-of-way whenever possible. All machinery and petroleum products should be stored outside the floodplain and/or wetland area during construction to prevent possible contamination of water and soils.

Wetlands and riparian areas are high priority fish and wildlife habitat, serving as important sources of food, cover, and shelter for numerous species of resident and migratory wildlife. Waterfowl and other migratory birds use wetlands and riparian corridors as stopover, feeding, and nesting areas. We strongly recommend that the selected project site not impact wetlands and riparian areas, and be located as far as practical from these areas. Migratory birds tend to concentrate in or near wetlands and riparian areas and use these areas as migratory yways or

corridors. After every effort has been made to avoid impacting wetlands, you anticipate unavoidable wetland impacts will occur; you should contact the appropriate U.S. Army Corps of Engineers office to determine if a permit is necessary prior to commencement of construction activities.

If your project will involve filling, dredging, or trenching of a wetland or riparian area it may require a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers (COE). For permitting requirements please contact the U.S. Corps of Engineers, District Engineer, P.O. Box 1229, Galveston, Texas 77553-1229, (409) 766-3002.

Beneficial Landscaping

In accordance with Executive Order 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping (42 C.F.R. 26961), where possible, any landscaping associated with project plans should be limited to seeding and replanting with native species. A mixture of grasses and forbs appropriate to address potential erosion problems and long-term cover should be planted when seed is reasonably available. Although Bermuda grass is listed in seed mixtures, this species and other introduced species should be avoided as much as possible. The Service also recommends the use of native trees, shrubs, and herbaceous species that are adaptable, drought tolerant and conserve water.

State Listed Species

The State of Texas protects certain species. Please contact the Texas Parks and Wildlife Department (Endangered Resources Branch), 4200 Smith School Road, Austin, Texas 78744 (telephone 512/389-8021) for information concerning fish, wildlife, and plants of State concern or visit their website at:

http://www.tpwd.state.tx.us/huntwild/wild/wildlife_diversity/texas_rare_species/listed_species/.

If we can be of further assistance, or if you have any questions about these comments, please contact 281/286-8282 if your project is in southeast Texas, or 361/994-9005, ext. 246, if your project is in southern Texas. Please refer to the Service consultation number listed above in any future correspondence regarding this project.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Texas Coastal Ecological Services Field Office

17629 El Camino Real #211

Houston, TX 77058

(281) 286-8282

Project Summary

Consultation Code: 02ETTX00-2017-SLI-1991

Event Code: 02ETTX00-2017-E-04011

Project Name: Union Pacific Railroad US Steel Industrial Lead Abandonment

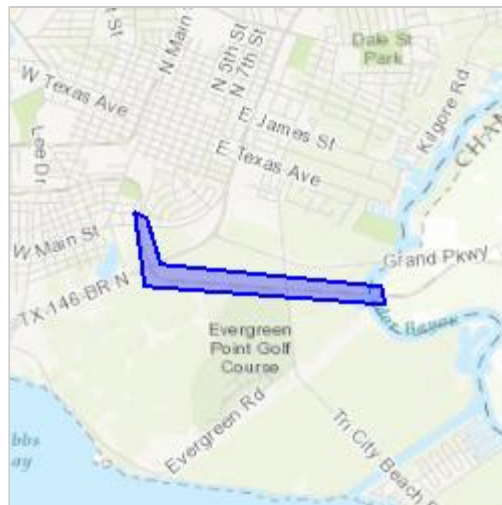
Project Type: TRANSPORTATION

Project Description: Union Pacific has filed with the Surface Transportation Board to abandon the US Steel Industrial Lead (see file FWS/R2/TCESFO). The line is expected to be sold to the Texas Department of Transportation who will take ownership of and remove the vertical lift bridge over the Cedar Bayou.

Project Location:

Approximate location of the project can be viewed in Google Maps:

<https://www.google.com/maps/place/29.719998310320804N94.96750248924286W>



Counties: Chambers, TX | Harris, TX

Endangered Species Act Species

There is a total of 10 threatened, endangered, or candidate species on this species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

Mammals

NAME	STATUS
West Indian Manatee <i>Trichechus manatus</i> There is final designated critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/4469	Threatened

Birds

NAME	STATUS
Least Tern <i>Sterna antillarum</i> Population: interior pop. No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ■ Wind related projects within migratory route. Species profile: https://ecos.fws.gov/ecp/species/8505	Endangered
Piping Plover <i>Charadrius melodus</i> Population: except Great Lakes watershed There is final designated critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

Reptiles

NAME	STATUS
Green Sea Turtle <i>Chelonia mydas</i> Population: North Atlantic DPS No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6199	Threatened
Hawksbill Sea Turtle <i>Eretmochelys imbricata</i> There is final designated critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3656	Endangered
Kemp's Ridley Sea Turtle <i>Lepidochelys kempii</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/5523	Endangered
Leatherback Sea Turtle <i>Dermochelys coriacea</i> There is final designated critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1493	Endangered
Loggerhead Sea Turtle <i>Caretta caretta</i> Population: Northwest Atlantic Ocean DPS There is final designated critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1110	Threatened

Flowering Plants

NAME	STATUS
Texas Prairie Dawn-flower <i>Hymenoxys texana</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6471	Endangered

Critical habitats

There are no critical habitats within your project area under this office's jurisdiction.

TEXAS HISTORICAL COMMISSION
real places telling real stories

January 20, 2016

Sarah J. Rief
Union Pacific Railroad Company
1400 Douglas Street, MS 1580
Omaha, Nebraska 68179

Re: *Project Review under Section 106 of the National Historic Preservation Act, Proposed Abandonment of the US Steel Industrial Lead near Cedar Bayou, Harris and Chambers Counties, Texas, STB Docket No. AB-33 (Sub-No. 324X), THC # 201603588*

Thank you for your correspondence of January 6, 2016, regarding the above-referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The History Programs Division staff, led by Justin Kockritz, has completed its review of the project, which proposes the abandonment of a 2.23-mile segment of the US Steel Industrial Lead of the Union Pacific Railroad. As described in your letter, and as shown on the submitted map, the proposed segment appears to include the vertical lift railroad bridge over Cedar Bayou. As you may know, the lift span was placed over Cedar Bayou in 1967, but was originally constructed in 1912 over the St. Francis River at Cody, Lee County, Arkansas.¹

As railroad abandonments authorized by the Surface Transportation Board (STB) constitute federal undertakings subject to Section 106 of the National Historic Preservation Act, we look forward to receiving and reviewing STB's evaluation of the eligibility of the bridge, and any other potential historic resources within the project's Area of Potential Effect, for listing in the National Register of Historic Places.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review, or if we can be of further assistance, please contact Justin Kockritz at justin.kockritz@thc.state.tx.us or 512-936-7403.

Sincerely,



Justin Kockritz, Historian, Federal Programs
For: Mark Wolfe, State Historic Preservation Officer

cc: Kitty Henderson, Executive Director, Historic Bridge Foundation *via e-mail*
Sheryl Shaw, Chair, Chambers County Historical Commission *via e-mail*
Janet Wagner, Chair, Harris County Historical Commission *via e-mail*

¹ "One Million Pound Bridge on Move." *The Baytown Sun* 18 June 1967: 1-2.



Attachment 4

From: Simon Monroe <simon.monroe@noaa.gov>
To: sjrief@up.com
Cc: Surface Transportation Board <sea@stb.dot.gov>, Daniel Prouty <daniel.prouty@noaa.gov>, Lucy Hall <Lucy.Hall@noaa.gov>, Simon Monroe <Simon.Monroe@noaa.gov>
Date: 01/29/2016 04:20 PM
Subject: NGS Response, STB Docket AB-33 (SUB NO. 324X)

This email originated from outside of the company. Please use discretion if opening attachments or clicking on links.

Thank you for sharing your railroad abandonment environmental report for BAYTOWN, Harris County, TEXAS.

Approximately 00 geodetic survey marks may be located in the area described. These marks may or may not be disturbed.

If marks will be disturbed by the abandonment, [THE RAILROAD] shall consult with the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities that will disturb, or destroy any geodetic station

marks are described on the attached file. Additional advice is provided at

<http://geodesy.noaa.gov/marks/railroads/>

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-|-----|-----|-----|----| -|-----

No Stations Found.



TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

April, 14 2017

Surface Transportation Board
Case Control Unit
Washington, DC 20423
ATTN: Joshua Wayland

**Re: Union Pacific Railroad Company-Abandonment Exemption
Harris and Chambers Counties, Texas
Docket No. AB 33 (Sub-No. 324X)
CMP#: 17-1171-F5**

Dear Mr. Wayland:

Based on information provided to the Texas Coastal Management Program on the above project, it has been determined that it will likely not have adverse impacts on coastal natural resource areas (CNRAs) in the coastal zone. However, siting and construction should avoid and minimize impacts to CNRAs. If a U. S. Army Corps of Engineers permit is required, it will be subject to consistency review under the Texas Coastal Management Program.

Please forward this letter to applicable parties. If you have any questions or concerns, please contact me at (409) 741-4057 or at federal.consistency@glo.texas.gov.

Sincerely,

Allison Buchtien
Coastal Protection
Texas General Land Office

TEXAS HISTORICAL COMMISSION
real places telling real stories

January 20, 2016

Sarah J. Rief
Union Pacific Railroad Company
1400 Douglas Street, MS 1580
Omaha, Nebraska 68179

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Justin Kockritz, Historian, Federal Programs
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