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**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

**SUPPLEMENTAL FINAL
ENVIRONMENTAL ASSESSMENT**

ENVIRONMENTAL RECOMMENDATIONS IN DOCKET NO. AB-33 (Sub-No. 234X)

August 14, 2013

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:
(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

On November 14, 2006, the Union Pacific Railroad Company (UP) filed a notice of exemption pursuant to 49 C.F.R. 1152.50 to abandon its line of railroad known as the Stillwater Industrial Lead from Milepost 4.69 to Milepost 5.50, a distance of 0.81 mile, near Stillwater in Washington County, Minnesota.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on December 8, 2006. In the EA, OEA stated that the railroad submitted an historic report to the Minnesota State Historic Preservation Office (SHPO) as required by 49 C.F.R. § 1105.8. At the time the environmental assessment was prepared, the SHPO had not completed its assessment of the proposed abandonment. Pending completion of the SHPO's review, OEA recommended a condition requiring the UP to: (1) retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places (generally, 50 years old or older) until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed; (2) UP shall report back to the Section of Environmental Analysis regarding any consultations with the SHPO and any other Section 106 consulting parties; and (3) UP may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

No comments to the EA were received by the December 26, 2006 due date for comments on the EA. Therefore, the environmental conditions recommended by OEA in the EA were

imposed.

By decision served on December 29, 2006, the Board granted the railroad's request to abandon the Stillwater Industrial Lead subject to the Section 106 condition recommended by OEA.

New Comments

In a letter of January 5, 2009, the SHPO advised OEA of their concerns regarding track removal. The SHPO stated that the stability of the ground under the tracks was not clear, and the use of equipment to remove the tracks could cause damage to the adjacent walls and other elements of the South Main Archaeological District (Archaeological District). The Archaeological District is a linear area composed of above and below ground remains of an extensive milling complex. The tracks run immediately above many of the historic components of the Archaeological District. According to the SHPO, in some areas, erosion has resulted in loss of the soil directly below the tracks and has exposed the Archaeological district to damage. The SHPO noted that the tracks may act as a stabilizing factor, and their removal could result in accelerated erosion and site damage in the Archaeological District and may cause significant adverse effects. SHPO states, in a letter of September 5, 2008, that any destabilization of this area could create a significant threat to major elements of the Archaeological Site. SHPO requests that OEA consider indirect/cumulative effects of the abandonment on the Archaeological Site because the rail corridor is slated for construction of a section of the Loop Trail that is proposed as part of the St. Croix River Crossing Project. The project includes a four-lane river bridge, new roadway approaches on both sides of the river, historic and environmental mitigation, and extensive trail facilities that will include converting the Lift Bridge to a bike and pedestrian facility.

In a letter of December 13, 2012, the SHPO states that a Memorandum of Agreement (MOA) has been signed between the Minnesota Department of Transportation (MNDOT) and the SHPO for the St. Croix River Crossing Project that contains commitments associated with protecting archaeological resources immediately adjacent to and below the proposed rail abandonment site. The stipulations in the MOA are intended to ensure that National Register-eligible cultural resources are not harmed by the proposed St. Croix River Crossing project, including the Loop Trail construction on the rail segment. Under the stipulations of the MOA, MNDOT has agreed, as stipulated in the MOA, to certain protective commitments regarding salvage and to prepare, in consultation with the SHPO, a stabilization report identifying measures to protect the South Main Archaeological District, which has been determined eligible for listing in the National Register; and to incorporate the recommended stabilization measures into plans for the new Loop Trail proposed for portions of the rail corridor.

In a letter dated January 22, 2013, UP stated that the land underlying the right-of-way, the track structure, including all rails and ties that make up the line was sold intact the City of Stillwater.

Based on assurances by the MnDOT (see attached letter of January 2, 2013) and the City

of Stillwater in Washington County, Minnesota (see attached letter of January 22, 2013), the SHPO concurs (see attached letter of August 6, 2013) that the proposed rail abandonment project will have no adverse effect on the South Main Archaeological District or any other properties listed in or eligible for the National Register of Historic Places (National Register).

Conclusions

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO, MnDOT, the City of Stillwater, and the public, OEA has determined that the proposed abandonment would have no adverse effect on historic properties listed in or eligible for inclusion in the National Register.

The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's historic report, all relevant correspondence, the EA, the Final EA and this Supplemental Final EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

This completes the Section 106 process and OEA recommends that the Section 106 condition imposed by the Board in this proceeding be removed at this time.

Attachments (4)

OEA CONTACT: Phillis Johnson-Ball
 202-245-0304
 Johnson-ballp@stb.dot.gov

Distribution: Minnesota SHPO
 Mack H. Shumate, Attorney UP
 Andrea Pope-Matheson, Office of Proceedings
 Vivian Hardy, Office of Proceedings
 Barbara Saddler, Office of Proceedings
 OEA Chron
 ECT

AUG 06 2013

MAGNUSON LAW FIRM

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January 22, 2013

VIA E-File

Phillis Johnson-Ball
Deputy Director, Office of Environmental Analysis
Surface Transportation Board
Section of Environmental Analysis
1925 "K" St., N.W.
Washington, D.C. 20423-0001

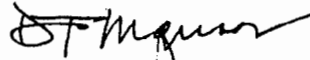
**Re: Proposed Abandonment of the Stillwater Industrial Lead from Milepost 4.69 to
Milepost 5.50, a distance of 0.81 miles in Washington County, Minnesota;
STB Docket No. AB-33 (Sub-No. 234X)**

Dear Ms. Ball:

Please consider this message assurance that the City of Stillwater has no plans of any kind, nor does the City have any intention of undertaking any salvage operations or track removal in the reach of track proposed for abandonment in these proceedings.

We expect that any work will be conducted by the Minnesota Department of Transportation (MN DOT) pursuant to a process approved by the Minnesota Historical Society, State Historical Preservation Office (SHPO). The City will take no action of any kind that would adversely affect the stabilization of the tracks or rail bed and the City expects any and all such work to be conducted by MN DOT with approval by SHPO. Please acknowledge receipt of this message, and let me know if you need anything further.

Yours truly,



David T. Magnuson
Stillwater City Attorney

DTM/jp
Enclosure

ccs: Ray Allamo
Larry Hansen, City Administrator
John Isackson
Todd Clarkowski

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Mack H. Shumate, Jr.
Senior General Attorney, Law Department

January 22, 2013

VIA E-FILE

Phillis Johnson-Ball
Deputy Director, Office of Environmental Analysis
Surface Transportation Board
Section of Environmental Analysis
1925 "K" St., N.W.
Washington, DC 20423-0001

RE: Proposed Abandonment of the Stillwater Industrial Lead from Milepost 4.69 to Milepost 5.50, a distance of 0.81 miles in Washington County, Minnesota; STB Docket No. AB-33 (Sub-No. 234X)

Dear Ms. Ball:

It is understood by the Union Pacific Railroad Company ("Union Pacific") that the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470(f) (NHPA) is deemed satisfied in light of the Memorandum of Agreement ("MOA") that has been entered into by the Minnesota Department of Transportation ("MnDOT") and the Minnesota Historical Society, State Historic Preservation Office ("SHPO"), relevant sections of which having been filed with the Surface Transportation Board (the "Board") by letter dated December 13, 2012 from the SHPO, a copy of which is attached hereto as Exhibit A and hereby made a part hereof.

Therefore, in accordance with our recent telephone conversation and your prior email to Ray Allamong, Union Pacific's Senior Manager of Rail Line Planning, dated January 10, 2013, Union Pacific hereby confirms to the Board that Union Pacific **cannot undertake any salvage activities on the Line** upon authorization to complete and consummate the abandonment of Union Pacific's remaining operating interest in the Stillwater Industrial Lead (the "Line") by the Board. Not only was the underlying right of way previously sold to the City of Stillwater, recently the track structure, including all rails and ties which make up the Line, was also sold intact to the City of Stillwater thereby removing Union Pacific's ability to salvage said track structure. The City of Stillwater now controls the track structure as legal custodian thereof. The City of Stillwater, in conjunction with MnDOT, will pursuant to the MOA between the SHPO and MnDOT, be responsible for the future use and disposition of the track structure. A letter from the City of Stillwater will be filed with the Board indicating that the City of Stillwater will not salvage the track structure which makes up the Line until the 106 condition is removed by the SHPO as contemplated by the MOA.



January 22, 2013
Page 2

Sincerely yours,

A handwritten signature in black ink, reading "Mack H. Shumate, Jr." in a cursive script.

Mack H. Shumate, Jr.

MHS:dro
Enclosures

EXHIBIT A



December 13, 2012

Ms. Victoria Rutson
Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423

RE: STB No. AB-33 (Sub. No. 234X)
Proposed abandonment of the Stillwater Industrial Lead from M.P. 469 to 5.5
Union Pacific Railroad
Washington County
SHPO Number: 2006-0286

Dear Ms. Rutson:

We understand that the Surface Transportation Board and the City of Stillwater would like to consummate the proposed rail abandonment referenced above, but that the necessary Sec. 106 review is not yet complete. There seems to be a great deal of confusion about the status of the rail abandonment, and its relationship to the St. Croix River Crossing project.

Please note that a Memorandum of Agreement (MOA) has been signed for the St. Croix River Crossing Project that contains commitments associated with protecting archaeological resources immediately adjacent to and below the proposed rail abandonment site. The stipulations are intended to ensure that National Register-eligible cultural resources are not harmed by the proposed St. Croix River Crossing project, including Loop Trail construction on the subject rail segment.

The pertinent protective commitments are contained in Stipulation IV.F.1 and 2 of the River Crossing MOA (excerpt attached). Under these stipulations, MnDOT has agreed to prepare, in consultation with our office and others, a stabilization report identifying measures to protect the South Main Archaeological District, which has been determined eligible for listing in the National Register; and to incorporate the recommended stabilization measures into plans for the new Loop Trail proposed for portions of the rail corridor. However, neither stabilization report nor trail plans are complete at this point. Further, that MOA directly governs the River Crossing project, and only indirectly relates to the rail abandonment. Lastly, I note that the Surface Transportation Board was not a party to the River Crossing MOA, and therefore is not governed by its provisions.

Regarding the rail abandonment, Dennis Gimmestad (my predecessor) sent you a letter dated January 5, 2009. This letter expressed concern that disturbance of the rail corridor by any machinery, such as that needed to remove tracks, rails or ballast, would very likely result in destabilization of the slope and harm to the adjacent archaeological resources.

Further, it appears that the tracks may currently act as a stabilizing factor, and their removal might result in accelerated erosion and site damage. Mr. Gimmestad noted that MnDOT anticipated building the Loop Trail as part of the overall St. Croix River Crossing project, and that MnDOT is committed to address stabilization of the track/trail bed and protection of the archaeological district. Because removal of the tracks prior to trail construction could cause

between the natural and built features in the SCLD, identify and illustrate important views to, from and within the SCLD, and promote understanding of the SCLD and its significant features to a wide audience. The study will begin at the time of FHWA authorization of funding for the Project.

- a. The study will utilize historic and contemporary images, maps, and text to illustrate the defining characteristics and features of the landscape, their interrelationships, and the associated viewsheds. This product will include existing pre-construction views of the Riverway from the SCLD and views from the Riverway to the district prior to construction.
- b. Mn/DOT will submit a draft study to the SHPOs, NPS and Stillwater HPC for review and comment. The parties will have thirty (30) days from the date of receipt of the draft to provide their review comments. Mn/DOT will take into account the comments received in developing the final study.
- c. Mn/DOT will submit the final study to the SHPOs for review and concurrence. Mn/DOT will ensure that the approved final study is completed prior to opening of the new bridge.
- d. The final study documentation will be formatted for easy reference and use, and for Internet application. Mn/DOT will present the completed final study to the public at a meeting of the Stillwater HPC.

F. South Main Archaeological District

1. Prior to initiating Project construction, Mn/DOT, in consultation with the MnSHPO, the Stillwater HPC, and the City of Stillwater, will complete a condition and stabilization report identifying those measures needed to stabilize and protect the Hersey and Bean Saw Mill and Hersey and Bean Planing Mill archeological sites in such a way as to avoid adversely affecting the historic properties' above and below-ground qualifying characteristics. Mn/DOT will use the report to develop the stabilization needed in order to construct the Loop Trail. The report will be made available to the City of Stillwater for future park planning. Mn/DOT will ensure that the protective measures that have been identified are implemented by inclusion in the Project special provisions and plans.
2. If Mn/DOT determines that an adverse effect to this historic property cannot be avoided, then Mn/DOT will consult with the MnSHPO, Stillwater HPC and City of Stillwater to develop mitigation measures. If the parties can reach agreement on mitigation, Mn/DOT will record those measures through a letter agreement with the MnSHPO and then implement the measures. If the parties cannot agree, Mn/DOT will submit the matter to FHWA for resolution in accordance with Stipulation XIII.

3. If Mn/DOT proposes to use any area of the Hershey and Bean Archaeological Site as a staging area, Mn/DOT will consult with the MnSHPO to ensure that the use will not result in adverse effects to the historic archaeological site and its setting.
4. City of Stillwater MOU: Mn/DOT will ensure that the terms of the MOU that will be executed with the City of Stillwater will be consistent with this Amended MOA. The function of the MOU is to document the terms of municipal consent from the City which is required under Minnesota statutes.

G. Louis Kriesel Farmstead

1. WisDOT will construct a berm on land currently owned by Dennis and Georgeann Kilbane in order to screen the Kriesel Farmstead from the Project. WisDOT will design this berm in consultation with Dennis and Georgeann Kilbane. But it will accommodate, to the maximum extent possible, the continued use for agricultural purposes, the land to the south of the Kriesel Farmstead farm buildings. This berm will be based on the concepts presented in "Highway Profile Options at Kriesel Farm" in the VQM.
2. Before completion of the final Project design in Wisconsin, WisDOT will submit a draft plan for applying the general concepts set forth in the VQM (see Stipulation II. C.) to the WisSHPO for review and concurrence. As part of the plan, WisDOT will consider installing landscape elements along a line near the south boundary, within 500 feet on either side of the current driveway access to the Kriesel Farmstead, and roughly parallel to the centerline of the proposed new frontage road as shown for Alternative B1 in the Supplemental Final EIS for the Project. WisDOT will use text, photographs and other exhibits, as appropriate, to develop this plan. WisDOT will consider the cost effectiveness in reaching a final decision on any proposed landscaping.

V. NATIONAL REGISTER NOMINATIONS

- A. Minnesota Properties: In consultation with the MnSHPO, Mn/DOT will prepare National Register nomination forms for the Log Cabin Restaurant; the Bergstein Shoddy Mill and Warehouse, if it is not demolished pursuant to Stipulation IV.B.5 and if it remains eligible on its new site per concurrence from the MnSHPO; the St. Croix Overlook - South and the South Main Archaeological District prior to authorization of funding by FHWA for the Project.
- B. Wisconsin Properties: Within one year of the signing of the Record of Decision for the Project, WisDOT will submit the required completed National Register nomination forms to the WisSHPO for final nomination of the Nicholas Thelen Farmstead and Louis Kriesel Farmstead to the NRHP.

significant adverse effects to the archaeological site, MnDOT indicated that they are prepared to remove the tracks at the time of trail construction.

Based on these earlier discussions and commitments, the MN SHPO is willing to concur that the proposed rail abandonment project will cause no adverse effect on the South Main Archaeological District, provided that:

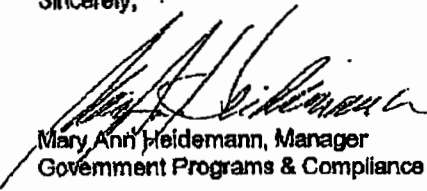
1. MnDOT, in consultation with the SHPO, completes a stabilization report containing measures necessary to protect the South Main Archaeological District,
2. The recommended protective measures are incorporated into plans for the Loop Trail, with the plans to be reviewed and approved by SHPO, and
3. The tracks, rails and ballast materials are left in place on this segment during the rail abandonment process, pending stabilization and trail construction by MnDOT.

It is especially important to note that the rail segment to be abandoned should be left undisturbed, with no use of machinery or removal of materials. We recently received an e-mail from Dave Magnuson, attorney for the City of Stillwater. Mr. Magnuson asked our office to clear this project so the STB's "protective condition" could be removed and "salvage could be undertaken." Salvage is exactly what we do not want to occur, lest it damage nearby archaeological sites.

I believe it is up to the STB as the responsible federal agency to receive and accept the assurance from MnDOT that conditions 1 and 2 will be met, since STB was not a signatory to the MOA containing these stipulations. Similarly, it is up to STB to alert all parties that salvage operations should not occur as part of the rail abandonment undertaking. If salvage remains as part of the project, we believe that adverse effects may result. This would trigger the preparation of an MOA for the rail abandonment project, to resolve the anticipated adverse effect.

Please send us documentation for our files that the above conditions will be met, and that salvage operations will be removed from the scope of this project. If you have questions on this letter, you can reach me at (851) 259-3458.

Sincerely,



Mary Ann Heidemann, Manager
Government Programs & Compliance

Enclosure: Stipulations IV.F.1 and 2 from St. Croix River Crossing MOA

cc: Jackle Siuss, MnDOT Cultural Resources Unit
Mike Pogge, City of Stillwater
Dave Magnuson, Magnuson Law Firm
Raymond Allamong, Union Pacific
Michelle Terrell, Two Pines Resource Group

STATE HISTORIC PRESERVATION OFFICE

August 6, 2013

Ms. Victoria Rutson
Section of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, D.C. 20423-0001

RE: STB No. AB-33 (Sub No. 234X) Union Pacific Railroad
Proposed abandonment of the Stillwater Industrial Lead from M.P. 4.69 to M.P. 5.5
Washington County
SHPO Number: 2006-0286

Dear Ms. Rutson:

We received a copy of a letter today dated January 22, 2013 from David T. Magnuson, Stillwater City Attorney, stating that the City of Stillwater will not undertake salvage operations or track removal for the portion of the Stillwater Industrial Lead proposed for abandonment by Union Pacific Railroad.

This assurance letter is in response to concerns regarding protection of the Stillwater South Main Street Archaeological District and the abandonment of this railroad segment. With the receipt of this assurance from the City of Stillwater, we can now conclude that the abandonment of this rail line segment will have **no adverse effect** on the Stillwater South Main Street Archaeological District or any other properties listed in or eligible for the National Register of Historic Places.

Please contact our Compliance Section at (651) 259-3455 if you have any questions or concerns.

Sincerely,



Mary Ann Heidemann, Manager
Government Programs and Compliance

Enclosure

cc: Phillis Johnson-Ball, Office of Environmental Analysis, STB
Kristen Zschomler, MnDOT Cultural Resources Unit
Todd Clarkowski, MnDOT St. Croix Project Coordinator
Larry Hansen, City Administrator, Stillwater
David T. Magnuson, Stillwater City Attorney
Raymond Allamong, Union Pacific



Minnesota Department of Transportation

St. Croix Crossing Project
3485 Hadley Avenue
Oakdale, MN 55128

E1 20222

January 2, 2013

Ms. Victoria Rutson
Section of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: STB No. AB-33 (Sub No. 234X) -- Proposed abandonment of the Stillwater Industrial Lead from M.P. 469 to 5.5, Union Pacific Railroad, Washington County, Minnesota -- MnSHPO No. 2006-0286

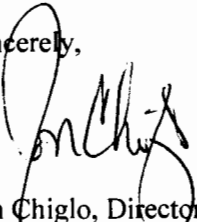
Dear Ms. Rutson:

Per the December 13, 2012, Minnesota State Historic Preservation Office letter to you, this letter serves as assurance that the following steps will be completed prior to any removal of the existing rail, ties, and ballast of the Union Pacific Railroad between Mile post 469 and 5.5 as described in the STB abandonment:

1. MnDOT, in consultation with the SHPO, will complete a stabilization report containing measures necessary to protect the South Main Archaeological District.
2. The recommended protective measures will be incorporated into the plans and appropriate special provisions of the Loop Trail project, with the plans to be reviewed and approved by SHPO.

With STB written acceptance of these assurances to the SHPO, we believe that you will be able to complete the abandonment process under Section 106 of the National Historic Preservation Act of 1966 as amended.

Sincerely,


Jon Chiglo, Director
St. Croix Crossing Project

c: MaryAnn Heidemann, SHPO
Mike Pogge, Stillwater HPC
Ray Allamong, Union Pacific
Dave Magnuson, Magnuson Law Firm
Jackie Sluss, MnDOT Cultural Resources Unit

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