

SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS

EO-3238

SUPPLEMENTAL FINAL ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 33 (Sub-No. 324X)

November 8, 2018

RECOMMENDATION: Remove Section 106 Condition

In this proceeding, Union Pacific Railroad Company (UP) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Harris and Chambers Counties, Texas. The rail line proposed for abandonment extends approximately 2.23 miles from Milepost 2.4 near Baytown, Texas to Milepost 4.63 on the east side of Cedar Bayou (the Line). Abandonment of the Line would entail the removal of a vertical lift span bridge over Cedar Bayou (the Cedar Bayou Bridge), a historic property that is eligible for listing in the National Register of Historic Places (the National Register). Pursuant to Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. 300101 et seq., the Surface Transportation Board's (the Board's) Office of Environmental Analysis (OEA) concluded that the proposed abandonment would result in an adverse effect to the National Register-eligible Cedar Bayou Bridge.

By decision dated April 27, 2017, the Board imposed four mitigation conditions related to OEA's environmental and historic review of the proposed abandonment. Because the Section 106 process had not been completed at the time of the Board's decision, one of the conditions that the Board imposed requires UP to (1) retain its interest in and take no steps to alter the historic integrity of the Cedar Bayou Bridge until the historic preservation process under Section 106 has been completed, (2) consult with Texas Historical Commission (the State Historic Preservation Officer or SHPO), OEA, and other consulting parties to resolve the adverse effect to the Cedar Bayou Bridge, and (3) inform OEA in writing of all consultation with the SHPO regarding Cedar Bayou Bridge.

The attached correspondence includes an executed Memorandum of Agreement (MOA) that was negotiated between OEA, the SHPO, UP, and other Section 106 consulting parties to resolve the adverse effect to the Cedar Bayou Bridge. The submission of this MOA to the Advisory Council on Historic Preservation completes the Board's compliance responsibilities under Section 106 of NHPA.

Conclusions

For the reason stated above, OEA recommends that the Board remove the Section 106 condition that was imposed in the April 27, 2017 decision. The remaining conditions, as imposed in that decision, remain unchanged and are as follows:

1. Prior to undertaking the removal of the vertical lift span bridge over Cedar Bayou (the Cedar Bayou Bridge), Union Pacific Railroad Company (UP) shall consult with the U.S. Fish and Wildlife Service (USFWS) regarding the potential for impacts to federally-listed protected species related to the removal of the Cedar Bayou Bridge. UP shall report the results of any consultation with USFWS in writing to the Board's Office of Environmental Analysis.
2. Prior to undertaking the removal of the vertical lift span bridge over Cedar Bayou (the Cedar Bayou Bridge), Union Pacific Railroad Company (UP) shall consult with the U.S. Army Corps of Engineers (the Corps) to determine whether a Corps permit would be required under Section 404 of the Clean Water Act for the removal of the Bridge. UP shall report the results of any consultation with the Corps in writing to the Board's Office of Environmental Analysis.
3. Prior to beginning any salvage activities, including the removal of track, ties, and related materials, UP shall consult with the Texas Land Commissioner to determine whether state coastal management consistency certification is required. UP shall report the results of these consultations in writing to the Board's Office of Environmental Analysis prior to beginning of salvage operations.

If those conditions are imposed, abandonment of the Line would not significantly affect the quality of the human environment.

Attachment

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