

PROCEDURAL CLARIFICATION FOR ASSESSING THE PROJECT'S DIRECT AND INDIRECT IMPACTS TO HISTORIC PROPERTIES

Issue

The Surface Transportation Board (STB) and the Dakota, Minnesota and Eastern Railroad (DM&E) propose the following plan/clarification for assessing direct (ground disturbance) and indirect effects (noise, visual, vibration) of the project on properties listed on or eligible for listing on the National Register of Historic Places (National Register).

Indirect Effects

The Environmental Impact Statement (EIS) prepared by STB's Section of Environmental Analysis (SEA) for the DM&E Project included information regarding potential noise and vibration impacts to historic properties within the project area. In the Draft EIS, SEA determined that "structures within 100 feet of a new rail line of the type contemplated as part of this project could experience some damage by project-related vibration." In the Final EIS, however, SEA concluded that "...structures would likely need to be within 50 feet of the rail line to potentially be damaged by rail vibration (Final EIS, Volume 1, Chapter 3 at page 3-65)."

SEA also assessed potential audible impacts to the project area in the EIS. SEA concluded that audible impacts would not be adverse. However, STB included Conditions 86-96 in its 2006 Decision to assure that if noise levels increase due to increased haul tonnage levels, mitigation measures would be imposed to address any potential adverse effects including consultations with the appropriate State Historic Preservation Officer (SHPOs) for impacts that could affect historic properties. In Condition 95:¹

...Should noise mitigation be required at locations identified as containing structures that are potentially eligible for listing on the National Register of Historic Places, Applicant shall consult with the appropriate State Historic Preservation Officer to assess effects and implement appropriate mitigation measures...

The Wyoming (WY) and South Dakota (SD) SHPOs have requested that STB assess potential visual or audible adverse effects on historic properties extending three miles on either side of the construction corridor or New Build Segment. The WY SHPO asked that STB conduct a file search to locate all properties within the 6-mile corridor currently listed on the National Register while the SD SHPO requested an inventory of properties that are both listed and eligible for listing on the National Register. Preliminary site file searches conducted by DM&E indicate that approximately 35 sites are located within the six-mile corridor encompassing the New Build Segment in WY and SD.

¹ See 2006 Decision at page 39.

Recommendations

1. DM&E will analyze the results of its site file search to determine what qualities of each individual site contribute to its historic significance and what kinds of indirect impacts could potentially affect the integrity of each site. DM&E will also conduct an analysis to determine which of these sites is situated within the viewshed of the rail corridor and which may be visually or audibly adversely affected by the project.
2. DM&E will prepare a report consolidating the site file searches and viewshed analyses and provide it to STB for review and consideration in accordance with the terms of the Section 106 Programmatic Agreement (PA).
3. Depending on the results provided in the above report, DM&E recognizes that further consultation may be necessary under the terms of the PA to assess any adverse effects and discuss the development of treatment measures intended to avoid, minimize or mitigate such effects.

Construction Impacts/New Build - Direct Effects

DM&E has prepared detailed project maps showing the location of planned cut and fill activity within the construction right-of-way. DM&E provided examples of these maps in recent meetings it held with the SD and WY SHPOs. The SD SHPO suggested that information regarding project impacts and determination of effect could be submitted as a separate companion volume. The maps will be provided as part of that volume.

Recommendation

1. DM&E will prepare large-scale maps that show the construction ROW and the proximity of proposed cut & fill activity within the construction ROW to all historic properties. These maps will be provided to SHPOs following comment on STB's determinations of eligibility and as supporting information accompanying STB's determinations of adverse effect.