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SERVICE DATE – SEPTEMBER 24, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 170)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT—IN POLK COUNTY,  
IOWA

Decided: September 24, 2012

This decision reopens the proceeding to remove the previously imposed Section 106 historic preservation condition.

On September 28, 2001, Union Pacific Railroad Company (UP) filed an application under 49 U.S.C. § 10903 seeking authority to abandon and discontinue service over a 3.72-mile line of railroad known as the Bell Avenue Industrial Lead extending between milepost 221.10 near SE 18th Street and milepost 217.38 near SW 30th Street in Des Moines, Polk County Iowa.<sup>1</sup> By decision served January 16, 2002, the Board granted UP's request, subject to employee protective, environmental, and historic preservation conditions.

The Board's January 16, 2002 decision imposed the following environmental and historic preservation conditions recommended by the Board's Section of Environmental Analysis:<sup>2</sup> (1) that UP, prior to engaging in any salvage activities, consult with Mr. Terry Stieger of the Emergency Management Division of the U.S. Army Corps of Engineers (flood control) and with the Corps of Engineers, Rock Island District (protection of the waterway) (Corps); (2) that UP consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to conducting salvage activities, in order to plan the relocation of the affected geodetic station markers; and (3) that UP retain its interest in and take no steps to alter the historic integrity of the Des Moines River Bridge (Bridge) until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f.

In a supplemental final environmental assessment dated August 24, 2012, OEA states that, following failed attempts to negotiate a trail use agreement, UP now believes that the Bridge is a liability and should be dismantled. OEA has determined, in consultation with the Iowa Department of Cultural Affairs, State Historical Society of Iowa (SHPO) that the dismantling of the Bridge would be an adverse effect to a historic property. OEA states that it

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<sup>1</sup> Notice of the filing was served and published in the Federal Register on October 18, 2001 (66 Fed. Reg. 52,970).

<sup>2</sup> Now the Office of Environmental Analysis, or OEA.

has consulted with the SHPO, the Corps, and UP and has developed a Memorandum of Agreement (MOA) pursuant to the regulations implementing Section 106. OEA states that the MOA, which stipulates the resolution of adverse effects to the Bridge, was fully executed by OEA, the SHPO, the Corps, and UP on August 14, 2012. OEA further states that the filing of the MOA with the Advisory Council on Historic Preservation completes its compliance responsibilities under Section 106 for the Bridge. Therefore, OEA recommends that the Section 106 condition be removed.

Based on OEA's recommendation, the proceeding will be reopened and the previously imposed Section 106 historic preservation condition will be removed.<sup>3</sup>

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the Section 106 historic preservation condition imposed in the January 16, 2002 decision is removed.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

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<sup>3</sup> The salvage-related conditions and National Geodetic Survey condition remain in effect.