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OEA

SERVICE DATE – AUGUST 31, 2012

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB-33 (Sub No. 310X)

**Union Pacific Railroad Company — Abandonment Exemption—
in Polk County, Iowa**

BACKGROUND

On August 6, 2012, the Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a notice under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon 5.8 miles of rail line on the Ankeny Industrial Lead between milepost 4.7, near Des Moines and milepost 10.5, at the end of the line at Ankeny, in Polk County, IA (Line). A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

According to UP, no rail traffic has moved over the Line in more than two years, including overhead or passenger rail traffic. UP also notes that it has not received any complaints regarding the proposed cessation of rail service. According to UP, it would continue to provide rail service from the remaining portion of the Ankeny Industrial Lead and its other rail lines in the Des Moines area. In addition, UP states that rail service is also available from BNSF Railway, Norfolk Southern Railway, and Iowa Interstate Railroad.

DESCRIPTION OF THE RAIL LINE

The rail line lies in the north central portion of the Des Moines metropolitan area and passes through a mixture of residential, commercial and industrial areas. The width of the right-of-way is typically 100 feet wide and traverses United States Postal Service Zip Codes 50313, 50021 and 50023.

The Line was originally constructed in 1874 by the Des Moines and Minneapolis Railway. However, by 1877 it was acquired by the Chicago and Northwestern Railway (CNW). The CNW was purchased by UP in April 1995.

ENVIRONMENTAL REVIEW

UP submitted an Environmental Report that concludes that the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. UP served the Environmental Report on a number of appropriate federal, state, and local agencies as required

by the Board's environmental rules (49 C.F.R. § 1105.7(b)).¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

The Line has been out of service for more than two years. Consequently, no rail-to-truck diversions would occur. Therefore, OEA believes that there would be no impact on existing regional or local transportation systems or patterns. Further, there would be no effect on the movement and/or recovery of energy resources, recyclable commodities or change in overall energy efficiency.

Salvage Activities

If the abandonment is approved, UP would salvage the track, ties and other track materials but leave the rail embankment in place.

According to UP, it is unaware of any adverse effects that the proposed abandonment would have on local and existing land use plans.

UP states that there are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the Line.

OEA conducted a search the U.S. Fish and Wildlife Service's (USFWS) website² to search for any species of concern in Polk County, IA. The USFWS website lists the following species as threatened or endangered:

- Least tern (*Sterna antillarum*) – Endangered
- Sheepsnose mussel (*Plethobasus cyphus*) – Endangered
- Prairie bush-clover (*Lespedeza leptostachya*) – Threatened
- Western prairie fringed Orchid (*Platanthera praeclara*) – Threatened
- Indiana bat (*Myotis sodalis*) – Endangered

Upon review of the list of endangered and threaten species identified in the County, OEA does not believe that any salvage activities associated with the abandonment would result in any adverse impacts to these species. Nevertheless, OEA has provided a copy of this EA to the USFWS for review and comment.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 33 (Sub No. 310X).

² U.S. Fish and Wildlife Website, Find Endangered Species:
<http://www.fws.gov/endangered>.

The USFWS commented that it does not own any lands or interests in land in the vicinity of the proposed abandonment.

OEA was not able to identify any National or State parks, wildlife sanctuaries, or refuges that would be affected by the proposed abandonment. The National Park Service has not responded to the railroad's environmental report. OEA has provided a copy of this EA to the National Park Service for review and comment.

The U.S. Army Corps of Engineers, Rock Island District (Corps), states that if the rail embankment(s) are left intact, and salvage of the track and tie do not include discharge of dredge or fill materials into any tributary/lake of Fourmile Creek, a Section 404 Permit of the Clean Water Act would not be required. Nevertheless, OEA has provided a copy of this EA to the Corps for review and comment.

In an email dated April 27, 2012, the U.S. Department of Commerce, National Geodetic Survey states that no geodetic station markers are located in the area of the proposed abandonment.

UP states that the right-of-way is not suitable for public purposes such as roads, highways, other forms of mass transportation, or energy production or transmission, as the area is served by existing roadways and utilities. However, UP believes that the Line may be suitable for conservation and use as a recreational trail.

Other Comments

The Polk County Conservation Board, City of Ankeny, and Iowa Natural Heritage Foundation (INHF) have expressed interest in converting the line into a trail, and in a letter dated August 20, 2012, the parties filed a request for trails use pursuant to 49 C.F.R. § 1152.29 and a request for public use pursuant to 49 C.F.R. § 1152.28.

OEA notes that the National Trails System Act (Trails Act)³ gives interested parties the opportunity to negotiate voluntary agreements⁴ to use, for recreational trails, railroad rights-of-way that otherwise would be abandoned.⁵ The Trails Act is intended to preserve railroad rights-

³ 16 U.S.C. § 1247(d).

⁴ The Board's role under the Trails Act is ministerial. Goos v. ICC, 911 F.2d 1283, 1295 (8th Cir. 1990). The Board has no involvement in the negotiations between the railroad and the potential trail sponsor and does not approve or set the terms of trail use/rail banking agreements. Georgia Great S. Div.—Aban. & Discontinuance Exemption—Between Albany & Dawson, in Terrell, Lee & Dougherty Counties, Ga., 6 S.T.B. 902, 907 (2003).

⁵ The Board does not conduct an environmental review of a potential conversion to interim rail use/railbanking because it does not exercise sufficient federal control so as to qualify as a "major federal action" under the National Environmental Policy Act (NEPA). Only major actions by federal agencies require environmental review pursuant to NEPA.

of-way for future railroad use. Under the Trails Act and the Board's implementing procedures at 49 C.F.R. § 1152.29, a state or local government or private organization can request a trail condition. This process allows railroad rights-of-way to be preserved by allowing interim trail use on lines that otherwise would be abandoned. Additional information regarding requests for public use and trails use is provided below.

Based on all information available to date, OEA does not believe that the proposed abandonment would result in significant environmental impacts.

HISTORIC REVIEW

In its Historic Report, UP states that the Line does not contain any structures that are 50 years old or older and that the Line does not consist of any federally granted rights-of-way.

UP served the Historic Report as required by the Board's environmental rules (49 C.F.R. § 1105.8(a)) and served the report on the State Historical Society of Iowa, Department of Cultural Affairs (SHPO) pursuant to 49 C.F.R. § 1105.8(c).⁶ In a letter dated May 15, 2012, the SHPO states that given the location and scope of the proposed undertaking and the land use history of the area involved, the proposed project area does not meet any of the eligibility criteria for listing on the National Register of Historic Places. Furthermore, the SHPO notes that there is little likelihood that the proposed abandonment would encounter or adversely impact archaeological properties that may be eligible for listing in the National Register of Historic Places.

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 and the public, we have determined that the proposed abandonment would not affect 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, and this 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>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.⁷ The database indicated that the following 10 tribes may have

⁶ Guidance regarding the Board's historic preservation review process is available on the Board's Web site at: <http://www.stb.dot.gov/stb/environment/preservation.html>.

⁷ Native American Consultation Database, http://grants.cr.nps.gov/nacd/NACD_Search_Page_Query_Results.cfm (last visited August 27, 2012).

knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment:

1. Flandreau Santee Sioux Tribe of South Dakota
2. Iowa Tribe of Kanas and Nebraska
3. Iowa Tribe of Oklahoma
4. Lower Sioux Indian Community in the State of Minnesota
5. Prairie Island Indian Community in the State of Minnesota
6. Sac and Fox Nation of Missouri in Kansas and Nebraska
7. Sac and Fox Nation, Oklahoma
8. Sac and Fox Tribe of the Mississippi in Iowa
9. Santee Sioux Nation, Nebraska
10. Upper Sioux Community, Minnesota

Accordingly, OEA is sending a copy of this EA to the 10 tribes listed above for review and comment.

CONDITIONS

We do not recommend that any conditions be imposed on any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed that abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register.

Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 33 (Sub No. 310X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at Troy.Brady@stb.dot.gov.

Date made available to the public: August 31, 2012.

Comment due date: September 17, 2012.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment