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SEA

SERVICE DATE – FEBRUARY 22, 2008

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-33 (Sub-No. 253X)

**Union Pacific Railroad Company - Abandonment Exemption -
In Colorado and Wharton Counties, TX**

BACKGROUND

In this proceeding, Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of an approximately 8.3-mile line of railroad in Colorado and Wharton Counties, Texas. The rail line extends from milepost 52.9 near Chesterville to milepost 61.2 near Eagle Lake Junction. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

UP submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment. UP served the Environmental Report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].¹ The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

UP states that the line has not generated any traffic for at least two years, and there is no overhead traffic. Accordingly, the proposed abandonment would not adversely impact the development, use, and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

¹ The railroad's 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. 253X).

Salvage Activities

According to UP, the line is located in an area that is primarily agricultural land, and the right-of-way is approximately 25 feet wide. The line, including the track materials and right-of-way, is currently owned by the Metropolitan Transit Authority of Harris County. UP provides rail service over the line pursuant to a railroad operating easement. Typically, in an exempt abandonment, if a notice of exemption becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.² Because UP does not own the line, it has no plans to conduct any salvage activities on the line as part of the proposed abandonment. However, in the event that salvage activities are conducted subsequent to the proposed abandonment of the line, SEA has considered the potential environmental impacts that could arise.

In a letter dated October 25, 2007, the U.S. Army Corps of Engineers (Corps) recommended that a wetland delineation be performed for the area of the proposed project involving West Bernard Creek. In subsequent consultations between the railroad and the Corps, the Corps clarified that a wetland delineation is only required if the line would be modified or salvaged in some way that could cause a discharge of dredge or fill material in the West Bernard Creek. The line would not be salvaged as part of the proposed abandonment. Accordingly, no mitigation regarding salvage activities is recommended.

The National Geodetic Survey submitted comments stating that five geodetic station markers might be affected by the proposed abandonment and requested notification at least 90 days in advance of any activities that would disturb or destroy the markers in order to plan for its relocation. The proposed abandonment would not involve salvage activities that could disturb or destroy any geodetic station marker. Accordingly, no mitigation regarding geodetic station markers is recommended.

The Natural Resources Conservation Service (NRCS) evaluated the area of the proposed project as required by the Farmland Protection Policy Act (FPPA) and has submitted comments stating that there are no Important Farmland Soils. In addition, the proposed project is exempt from FPPA because the area is considered as already converted to urban land.³ Accordingly, no mitigation is recommended.

The Texas Commission on Environmental Quality (TCEQ) submitted comments and recommended that any salvage activities be conducted in accordance with standard dust

² Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and re-grading of the right-of-way by the railroad that owns the track material. Salvage may be performed by the line owner within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

³ The FPPA excludes from the definition of “farmland” areas that contain more than 30 structures per 40 acres.

mitigation techniques and best management practices. In addition, TCEQ stated that the community floodplain administrator should be contacted to ensure that all construction is in compliance with the community's Flood Hazard Prevention Ordinance. As stated above, the line would not be salvaged as part of the proposed abandonment. Accordingly, no mitigation regarding these areas is recommended.

The Texas Parks and Wildlife Department (TPWD) has reviewed the proposed abandonment and expressed concerns regarding possible impacts to vegetation and migratory birds. TPWD recommended that UP implement the following mitigation measures: 1) avoid clearing mature, native trees along the right-of-way; 2) use site planning and construction techniques designed to avoid and preserve trees, shrubs, grasses, and forbs;⁴ 3) avoid conducting any salvage activities, particularly clearing trees or vegetation, during the migratory bird nesting season (April 1 to July 15); 4) prior to any salvage activities, survey the project area for migratory bird nest sites, pursuant to the Migratory Bird Treaty Act;⁵ 5) conduct no salvage activities within 100 meters of any raptor nest during their nesting season (February 1 to July 15); and 6) reseed disturbed soils with a mixture of native grasses and forbs and avoid planting Bermuda grass. As stated above, the line would not be salvaged as part of the proposed abandonment. Accordingly, no mitigation regarding these areas is recommended.

There are no known hazardous waste sites located on the line proposed for abandonment.

Based on all information available to date, SEA does not believe that the proposed abandonment would cause significant environmental impacts. SEA is providing a copy of this EA to the following groups and agencies: NGS; Corps; TCEQ; and TPWD.

HISTORIC REVIEW

UP submitted an Historic Report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Texas Historical Commission (State Historic Preservation Office or SHPO) pursuant to 49 CFR 1105.8(c). The line was originally constructed by the San Antonio and Aransas Pass Railway between 1889 and 1890, and there are five bridges on the line that are 50 years old or older. The timber pile trestle bridges were constructed between 1938 and 1946, and range from 15 to 150 feet in length. Based on available information, the SHPO has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 CFR 800.4(d)(1), and following consultation with the SHPO and the public, we have

⁴ Forbs are broad-leaved herbs that often grow in a field, prairie, or meadow.

⁵ Under the Migratory Bird Treaty Act, construction activities in grassland, wetland and woodland habitats, and those that occur on bridges that would otherwise result in the taking of migratory birds, eggs, young, and/or active nests should be avoided.

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 CFR 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 web site at <http://www.stb.dot.gov>.

Pursuant to 36 CFR 800.2, SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify Federally recognized tribes, which may have ancestral connections to the project area. The database identified no Federally recognized tribes in Colorado or Wharton Counties.

CONDITIONS

SEA recommends that no environmental conditions be placed on any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended condition is imposed, 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 and discontinuance of service 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 of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 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 for 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 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 245-0230, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this EA, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean who prepared this EA. 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. 253X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Christa Dean the environmental contact for this case, by phone at (202) 245-0299, fax at (202) 245-0454, or e-mail at christa.dean@stb.dot.gov.

Date made available to the public: February 22, 2008.

Comment due date: March 10, 2008.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Anne K. Quinlan
Acting Secretary

Attachment