

35619
SEA

SERVICE DATE - APRIL 12, 2005

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-33 (Sub-No. 225X)

Union Pacific Railroad Company--Abandonment Exemption--in Cerro Gordo County, IA

BACKGROUND

In this proceeding, Union Pacific Railroad Company (UP) has filed a petition under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10903. UP seeks to abandon an approximately 15.14-mile line of railroad, known as the Thornton Industrial Lead. The line extends from milepost 2.0 near Flint to milepost 17.14 near Thornton, in Cerro Gordo County, Iowa. A map depicting the rail line in relationship to the area served is appended to the report. If the petition becomes effective, the railroad will be able to salvage track, ties, and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to UP, the Mason City & Ft. Dodge Railroad constructed the line in 1886. The line is laid with 77.5-pound rail, and the right-of-way is generally 100 feet wide. UP states that the line is adjacent to very good agricultural land, and the topography varies from level to hilly. The line passes through several small towns and includes the stations of Thornton, Swaledale, and Burchinal. These three stations would be closed as a result of the proposed abandonment.

Due to washouts caused by heavy rains, the portion of the line south of Swaledale has been out of service and embargoed since the spring of 2004. There is no overhead traffic on the line, and North Iowa Coop (NIC) is the sole shipper on the line. According to UP, NIC does not oppose the abandonment and will continue to meet its shipping needs by truck. NIC shipped 64 cars over the line in 2003 (3 cars of potassium chloride, 1 car of urea, 2 cars of diammonium phosphate, 8 cars of monoammonium phosphate, and 50 cars of corn) and 6 cars of potassium chloride in 2004.

There are eight bridges on the line that are 50 years old or older. These bridges were constructed between 1918 and 1955 and range from 28 feet to 140 feet in length. Upon receiving authority to abandon the line, UP intends to remove the bridges on the line. UP also intends to salvage the remaining rail, track material, and crossties. UP does not believe that the property is suitable for other public purposes, since the area has a limited population base that is adequately

served by existing roads and utility lines. However, UP states that the line may be suitable for recreational purposes.

ENVIRONMENTAL REVIEW

UP submitted an environmental report that concludes 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 and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. SEA has reviewed and investigated the record in this proceeding.

The United States Army Corps of Engineers (USCOE), Rock Island District, concluded that the proposed abandonment, as outlined by UP, would not involve the discharge of fill material in waters of the United States. Therefore, a USCOE permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would not be required. However, because the railroad intends to remove the bridges on the line, the USCOE stated that the railroad should remove all fill material to an upland, non-wetland site and remove all pilings to at least one foot below stream bed elevations. The USCOE also stated that UP should seed all disturbed areas with native grasses and to implement appropriate measures to insure that sediments are not introduced into the waters of the United States during the proposed project.

The United States Fish and Wildlife Service (USFWS), Rock Island Field Office, stated that the following Federally threatened species may be present in the vicinity of the proposed abandonment: the bald eagle (Haliaeetus leucocephalus), the prairie bush-clover (Lespedeza leptostachya), and the western prairie fringed orchid (Platanthera praeclara). In particular, the USFWS expressed concern regarding the possibility of prairie remnants in the project area, because this is the habitat for the prairie bush clover and the western prairie fringed orchid. Because of the potential presence of Federally threatened species, we will recommend that the railroad consult with the USFWS (Ms. Kristen Lundh at 309-793-5800 ext. 215) prior to commencement of salvage activities. The purpose of these consultations will be to determine whether prairie habitat is found in the project area and to evaluate the proposed abandonment's potential impacts to the three species. If necessary, the USFWS and the railroad will develop mitigation measures to minimize potential adverse impacts. We will recommend that the railroad report the results of these consultations in writing to SEA prior to commencement of any salvage activities.

UP states that there are no known hazardous waste sites or hazardous material spills on the subject right-of-way. In addition, UP is not aware of any wildlife sanctuaries or refuges, or of any National or state parks or forests, that would be affected by the proposed abandonment.

The Natural Resources Conservation Service (NRCS) has recommended an evaluation of the potential effects that removal of the rail line and rail bed would have on the adjoining agricultural drainage systems. To address this concern, we will recommend that UP consult with

the NRCS (Mr. Tony Moore at 641-424-4452) regarding possible mitigation measures and report the results in writing to SEA prior to commencement of any salvage activities.

The NRCS also submitted concerns regarding the “50 plus year old structures” on the line and recommended that UP determine the structures’ potential for future use as recreational passages. We note that any potential impact that the proposed project might have on historic or cultural resources will be addressed by the Board’s Section of Environmental Analysis and the State Historical Society of Iowa pursuant to the National Historic Preservation Act, 16 U.S.C. 470f (NHPA). Moreover, questions of whether and how this right-of-way should be used as a trail are outside the Board’s jurisdiction. It is well settled that in conducting an environmental review in abandonment cases, the Board’s role is limited to the anticipated impacts of the abandonment proposal before the agency, such as the likely diversion of traffic to other rail lines or transportation modes and likely disruptive consequences of removing the track and associated structures. Iowa Southern R. Co. - Exemption- Abandonment, 5 I.C.C.2d 496 (1989), aff’d Goos v. ICC, 911 F.2d 1283, 1287 (8th Cir. 1990). Thus, the Board has no role to play in determining the suitability of the line for interim trail use/railbanking. An explanation of recreational trail use is below.

The 1995 Trails Act and the Board’s Environmental Review

The National Trails System Act (Trails Act), 16 U.S.C. 1247(d), gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad right-of-way that otherwise would be abandoned. The Trails Act is intended to preserve railroad rights-of-way for future railroad use.

Under the Trails Act and the Board’s implementing procedures (49 CFR 1152.29), a state or local government or private organization can request a trail condition (known as a Notice of Interim Trails Use (NITU)) to begin the trail use process on a line approved for abandonment if the trail sponsor agrees to railbanking and provides a statement of willingness to assume responsibility for managing the right-of-way, for any legal liability arising out of its use, and for the payment of taxes. If the railroad agrees to negotiate, and no offer of financial assistance to continue rail freight service on the line is received, the Board imposes a NITU, which gives the rail sponsor time to negotiate an agreement with the railroad for interim trail use/railbanking. The Board has no involvement in the negotiations and does not analyze, approve, or set the terms of trail use agreements. The Board is not authorized to regulate activities over the actual trail. In short, the Board’s jurisdiction under the Trails Act is ministerial.

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 NEPA. Only major actions by Federal agencies require environmental review.

Traffic

The petitioner states in its application that a total of 64 carloads were moved on the line during the base year (calendar year 2003).¹ Using a rail-to-truck conversion factor of 4 trucks per railcar,² SEA calculates that on a per day basis, if all the rail traffic is diverted to truck traffic, the abandonment would generate an estimated 256 new trucks per year 512 truck trips assuming an empty backhaul). This equates to approximately 2 - 3 trucks per day being added to area roads during a 240 workday year.³

HISTORIC REVIEW

UP submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the State Historical Society of Iowa (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). At the time this environmental assessment was prepared, the SHPO had not completed its assessment of the proposed abandonment. Pending completion of the SHPO's review, we recommend a condition to ensure compliance with the Section 106 process of the NHPA.

CONDITIONS

SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. Based on the comments of the United States Army Corps of Engineers (USCOE) regarding the removal of bridges on the line, the railroad shall remove all fill material to an upland, non-wetland site and remove all pilings to at least one foot below stream bed elevations. Additionally, UP shall seed all disturbed areas with native grasses and implement appropriate measures to insure that sediments are not introduced into the waters of the United States during the proposed project.
2. Three Federally threatened species may occur in Cerro Gordo County. Therefore, prior to commencement of any salvage activities, the railroad shall consult with the United States Fish and Wildlife Service, Rock Island Field Office (Ms. Kristen Lundh at 309-793-5800 ext. 215), to determine whether prairie habitat is found in the project area, evaluate possible impacts to these species, and develop appropriate mitigation

¹ Because the line has been out of service since the spring of 2004, SEA is using 2003 as the base year.

² The conversion factor is an estimate used to calculate the rail to truck conversion of varied commodities.

³ 240 workdays result when weekends and holidays are subtracted from a 365 day year.

measures, if necessary. The railroad shall report the results of these consultations to SEA in writing prior to commencement of any salvage activities.

3. Based on the concerns expressed by the Natural Resources Conservation Service (NRCS), the railroad shall consult with the NRCS (Mr. Tony Moore at 641-424-4452) regarding the proposed abandonment's potential effects on the adjoining agricultural drainage systems and possible mitigation measures. UP shall report the results of these consultations in writing to SEA prior to commencement of any salvage activities.
4. The railroad shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are 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 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 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 of the petition 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) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, 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 environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-33 (Sub-No. 225X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Christa Dean, the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at deanc@stb.dot.gov.

Date made available to the public: April 12, 2005.

Comment due date: May 11, 2005.

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

Vernon A. Williams
Secretary

Attachment