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SEA

SERVICE LIST – AUGUST 1, 2008

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-33 (Sub-No. 270X)

**Union Pacific Railroad Company – Abandonment Exemption –
in Osborne and Smith Counties, KS**

STB Docket No. AB-486 (Sub-No. 5X)

**Kyle Railroad Company – Discontinuance of Service Exemption –
in Osborne and Smith Counties, KS**

BACKGROUND

In this proceeding, Union Pacific Railroad Company (UP) and Kyle Railroad Company (Kyle), (jointly Applicants) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for UP to abandon and Kyle to discontinue service over a line of railroad in Osborne and Smith Counties, Kansas. The rail line proposed for abandonment extends 12.4 miles from milepost 540.3 to milepost 552.7 (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, UP will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to Applicants, the Line was constructed in 1879 by the Atchison & Denver Railway. The Line is currently comprised of a mix of 85 and 90-pound jointed rail that was put down in 1953 and 1954, and the right-of-way is generally 100 feet wide. Kyle leased the Line from UP in 1991 and continued to operate the Line until it was embargoed in 2005.

Applicants state that the Line begins west of Portis and runs northwest crossing Highways 9 and 24 and Twelvemile Creek. The Line climbs from the Twelvemile Creek stream valley to the North Fork of the Solomon River. It then enters Portis and continues northwest. After leaving Portis, the Line crosses Lindley Creek and continues northwest through the town of Harlan. After passing through Harlan, the Line ends about one-half mile to the west at milepost 552.7, which is the end of the Line.

ENVIRONMENTAL REVIEW

Applicants submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. Applicants 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

According to Applicants, no local traffic has moved over the Line since 2005, and there is no overhead traffic to be rerouted. 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.

Salvage Activities

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 regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

Applicants indicate that the proposed abandonment would result in the closing of 16 public crossing and 14 private crossings on the Line but do not believe that the right-of-way is suitable for public use. Applicants are not aware of any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts.

HISTORIC REVIEW

Applicants served the historic report on the Kansas State Historic Preservation Officer (SHPO), pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the stone trestle located at milepost 542.2 on the Line may be potentially eligible for listing in the National Register of Historic Places (National Register). The SHPO has requested additional

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. 270X) and AB-486 (Sub-No. 5X).

information from UP. Accordingly, we are recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register until completion of the Section 106 process.

SEA conducted a search of the Native American Consultation Database at <http://www.nps.gov/nacd/> to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the Pawnee Nation of Oklahoma may have an interest in the proposed abandonment. Accordingly, SEA is sending a copy of this EA to the Pawnee Nation of Oklahoma for its review and comment.

CONDITIONS

We recommend that the following condition be imposed on any decision granting abandonment authority:

The Union Pacific Railroad Company (UP) shall retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places (generally, 50 years old or older) until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. UP shall report back to the Section of Environmental Analysis regarding any consultations with the SHPO and any other Section 106 consulting parties. UP may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

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 would 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 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 Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC 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 an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Danielle Gosselin, 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. 270X) and AB-486 (Sub-No. 5X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Danielle Gosselin, the environmental contact for this case, by phone at (202) 245-0300, fax at (202) 245-0454, or e-mail at danielle.gosselin@stb.dot.gov.

Date made available to the public: August 1, 2008.

Comment due date: August 15, 2008.

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

Anne K. Quinlan
Acting Secretary

Attachment