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SEA

SERVICE DATE – MAY 15, 2006

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-853 (Sub-No. 3X)

**Kansas & Oklahoma Railroad Inc. –
Abandonment Exemption – in Rice County, KS**

BACKGROUND

In this proceeding, Kansas & Oklahoma Railroad Inc. (K&O) 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 a line of railroad in Rice County, Kansas. The rail line proposed for abandonment extends six miles from milepost 85.0 at Chase to milepost 91.0 at Silica. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

K&O 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. K&O 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)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to K&O, no local traffic has moved over the rail line for at least two years and any overhead traffic could be rerouted over an essentially parallel line owned by K&O. 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. Upon receipt of abandonment authority, K&O intends to remove the rail, track material, and crossties from the right-of-way. K&O states that it does not have plans to remove the one bridge on the rail line at the present time.

K&O states that width of the right-of-way of the rail line is generally 100 feet and that the rail line traverses a predominantly flat, rural area.

The U.S. Army Corps of Engineers (Corps) submitted comments stating that because salvage activities would not involve the discharge of dredged or fill material into waters of the United States, a Corps permit would not be needed.

The Natural Resources Conservation Service (NRCS) provided comments stating that because the proposed salvage activities would take place on lands already owned by K&O, there would be no negative impacts to important farmland as defined by the Farmland Protection Policy Act. The U.S. Fish and Wildlife Service (USFWS) also provided comments, stating that the proposed salvage activities should not adversely affect fish and wildlife resources, including threatened and endangered species.

The U.S. Environmental Protection Agency, Region 7 (USEPA) submitted comments stating that depending on the extent of soil disturbance caused by salvage activities, a National Pollutant Discharge Elimination System (NPDES) stormwater permit could be required from the Kansas Department of Health and Environment (KDHE). Accordingly, we will recommend that a condition be imposed requiring K&O to consult with KDHE prior to commencement of any salvage activities and to comply with the reasonable NPDES requirements.

The National Geodetic Survey (NGS) submitted comments stating that three geodetic station markers may be located in the area of the proposed abandonment and requests 90 days notice to attempt their formal relocation. Accordingly, we will recommend that a condition be imposed requiring K&O to notify NGS at least 90 days prior to beginning salvage activities to plan for the possible relocation of the geodetic station markers by NGS.

SEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. SEA is providing a copy of this EA to the

following agencies for review and comment: Corps; NRCS; USFWS; USEPA; NGS; Kansas Department of Wildlife and Parks; KDHE; the Kansas State Bureau of Waste Management; and Kansas Department of Agriculture.

HISTORIC REVIEW

K&O served the historic report on the Kansas State Historical Society (State Historic Preservation Officer or SHPO), pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would have no adverse effect on historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 CFR 800.5(c) and 36 CFR 800.8, we have determined that the proposed abandonment will not adversely 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(e), 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.

SEA conducted a search of the Native American Consultation Database at www.cast.uark.edu/other/nps/nacd/ to identify Federally recognized tribes that may have ancestral connections to the project area and identified no tribes that may have an interest in the proposed abandonment.

CONDITIONS

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

- 1. To ensure appropriate consideration of the National Pollution Discharge Elimination System (NPDES) requirements, Kansas & Oklahoma Railroad, Inc. shall consult with Kansas Department of Health and the Environment prior to commencement of any salvage activities and shall comply with the reasonable NPDES requirements.**
- 2. Kansas & Oklahoma Railroad, Inc. shall notify the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of the geodetic station markers by NGS.**

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 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 Rini Ghosh, 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-853 (Sub-No. 3X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Rini Ghosh, the environmental contact

for this case, by phone at (202) 565-1539, fax at (202) 565-9000, or e-mail at ghoshr@stb.dot.gov.

Date made available to the public: May 15, 2006.

Comment due date: May 30, 2006.

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

Vernon A. Williams
Secretary

Attachment