

33994

SERVICE DATE - OCTOBER 3, 2003

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-33 (Sub-No. 210X)

Union Pacific Railroad Company - Abandonment Exemption - In Maricopa County, AZ

BACKGROUND

In this proceeding, Union Pacific Railroad Company (UP or railroad) has filed a notice of exemption under 49 CFR 1152.50 for UP to abandon a 2.1-mile portion of railroad between Milepost 914.3 and Milepost 916.4 in Maricopa County, Arizona (AZ). A map depicting the rail line in relationship to the area served is appended to this report. If the notice becomes effective, UP would have authority to salvage rails, ties and other track material.

DESCRIPTION OF THE LINE

The subject rail line is known as the Creamery Spur and is located near University Drive between Priest Drive and Hayden Road in Tempe, Maricopa County, AZ. According to UP, there has been no rail traffic on the line in the past two years. The line is located in the downtown area of Tempe and on the campus of Arizona State University. Therefore, land use in the immediate vicinity of the right-of-way (ROW) is urban. The width of the ROW varies and the topography is flat. UP noted that a portion of the ROW is part of the planned route for the proposed Central Phoenix/East Valley Light Rail Transit Project.

The line from Milepost 914.3 to Milepost 915.3 was constructed in 1887 by the Maricopa and Phoenix Railroad. The line from Milepost 915.3 to Milepost 916.4 was constructed in 1925 by the Arizona Eastern Railroad. There are two single-span, eight-foot long bridges on the line that are 50 years of age or older. Both bridges were constructed in 1951.

ENVIRONMENTAL REVIEW

The railroad submitted Environmental and Historic reports that indicate that the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities. The railroad served these reports 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) reviewed and investigated the record in this proceeding.

The U.S. Department of Agriculture, Natural Resources Conservation Service (formerly the Soil Conservation Service or SCS) replied that the proposed abandonment is exempt from the requirements of the Farmland Protection Policy Act because the ROW is already committed to urban development or the land is not prime or unique farmland.

The U.S. Army Corps of Engineers - Los Angeles District (USACE) had not responded to UP's Environmental Report at the time this EA was prepared. However, UP has not proposed the discharge of dredged or fill material in waters of the United States, including wetlands. Therefore, a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would not likely be required.

In its response, the U.S. Fish and Wildlife Service (USFWS) (Consultation Number 02-21-03-I-0338) referred UP to the USFWS website for a listing of endangered, threatened, proposed and candidate species occurring in Maricopa County. SEA has reviewed the referenced website and determined that the following species are listed for Maricopa County:

- Arizona agave (*Agave arizonica*) - endangered,
- Arizona cliffrose (*Purshia subintegra*) - endangered,
- Bald eagle (*Haliaeetus leucocephalus*) - threatened,
- Cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*) - endangered,
- California brown pelican (*Pelecanus occidentalis californicus*) - endangered,
- Desert pupfish (*Cyprinodon macularius*) - endangered,
- Gila topminnow (*Poeciliopsis occidentalis occidentalis*) - endangered,
- Lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*) - endangered,
- Mexican spotted owl (*Strix occidentalis lucida*) - threatened,
- Razorback sucker (*Xyrauchen texanus*) - endangered,
- Sonoran pronghorn (*Antilocapra americana sonoriensis*) - endangered,
- Southwestern willow flycatcher (*Empidonax traillii extimus*) - endangered,
- Yuma clapper rail (*Rallus longirostris yumanensis*) - endangered,
- Gila chub (*Gila intermedia*) - proposed endangered, and
- Yellow-billed cuckoo (*Coccyzus americanus*) - candidate.

Considering the habitat requirements of the above species, as summarized on the USFWS website, and the urbanized character of the subject rail line, it is unlikely that any of the above species would be adversely affected by the proposed abandonment. In recognition of a June 26, 2002 Memorandum of Agreement between the USFWS - Region 2 and the AZ Game and Fish Department (AGFD), this EA is also being submitted to AGFD for review and comment.

The railroad stated that it had no data readily available on known hazardous waste sites or hazardous material spill sites on the subject ROW.

Because traffic has not moved on the subject rail line for the past two years, the proposed abandonment would not be expected to impact the development, use and transportation of energy resources or recyclable commodities, or result in the diversion of rail traffic to truck traffic that could result in impacts to air quality or the local transportation network.

In response to UP's Historic Report, the Arizona State Parks (the State Historic Preservation Office or SHPO) noted that the proposed abandonment occurs in area that contains a previously recorded archeological site known as the La Plaza (AZ U:9:165 ASM). According to the SHPO, this site was determined eligible for inclusion in the National Register of Historic Places under Criterion D (Information Potential) as part of another agency's undertaking. The SHPO also noted that the subject line is part of a larger rail segment that was also previously determined eligible for inclusion in the National Register. In addition, the SHPO noted that the proposed abandonment occurs in a culturally-sensitive area and recommended that consultations be conducted with Indian tribes pursuant to 36 CFR 800.4(a)(4).

The SHPO noted that these previous determinations were associated with the Central Phoenix/East Valley Light Rail Transit Project, and recommended that SEA coordinate Section 106 efforts with the Federal Transit Administration (FTA), the lead Federal agency on the transit project. Accordingly, SEA has initiated coordination efforts with the FTA, as well as the Phoenix Regional Public Transportation Authority (RPTA), the local transit project sponsor. An RPTA representative informed SEA that a Memorandum of Agreement (MOA) has been executed by the FTA, RPTA and SHPO. Among the issues addressed by the MOA are the identification and treatment activities associated with the historic and archeological properties identified by the SHPO as present on the subject rail line.

Pending completion of these coordination efforts, 106 consultations, and any appropriate Indian tribal consultations, SEA recommends two conditions to ensure compliance with the National Historic Preservation Act, 16 U.S.C. 470f.

CONDITIONS

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

1. The applicant shall take no steps to alter the historic integrity of the right-of-way until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.
2. The applicant shall take no steps to alter the right-of-way until the Section of Environmental Analysis has conducted any appropriate consultations with Indian tribes pursuant to 36 CFR 800.4(a)(4).

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, 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

If abandonment and salvage of the rail line do take place, the ROW 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 Surface Transportation 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 Surface Transportation Board, with a copy to the railroad, within 20 days of publication of the notice of exemption in the Federal Register. However, the Board will accept late-filed requests as long as it retains jurisdiction to do so. This request must comply with the Board's rules for use of ROWs 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 the Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL 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 David Navecky, who prepared this environmental assessment. **Please refer to STB Docket No. AB-33 (Sub-No. 210X) in all correspondence addressed to the Board. Questions regarding this environmental assessment should be referred to David Navecky at 202-565-1593 (naveckyd@stb.dot.gov).**

Date made available to the public: October 3, 2003

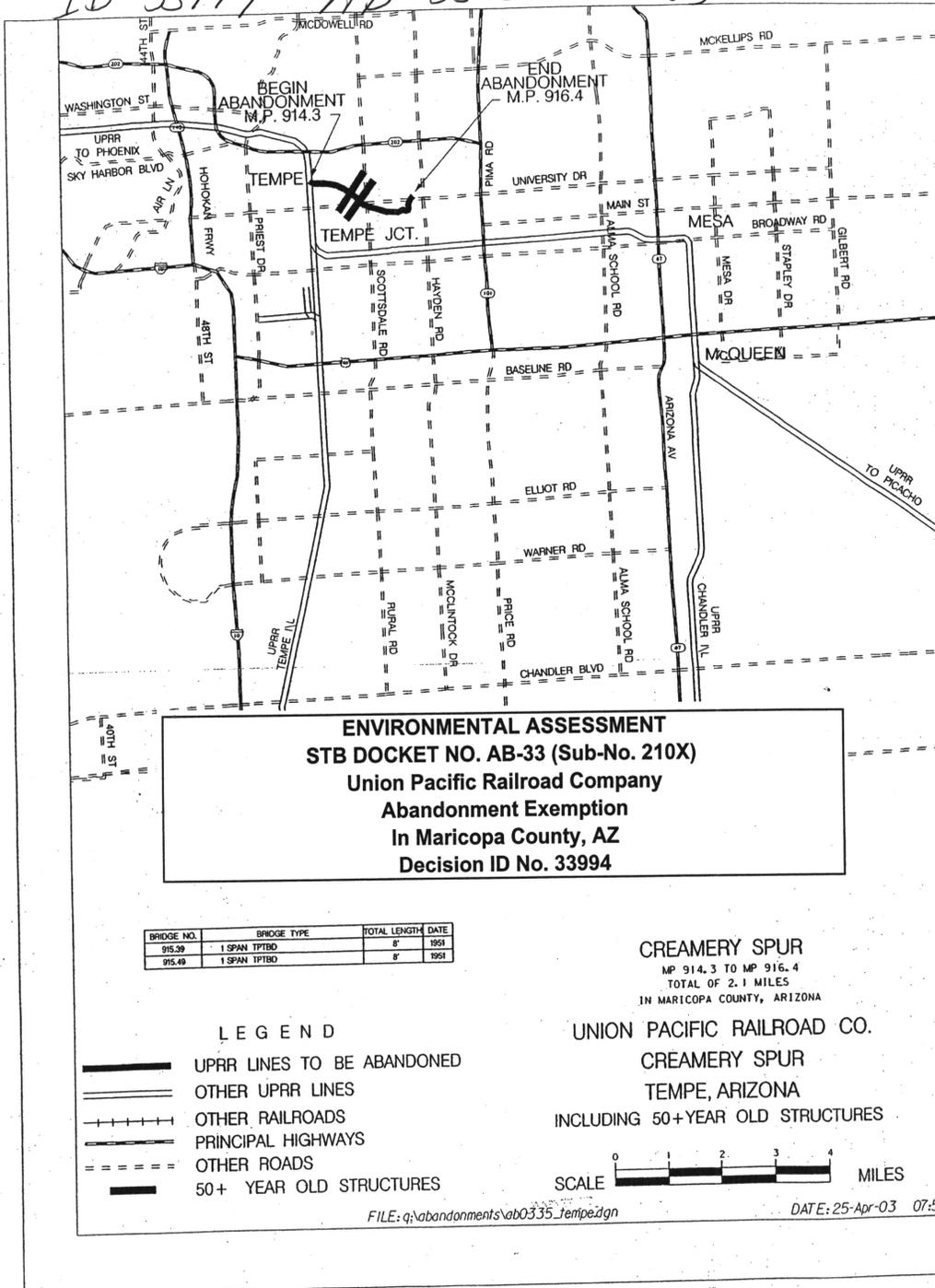
Comment due date: **October 17, 2003**

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

Vernon A. Williams
Secretary

Attachment

ID-33994 AB-33 (Sub-No. 210X)



ENVIRONMENTAL ASSESSMENT
STB DOCKET NO. AB-33 (Sub-No. 210X)
Union Pacific Railroad Company
Abandonment Exemption
In Maricopa County, AZ
Decision ID No. 33994

BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
915.29	1 SPAN TPBDO	8'	1951
915.49	1 SPAN TPBDO	8'	1951

CREAMERY SPUR
 MP 914.3 TO MP 916.4
 TOTAL OF 2.1 MILES
 IN MARICOPA COUNTY, ARIZONA

- LEGEND**
- UPRR LINES TO BE ABANDONED
 - OTHER UPRR LINES
 - OTHER RAILROADS
 - PRINCIPAL HIGHWAYS
 - OTHER ROADS
 - 50+ YEAR OLD STRUCTURES

UNION PACIFIC RAILROAD CO.
CREAMERY SPUR
TEMPE, ARIZONA
 INCLUDING 50+ YEAR OLD STRUCTURES



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DATE: 25-Apr-03 07:54