

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB-33 (Sub No. 307X)**

**Union Pacific Railroad Company — Abandonment Exemption—  
in Adams, Weld and Boulder Counties, Colo.**

**BACKGROUND**

On June 27, 2012, the Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a notice under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon a 23.90 miles of rail line between milepost 9.27, near Eastlake and milepost 33.17, near Valmont in Adams, Weld, and Boulder Counties, Colorado (Line). A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

According to UP, no rail traffic has moved over the Line in more than two years, including overhead or passenger rail traffic. UP also notes that it has not received any complaints regarding the proposed cessation of rail service. UP states that it would continue to provide rail service on the Eastlake end of the Line via a portion of the Boulder Industrial Lead that has been excluded from this notice. UP also notes that the communities of Valmont and Boulder would continue to receive rail service from BNSF Railway.

UP states that its filing involves the abandonment solely of a UP freight operating easement over a portion of the Boulder Industrial Lead. UP explains that in June 2009, UP sold the Boulder Industrial Lead, including the right-of-way, tracks and structures, including all bridges, to the Denver Regional Transportation District (RTD). The Line was incorporated into RTS's Master Plan for the "FasTracks" mass transit system. UP retained only an operating easement over the Line. UP also notes that the Board, in a decision served October 19, 2011 (STB Docket No. AB-33 (Sub No. 182X)), granted UP's petition to discontinue service on the Line from milepost 18.79 to milepost 31.0. This discontinuance permitted the Colorado Department of Transportation to remove an existing railroad bridge over Interstate Highway 25 to accommodate widening the highway.

Because the Line is owned by RTD, UP states that any future use, including any public use, of the rail right-of-way must be decided by RTD, which as noted above, intends to incorporate the Line into the FasTracks mass transit system. UP has filed a request to exempt the proposed abandonment from the Board's procedures governing Offers of Financial Assistance and Public Use, arguing that the Line is needed for a valid public purpose by the RTD and that

there is no other overriding public need for continued freight rail service on the Line. The Board has not yet ruled on UP's request.

UP also notes that it would, prior to consummation, assign to RTD UP's interest as Lessor under a Lease with BNSF Railway, which includes the portion of the Line from milepost 32.0 to milepost 33.0 and a related industrial spur.

If the Board should approve this abandonment, UP would not engage in any salvage activities. Specifically, neither the track and ties nor any structures would be removed or salvaged and no geodetic station markers would be adversely affected.

### **DESCRIPTION OF THE RAIL LINE**

The topography surrounding the Line is generally rolling and passes through the communities of Valmont (a suburb of Boulder), Erie, St. Vrain, and Eastlake (a suburb of Denver). The portion of the Line located between the communities of Eastlake and St. Vrain generally runs north/south, roughly paralleling Interstate Highway 25. The Line then turns west towards the communities of Erie and Valmont. The width of the right-of-way varies from between 150 feet between Eastlake and St. Vrain to 100 feet in width between St. Vrain and Valmont. The Line traverses United States Postal Service Zip Codes 80241, 80602, 80603, 80516, 80514, 80026 and 80301.

According to UP, the Line contains 12 bridges that are 50 years old or older. UP also notes that portions of the Line consist of federally granted rights-of-way. UP states that, if the abandonment is approved, no salvage would take place.

### **ENVIRONMENTAL REVIEW**

UP submitted an Environmental Report that concludes that 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 Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules (49 C.F.R. § 1105.7(b)).<sup>1</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

#### ***Diversion of Traffic***

As noted above, the Line has been out of service for more than two years. Consequently, no rail-to-truck diversions would occur. Therefore, OEA believes that there would be no impact

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<sup>1</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 33 (Sub No. 307X).

on existing regional or local transportation systems or patterns. Further, there would be no effect on the movement and/or recovery of energy resources, recyclable commodities or change in overall energy efficiency.

### *Salvage Activities*

As noted earlier, UP states that the Line was sold to RTD in June of 2009 for the purpose of incorporating the Line at some time in the future into RTD's FasTracks mass transit system. UP retained an operating easement. If this abandonment should be approved, UP would not salvage the Line.

The U.S. Department of Agriculture, Natural Resource Conservation Service states that the abandonment would have no effect on Prime Farmland.<sup>2</sup>

According to UP, the proposed abandonment is consistent with local land use plans. The Board of County Commissioners for Boulder County (Boulder County) has affirmed their interest in using a portion of the Line for commuting and recreational trail use.<sup>3</sup> Last, Boulder County notes that its comment does not constitute an objection to the proposed abandonment so long as it may continue to negotiate future public use of the Line, including commuting and a recreational trail use.

The Weld County Board of Commissioners (BOC) states that it has no comments insofar as the infrastructure of the Line is concerned. The BOC comments that the proposed abandonment would have no adverse impact on its land use plans and would not adversely affect any culverts, bridges, or roads maintained by Weld County. BOC does raise some concern regarding two as yet undeveloped parcels of land adjacent to the Line. BOC has granted Land Use Permits to two businesses interested in developing these parcels. BOC's concerns appear to be related not to the proposed abandonment, but rather to the future use of the Line following abandonment. This future use of the Line is beyond the scope of this EA.

UP states that there are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the Line.

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<sup>2</sup> OEA spoke with Mr. William Shupe, Natural Resources Conservation Service via telephone on 7/18/2012.

<sup>3</sup> Boulder County notes that it has requested use of the right-of-way from milepost 24.38 to milepost 33.17 in another STB abandonment proceeding—STB Decision Docket No. AB-33 (Sub No. 182X), served on October 19, 2001. Boulder County seeks to reaffirm its interest in using this rail corridor for commuting and as a recreational trail. OEA has included Boulder County's comment in the docket for that proceeding.

OEA performed a search the U.S. Fish and Wildlife Service's (USFWS) website<sup>4</sup> to search for any species of concern in Adams, Weld and Boulder Counties, CO. The USFWS website lists the following species as threatened and/or endangered, in recovery, or experimental population–non essential:

- Mexican spotted owl (*Strix occidentalis lucida*) – Threatened
- Piping Plover (*Charadrius melodus*) – Threatened
- Lest tern (*Sterna antillarum*) – Endangered
- Greenback Cutthroat trout (*Oncorhynchus clarki stomias*) – Threatened
- Colorado Butterfly plant (*Gaura neomexicana var. coloradensis*) – Threatened
- Ute ladies' - tresses (*Spiranthes diluvalis*) – Threatened
- Canada Lynx (*Lynx Canadensis*) – Threatened
- Preble's meadow jumping mouse (*Zapus hudsonius preblei*) – Threatened
- North American wolverine (*Gulo gulo luscus*) – Candidate
- American peregrine falcon (*Falco peregrinus anatum*) – Recovery
- Bald eagle (*Haliaeetus leucocephalus*) – Recovery
- Whooping crane (*Grus Americana*) – Experimental Population, Non-Essential
- Black-footed ferret (*Mustela nigripes*) - Experimental Population, Non-Essential

Although several species of concern were identified, OEA does not believe that the abandonment, as described (no diversion of rail traffic to truck and no salvage activities conducted of the Line), would result in any adverse impacts to the species identified above.

OEA was not able to identify any National or State parks and no wildlife sanctuaries or refuges would be affected by the proposed abandonment.

UP states that it does not anticipate that permits would be required under Section 402 of the Clean Water Act.

The U.S. Army Corps of Engineers, Omaha District (Corps), states that if any part of the abandonment activity requires the discharge of dredged or fill material, and any excavation associated with a dredged or fill project, either temporary or permanent in an aquatic site which may include ephemeral and perennial streams, wetlands, lakes, ponds, drainage ditches and irrigation ditches, that their office should be notified to determine if a permit is required under Section 404 of the Clean Water Act. Because the abandonment, as described, would not undertake any salvage activities nor the removal of any of the remaining 12 bridges, OEA does not believe that any of the bodies of water listed by the Corps would be adversely affected.

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<sup>4</sup> U.S. Fish and Wildlife Website, Find Endangered Species:  
<http://www.fws.gov/Endangered>.

In an email dated April 13, 2012, the U.S. Department of Commerce, National Geodetic Survey (NGS) states that 1 geodetic station marker may be located in the area of the proposed abandonment. However, because UP has stated that it would not engage in any salvage activities, OEA does not believe that any adverse impact would come to the single geodetic station marker.

Based on all information available to date, OEA does not believe that the proposed abandonment would result in significant environmental impacts.

## **HISTORIC REVIEW**

In its Historic Report, UP states that the Line contains 12 bridges that are 50 years old or older and that portions of the Line consist of federally granted rights-of-way. However, at noted earlier, and if the abandonment is approved, UP would not engage in any salvage activities. As discussed in detail above, UP sold the Line, including the 12 bridges and all other structures on the Line, to RTD in June 2009 for future use in RTD's FasTracks mass transit system. UP retained an operating easement.

The Line was originally constructed to access the coal markets in the area around Boulder, CO. According to UP, the section of the Line from milepost 9.27 near Eastlake to milepost 17.37 near St. Vrain was constructed in 1909 by UP. UP also notes that the section of the Line from milepost 17.37 near St. Vrain to the end of the Line at milepost 33.17 near Valmont was constructed in 1871 by the Denver & Boulder Valley Railroad at the direction and expense of the Denver Pacific Railroad. The Denver Pacific Railroad later merged with the Kansas Pacific Railway. UP investor Jay Gould gained control of the Kansas Pacific Railway and consolidated both railroads under the UP name.

UP states that the Line does not contain any historic sites and/or structures and that any archaeological sites within the right-of-way would have been previously disturbed during construction and maintenance of the Line.

UP served the Historic Report as required by the Board's environmental rules (49 C.F.R. § 1105.8(a)) and served the report on the Colorado Historical Society, Office of Archaeology and Historic Preservation (SHPO) pursuant to 49 C.F.R. § 1105.8(c).<sup>5</sup> The SHPO, in a letter dated February 13, 2012, states that because the proposed abandonment would leave all features (tracks, bridges, culverts, etc.) in place for possible re-use by RTD, there would be no adverse effect on the Line.

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

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<sup>5</sup> Guidance regarding the Board's historic preservation review process is available on the Board's Web site at: <http://www.stb.dot.gov/stb/environment/preservation.html>.

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 C.F.R. § 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 website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.<sup>6</sup> The database indicated that the following three tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment:

1. Arapahoe Tribe of the Wind River Reservation, Wyoming
2. Cheyenne and Arapahoe Tribes, Oklahoma
3. Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana

Accordingly, OEA is sending a copy of this EA to the 3 tribes listed above for review and comment.

## **CONDITIONS**

We recommend that no conditions be imposed on any decision granting abandonment authority:

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed that 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 4-part showing for imposition of a public use

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<sup>6</sup> Native American Consultation Database, [http://grants.cr.nps.gov/nacd/NACD\\_Search\\_Page\\_Query\\_Results.cfm](http://grants.cr.nps.gov/nacd/NACD_Search_Page_Query_Results.cfm) (last visited July 17, 2012).

condition (49 C.F.R. § 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 C.F.R. § 1152.29).

### **PUBLIC ASSISTANCE**

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office 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 original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 33 (Sub No. 307X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at [Troy.Brady@stb.dot.gov](mailto:Troy.Brady@stb.dot.gov).

Date made available to the public: July 20, 2012.

**Comment due date: August 6, 2012.**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment