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SEA

SERVICE DATE – APRIL 14, 2009

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-33 (Sub-No. 268X)

**Union Pacific Railroad Company – Abandonment Exemption – in
Milwaukee County, WI**

BACKGROUND

In this proceeding, the Union Pacific Railroad Company (UP) 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 the northeast Milwaukee area, Milwaukee County, WI. The line, known as the Capital Drive Industrial Lead, extends approximately 3.08 miles from the Shoreline connection at milepost 92.21 to the end of the line south of Hampton Avenue at milepost 89.13 (the Line). 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 dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to UP, the Line was constructed by the Green Bay, Milwaukee and Chicago Railway in 1855 and is currently constructed with 112 or 115-pound jointed rail. The Line right-of-way is 100 feet in width. The Line is located in a highly urbanized area with residential, industrial and recreational uses. An examination of maps of the region indicates that the Line is near Lake Michigan and includes at least one water crossing.

Nine bridges are located along the Line. UP states that it was only able to field verify the location and photograph six of the bridges: a two-span Through Plate Girder (milepost 89.80, date unknown); a three-span Through Plate Girder (milepost 90.39, built in 1911); a two-span I-Beam (milepost 90.50, date unknown); a two-span Through Plate Girder (milepost 90.90, date unknown); a one-span Through Plate Girder (milepost 91.20, date unknown); and a one-span Deck Plate Girder (milepost 91.91, built in 1911). According to UP, the three remaining bridges, located at mileposts 90.65 and 90.05, both likely built in 1911, and a one-span Deck Plate Girder (ca.1912), located at milepost 90.94, were inaccessible due to overgrowth and could not be field verified. These bridges do appear on current topographic maps of the area.

UP states that the Line could be suitable for other public purposes, such as mass transportation, conservation, energy production or recreation, but that it is not suited for use as a road or highway as the area is already well served by public roadways. UP suggests that the best

use of the Line would be as a pedestrian trail that could connect to an existing trail at the south terminus of the Line near Hampton Avenue. According to UP, the bridges on the Line once accommodated double tracking and are thus wide enough for trails use. UP states that title to the right-of-way is non-reversionary in nature.

According to UP, there are currently no shippers on the Line, and no commodities have originated or terminated on the Line for over two years. Therefore, 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.

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 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.

UP indicates that the proposed salvage activities would have no detrimental effects on public health and safety. UP also states that there are no known hazardous material waste sites or sites where known hazardous material spills have occurred on or along the subject right-of-way.

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of bridges or other structures that may be present on the rail 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.

The National Geodetic Survey (NGS) has advised SEA that six geodetic station markers have been identified that may be affected by the proposed abandonment. Accordingly, SEA recommends a condition that requires UP to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy the geodetic station markers.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. Neither SEA nor UP has received comments

¹ The railroad's environmental and historic reports are available for viewing on the Board's Website at <http://www.stb.dot.gov> by conducting a search for AB-33 (Sub-No. 268X) within "Filings" under "E-Library."

from the U.S. Fish and Wildlife Service; the U.S. Army Corps of Engineers; the U.S. Environmental Protection Agency; the U.S. Natural Resources Conservation Service; the Wisconsin Department of Natural Resources; or the Milwaukee County Board's Office regarding the proposed abandonment. Copies of the EA will be provided to these and other Federal, state, and local agencies for their review and comment.

HISTORIC REVIEW

UP submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Wisconsin State Historic Preservation Society (SHPO), pursuant to 49 CFR 1105.8(c). According to UP, the SHPO returned the report and directed UP to its web site with instructions on the process for submitting review requests under Section 106 of the National Historic Preservation Act in Wisconsin. In a November 10, 2008 letter to UP, the SHPO stated that it may be necessary for UP to hire a qualified consultant to complete any required research. We note that under the Board's environmental rules at 1105.8(d)(7), railroads must submit information that is readily available to them rather than hiring professionals. We encourage UP to use the Internet or accessible means to provide the needed information to the SHPO.

As the Section 106 process for the project is ongoing, SEA is recommending a condition requiring UP to retain its interest in and take no steps to alter the historic integrity of all National Register of Historic Places eligible or listed historic properties including sites, buildings, structures, or districts within the project right-of-way (the Area of Potential Effect) until completion of the Section 106 process.

SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify Federally recognized Tribes that may have ancestral connections to the project area. The database listed the following Tribes: The Citizen Potawatomi Nation, Oklahoma; the Forest County Potawatomi Community, Wisconsin; the Hannahville Indian Community, Michigan; and the Prairie Band of Potawatomi Nation, Kansas. SEA will ensure that the above Tribes receive a copy of this EA for their review and comment.

CONDITIONS

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

1. The Union Pacific Railroad Company (UP) shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers.
2. The Union Pacific Railroad Company (UP) shall retain its interest in and take no steps to alter the historic integrity of all sites, buildings, structures, objects or districts within the right-of-way (the Area of Potential Effect) 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 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) 245-0230, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this EA, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Catherine Glidden, who prepared this EA. 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. 268X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Catherine Glidden, the environmental contact for this case, by phone at (202) 245-0293, fax at (202) 245-0454, or e-mail at gliddenc@stb.dot.gov.

Date made available to the public: April 14, 2009.

Comment due date: April 29, 2009.

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

Anne A. Quinlan
Acting Secretary

Attachment