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OEA

SERVICE DATE – DECEMBER 31, 2015

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**STB Docket No. AB 33 (Sub-No. 323X)**

**Union Pacific Railroad Company – Abandonment of Freight Easement –  
In Adams County, Colo.**

**BACKGROUND**

In this proceeding, the Union Pacific Railroad Company (UP or applicant) filed a petition under 49 C.F.R. § 10502 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon a portion of its Boulder Industrial Lead freight operating easement from Milepost 0.70 near Commerce City, Colorado, to the end of the freight easement at Milepost 9.27 near Eastlake, Colorado, a distance of 8.57 miles in Adams County, Colorado (the line). The line is owned by the Denver Rapid Transit District (RTD), with UP retaining a common carrier freight easement over the line. UP now wishes to abandon this freight easement over the line. A map depicting the line is appended to this Environmental Assessment (EA).

The line was originally constructed by UP in 1909. According to UP, most of the existing track on the line consists of 100-pound second-hand jointed rail laid down in 1942. The topography of the line is generally flat and bordered by a combination of industrial, commercial and residential areas. The line includes five bridges. UP indicates that the line does not contain federally granted rights-of-way. If the notice becomes effective, UP would not engage in salvage operations as it does not own the line or any accoutrements along the line.

**ENVIRONMENTAL REVIEW**

UP submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of abandonment of its freight easement. 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 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.

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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. 323X).

## *Diversion of Traffic*

According to UP, the railroad sold the Boulder Industrial Lead right-of-way, tracks, structures and bridges, which includes the current line, to RTD in June 2009, but retained its freight service over the entire line.<sup>2</sup> UP now wishes to abandon its freight operating easement on the section of the line subject of this proceeding.<sup>3</sup> The line will be rebuilt by RTD and included in its master plan for the integrated mass transit system, FasTracks, a regional public passenger rail and bus network for the greater Denver, Colorado area.<sup>4</sup> According to UP, at this time, RTD is constructing a transit line between milepost 1.15 and milepost 9.27 along the line.

According to UP, there are no customers using the line. UP does not anticipate the proposed abandonment to have a negative impact on existing or future shippers in the area. Only one customer, Atlas Roofing Corporation, has moved traffic over the line in the past two years. Atlas Roofing Corporation's last shipment moved over the line in February 2015. However, UP states that Atlas Roofing Corporation, Leroy Industries LLC (the owner of the real property and building Atlas Roofing Corporation leases for its operations), and RTD previously entered into an agreement covering alternative transportation arrangements for Atlas Roofing Corporation. In a December 15, 2014 letter to the Board, both parties state that neither require rail service on the line nor object to the proposed abandonment.<sup>5</sup> UP included copies of the above documentation in its environmental report.

UP states that rail service will continue to be available in the area. UP will retain its freight easement from milepost 0.20 to milepost 0.70 and will continue to provide rail service over that portion of the Boulder Industrial Lead. UP will also continue to provide rail service from its Greeley Subdivision which connects with the above section of track. Further, UP states that rail service is available from various short line and industrial tracks in the Denver area. UP writes that a BNSF line connects with the Boulder Industrial Lead at milepost 0.00. In addition to existing rail service, the area of the proposed abandonment is well served by a network of highways and local roads (see map). 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.

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<sup>2</sup> The entire Boulder Industrial Lead extends from milepost 0.20 near Commerce City to milepost 33.17 near Valmont.

<sup>3</sup> UP will retain its freight easement from milepost 0.20 to milepost 0.70 and will continue to provide rail service over this portion of the Boulder Industrial Lead.

<sup>4</sup> This is the same converted transit use that was subject to the western portion of the Boulders Industrial Lead in AB 33 (Sub-No. 307X), consummated on August 16, 2013.

<sup>5</sup> UP explained that it did not include traffic information in its environmental report as Atlas Roofing Corporation will not be adversely impacted by the proposed abandonment and because such data would be used by Atlas Roofing Corporation's competitors.

## ***Salvage Activities***

UP does not own the line or any accoutrements along the line; consequently, no salvage activities would take place. As no salvage activities would occur as a result of any abandonment approval, environmental impacts are not expected and environmental conditions are not recommended by OEA.

Two letters have been received in response to the proposed action.

The National Geodetic Survey (NGS) states that two geodetic station markers are located in the area of the proposed abandonment. No condition is recommended as no salvage activities are planned.

The Natural Resources Conservation Service states that the proposed abandonment action would have no effect on Prime Farmland.

OEA has not yet received responses from several federal, state and local agencies regarding potential environmental impacts from the proposed abandonment. OEA is therefore sending a copy of this EA to those agencies for review and comment. However, as stated above, no environmental effects would occur as a result of the Board's approval for UP to abandon its freight easement over the line.

## **HISTORIC REVIEW**

UP submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Colorado State Historic Preservation Office or SHPO pursuant to 49 C.F.R. § 1105.8(c). According to UP, RTD's conversion of the line for transit use was subject to the National Environmental Policy Act and Section 106 of the National Historic Preservation Act. The Federal Transit Administration had responsibility for complying with both laws as it provided funding for the transit project.

In its historic report, UP states that the SHPO entered into a Memorandum of Agreement (MOA) with the US Army Corps of Engineers, and RTD, regarding mitigation of historic property impacts along the line.<sup>6</sup> The MOA stipulates steps that will be taken to ensure the mitigation of any adverse effects to historic properties resulting from RTD's conversion of the line for transit use. The MOA was signed by the specified parties and executed on October 3, 2015.

In an earlier letter, the SHPO stated that the execution of the MOA would mitigate any adverse effects to historic properties resulting from both RTD's planned redevelopment of the line for transit as well as the current abandonment action. A copy of the executed MOA and SHPO letter are included in the applicant's historic report.

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<sup>6</sup> The Federal Transit Administration (FTA) was not a party to the MOA. However, FTA completed an Environmental Impact Statement including an analysis of potential adverse effects to cultural resources located along the line. It is not clear from the applicant's report why FTA was not a signatory to the MOA.

Based on the above, OEA finds that any adverse effects that could result from the proposed abandonment of UP's freight easement, have been appropriately mitigated through development of the MOA.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. 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 therein, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website.

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 current or ancestral connections to the area of the proposed abandonment.<sup>7</sup> The database listed the Arapaho Tribe of the Wind River Reservation. OEA will ensure that the Arapaho Tribe is added to the service list for this proceeding and that it receives a copy of this EA.

### **CONDITIONS**

No conditions are recommended.

### **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the UP freight easement 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 of the rail line easement, 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 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.

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<sup>7</sup> Native American Consultation Database, <http://grantsdev.cr.nps.gov/Nagpra/NACD/> (last visited December 22, 2015).

## **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 (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, Washington, DC 20423, to the attention of Catherine Nadals, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, [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. 323X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Catherine Nadals, the environmental contact for this case, by phone at (202) 245-0293, fax at (202) 245-0454, or e-mail at [nadalsc@stb.dot.gov](mailto:nadalsc@stb.dot.gov).

Date made available to the public: December 31, 2015.

**Comment due date: February 1, 2016.**

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

Attachment