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SEA

SERVICE DATE – AUGUST 17, 2007

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB Docket No. AB-33 (Sub-No. 250X)**

**Union Pacific Railroad Company – Abandonment Exemption –  
in Cass County, NE**

**BACKGROUND**

In this proceeding, the Union Pacific Railroad Company (UP), filed a petition 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 Cass County, NE. The rail line (Line) proposed for abandonment and discontinuance of service is known as the Weeping Water Industrial Lead and extends from milepost 461.74 to milepost 463.72, a distance of 1.98 miles near Weeping Water, Cass County, NE. UP states that the Line traverses U.S. Postal Service Zip Code 68463 and that the right-of-way is generally 100 feet wide. The topography of the Line is level with adjacent ground, and is in a predominately agricultural area. A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the petition 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**

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

The proposed abandonment and discontinuance would permit UP to eliminate two miles of operations and maintenance and avoidance of a major upgrade at the Nebraska Route 50 at-grade crossing. The at-grade crossing upgrade would be required because of a widening of Nebraska Route 50.

There is currently only one shipper on the Line, Jerico Services, Inc (Jerico). According to UP, Jerico produces Magnesium Chloride Brine. In 2005 Jerico shipped 16 carloads of Magnesium Chloride Brine, while in 2006 it shipped and 22 carloads. According to UP, Jerico's

corporate officers have agreed to relocate their facility to a site immediately east of the proposed abandonment that will have continued rail service provided by UP. On July 31, via telephone, SEA confirmed this statement with Mr. Lowell Grunwartz, one of Jerico corporate officers. Therefore, SEA believes that there will be no rail to truck diversions and no adverse effect on the Jerico.

UP states that there is no reasonable alternative to the proposed abandonment and discontinuance. The Line serves the sole function of accessing the lone industry track of Jerico. There is no other current rail customer on the Line and no location of a new rail served industry along the Line is anticipated. Additionally, there is also no overhead traffic.

UP states that if the abandonment and discontinuance is approved, it intends to salvage the right-of-way including the single bridge. Salvage will likely entail removal of the rail, other track material, and ties from the right-of-way. Salvage operations are normally conducted entirely within the right-of-way by use of rail mounted equipment that removes the spikes and plates that hold the rails to the ties. After the rail, ties and other track material are removed, a vehicle equipped with magnets is generally used to travel over the right-of-way to remove any remaining spikes or plates inadvertently left behind. At that time, any ties or parts of ties left behind would be removed. The ballast and sub-ballast would remain undisturbed.

UP states that the right-of-way proposed for abandonment is non-reversionary and furthermore, it does not believe that the right-of-way is suitable for other public purposes, including road or highways, other forms of mass transit, conservation energy production or transmission, in that the area is adequately served by existing roads and utilities. To date, there has been no expressed interest in its use as a rails-to-trails corridor. Additionally, UP states that the Line does not contain any federally granted right-of-way.

In a letter dated January 27, 2007, Mr. Steve Anschutz, Nebraska Field Supervisor, U.S. Fish and Wildlife Service, Nebraska Field Office (FWS), states the following: 1) that it is unlikely that any federally listed species would occur in the vicinity, 2) it is unlikely that either the bald or golden eagle would be affected, and 3) that it does not appear to impact any of the seven wildlife areas managed under the National Wildlife Refuge System.

In a letter dated January 25, 2007, Mr. Larry Janis, Chief, Environmental, Economics, and Cultural Resources Section Planning Branch, U.S. Army Corps of Engineers, Omaha District (Corps), states there are no recognized levees in the area. However, the Corps go on to state that UP should ensure that the proposed project is in compliance with flood plain management criteria of Cass County and the State of Nebraska. Lastly, the Corps state that if any activities involve any work in the waters of the United States, that a Section 404 permit may be required.

Because UP states that it intends to salvage the single bridge, SEA will recommend that the Board impose a condition requiring UP to consult with the Corps, Omaha District prior to initiating any salvage activities.

In an e-mail dated March 6, 2007, Mr. Simon Monroe, National Geodetic Survey (NGS), stated that there are no identified geodetic station markers located in the project area.

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.

## **HISTORIC REVIEW**

In its Historic Report, UP states that the Line was constructed by the Missouri Pacific Railway (MPR) during the 1880's. The MPR was one of the first railroads in the U.S. west of the Mississippi River. By the 1980's, MPR was a Class I railroad that had grown from dozens of mergers to a system of over 11,469 miles of rail stretching over 11 states bounded by Chicago, IL, to the east, Pueblo, CO, in the west, Omaha, NE, to the north and Laredo, TX, to the south. On December 22, 1982, the MPR merged with UP.

UP states that there is a single bridge on the Line that is 50 years old or older. UP believes that the bridge constructed in 1941 is of common design and construction and is therefore not likely to be of historical significance. Furthermore, UP states that it does not believe that there are any known archeological resources located within the right-of-way that were not disturbed during construction of the Line.

UP served the historic report on the Nebraska State Historical Society, State Historic Preservation Officer (SHPO), pursuant to 49 CFR 1105.8(c).<sup>1</sup> Based on available information, the SHPO has submitted comments on August 9, 2007, via telephone, stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected within the Area of Potential Effect (APE), the right-of-way of the proposed abandonment. However, in a letter dated January 19, 2007, the SHPO states that there are two listed archaeological sites in the area of the proposed abandonment and recommends that if ground disturbance activities will take place that the area first be surveyed by qualified personnel to determine the potential affect to the two sites.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 CFR 800.4(d)(1), and following consultation with the SHPO, UP, and the public, we have

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<sup>1</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 CFR 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 web site at <http://www.stb.dot.gov>.

We have reviewed the report and the information provided by the SHPO and concur with the SHPO that if ground disturbance activities were to take place in the area of the two listed archaeological sites, then UP should hire a qualified person to determine the potential affect of the abandonment activities on the sites. However, because UP has stated that they will not undertake any ground disturbance activities, SEA believes that a Section 106 Condition is not warranted.

Pursuant to 36 CFR 800.2, SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd> to identify Federally recognized tribes, which may have ancestral connections to the project area. The database indicated that the following eight tribes may have an interest in the proposed abandonment: 1) Iowa Tribe of Kansas and Nebraska, 2) Iowa Tribe of Oklahoma, 3) Omaha Tribe of Nebraska, 4) Otoe-Missouria Tribe of Indians, 5) Sac & Fox Nation of Missouri in Kansas and Nebraska, 6) Sac & Fox nation, Oklahoma, 7) Sac & Fox Tribe of the Mississippi of Iowa, and 8) Santee Sioux Nation, Nebraska. Accordingly, SEA is sending a copy of this EA to each of the eight identified tribes for review and comment.

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: USEPA Region 7 (Mr. Joe Cothorn, NEPA Team Leader -913.551.7148); National Park Service, Midwest Regional Office; U.S. Army Corps of Engineers, Omaha District; Natural Resources Conservation Service; Nebraska Department of Environmental Quality, Water Quality Division and the Cass County Commissioners.

## **CONDITIONS**

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

- 1. The Union Pacific Railroad Company (UP), shall consult with the Army Corps of Engineers, Omaha District (Corps) prior to commencement of any salvage activities regarding its requirements and, if applicable, shall comply with the reasonable requirements of the Corps.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended condition is 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.

UP states that the right-of-way proposed for abandonment is non-reversionary and furthermore, it does not believe that the right-of-way is suitable for other public purposes, including road or highways, other forms of mass transit, conservation energy production or transmission, in that the area is adequately served by existing roads and utilities.

### **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) 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 Environmental Assessment, send an **original and two 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 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. 250X 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.

Date made available to the public: August 17, 2007.

**Comment due date: September 17, 2007.**

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

Vernon A. Williams  
Secretary

Attachment