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SEA

**SERVICE DATE – JULY 3, 2006**

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-33 (Sub-No. 242X)**

**Union Pacific Railroad Company – Abandonment Exemption – in Montgomery County, KS**

**STB DOCKET NO. AB-471 (Sub-No. 7X)**

**South Kansas and Oklahoma Railroad, Inc. – Discontinuance of Service Exemption – in  
Montgomery County, KS**

## **BACKGROUND**

In this proceeding, Union Pacific Railroad Company (UP) and South Kansas and Oklahoma Railroad, Inc. (SKOL), (collectively, applicants) jointly filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for UP to abandon and SKOL to discontinue service over a rail line located between (1) milepost 166.0 at the west bank of the Verdigris River and milepost 166.6 at the west edge of Sunflower Road; and (2) that portion of UP's railroad easement between milepost 166.6 at the west edge of Sunflower Road and milepost 166.8 at the west edge of Linden Street, a total distance of approximately 0.8 miles near Coffeyville, Montgomery County, Kansas. The right-of-way and track materials are owned by Coffeyville Resources Refining and Marketing, LLC (the Refinery Company) within its refinery property boundaries between mileposts 166.6 and 166.8, and by UP between mileposts 166.0 and 166.6. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, UP will be able to salvage track, ties, and other railroad appurtenances and dispose of the right-of-way.

## **DESCRIPTION OF THE LINE**

According to the applicants, the line proposed for abandonment was originally part of a main line of the Missouri-Kansas-Texas Railroad Company (M-K-T) between Fort Scott, Kansas and Oklahoma City, Oklahoma. M-K-T became part of the UP system in 1988. UP leased the line to Southeast Kansas Railway Company (SEKR) in 1990. SKOL succeeded SEKR by merger as lessee of the line in 2000.

Based on information in the applicants' possession, the line proposed for abandonment does not contain Federally granted right-of-way. The right-of-way is generally 100 feet in width. The line begins at the west edge of Linden Street within the property boundaries of the Refinery Company. The line exits from the refinery at Sunflower Road. The line dead-ends at the west bank of the Verdigris River. The topography of the surrounding area is generally flat.

The western portion of the line is characterized industrial use (refinery). The eastern portion of the line is open land to the Verdigris River. The at-grade crossings at Sunflower Road and Linden Street would be eliminated following the line abandonment. The applicants indicate that there is one short, wooden bridge on the line at milepost 166.5, which was constructed in 1943.

UP has a railroad easement on the portion of the line which is located within the property boundaries of the Refinery Company. The Refinery Company owns the right-of-way land and track materials on that portion of the line. The track materials on the line will be removed and salvaged by the Refinery Company and by UP in their respective portions of the line. The Refinery Company will retain the right-of-way land within its property boundaries for non-rail use. UP will dispose of the right-of-way land outside the refinery property boundaries for non-rail use.

The applicants state that no local traffic has moved over the line for at least two years and there is no overhead traffic on the line to be rerouted. Thus, no rail traffic will be diverted to truck traffic as a result of the proposed abandonment. Therefore, the Board's thresholds for conducting more detailed air quality and noise analysis (an increase of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment) will not be exceeded.

## **ENVIRONMENTAL REVIEW**

The applicants submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicants served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board's) 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 Kansas Department of Agriculture, Division of Water Resources, has indicated that, based on the information provided, it does not appear that any authorization would be required for the proposed abandonment from the Chief Engineer of the Division of Water Resources under either the Kansas Water Appropriation Act, K.S.A. 82a-701 et seq., or the Obstruction in Streams Act, K.S.A. 82a-301 to 305a.

The Kansas Department of Health and Environment (KDHE), Bureau of Waste Management, has expressed concerns about the disposal of track materials that cannot be salvaged and remediation that may be necessary following the removal of track material. KDHE has indicated that environmental investigation within the Refinery Company property is being

addressed through an ongoing RCRA Facility Investigation being performed as part of the facility's Corrective Action requirements with the U.S. EPA, but is concerned that there is no such activity outside the facility's boundaries. Accordingly, we will recommend a condition requiring that UP contact KDHE prior to beginning salvage to address KDHE's concerns.

The Kansas Department of Health and Environment, Bureau of Water, has no objection to the proposed abandonment, but indicates that if the salvage work or post salvage work at the site would involve excavation or grading activities that result in disturbance of one acre or more, a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of stormwater runoff associated with construction activities would be required. UP has indicated that no excavation or grading would be involved in salvage or post-salvage activities.

The United States Department of the Army, Corps of Engineers, Kansas City District (Corps), has indicated that, based on the information provided, the proposed activity does not appear to involve the discharge of dredged or fill material into waters of the United States. Therefore, Corps permit authorization is not required for the project under Section 404 of the Clean Water Act.

The United States Department of the Interior, Fish and Wildlife Service (USFWS) in Manhattan, Kansas, has indicated that, based on review of the proposed action and the land uses on site, no threatened and endangered species are likely to be present in the project area. USFWS has indicated that, under the Migratory Bird Treaty Act (MBTA), construction activities in prairies, wetlands, stream and woodland habitats that would otherwise result in the taking of migratory birds, eggs, young, and/or active nests should be avoided. Although the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Kansas occurs during the period of April 1 to July 15, although some migratory birds are known to nest outside this period. If the proposed construction project may result in the take of nesting migratory birds, the USFWS recommends a field survey during the nesting season of the affected habitats and structures to determine the presence of active nests. Accordingly, we will recommend a condition requiring that UP contact USFWS prior to beginning salvage regarding the provisions of MBTA.

## **HISTORIC REVIEW**

The applicants submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Kansas State Historical Society (State Historic Preservation Office or SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would have no adverse effect on historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 CFR 800.5(c) and 36 CFR 800.8, we have determined that the proposed abandonment will not adversely 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(e), 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.

SEA conducted a search of the Native American Consultation Database at [www.cast.uark.edu/other/nps/nacd/](http://www.cast.uark.edu/other/nps/nacd/) to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the Osage Tribe of Oklahoma may have an interest in the proposed abandonment. Accordingly, SEA is sending a copy of this EA to this tribe for their review and comment.

### **CONDITIONS**

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

1. Union Pacific (UP) shall consult with the United States Department of the Interior, Fish and Wildlife Service (USFWS) prior to commencement of any salvage activities to discuss USFWS's concerns about the Migratory Bird Treaty Act. UP shall report the results of this consultation in writing to the Board's Section of Environmental Analysis prior to beginning salvage activities.
2. Union Pacific (UP) shall consult with the Kansas Department of Health and Environment (KDHE), Bureau of Waste Management (Mr. Bob Medina, Environmental Scientist at 785-296-6617) prior to beginning salvage activities regarding KDHE's concerns about the disposal of track materials that cannot be salvaged and remediation following the removal of track materials. UP shall report the results of this consultation to the Board's Section of Environmental Analysis in writing.

### **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 class 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) 565-1592, 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 Kenneth Blodgett, the environmental contact for this case. 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. 242X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Kenneth Blodgett by phone at (202) 565-1554, fax at (202) 565-9000, or e-mail at [blodgettk@stb.dot.gov](mailto:blodgettk@stb.dot.gov).

Date made available to the public: July 3, 2006.

**Comment due date: July 18, 2006.**

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

Vernon A. Williams  
Secretary

Attachment