

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-33 (Sub-No. 260X)**

**Union Pacific Railroad Company – Abandonment Exemption –  
In Douglas and Sarpy Counties, NE**

**BACKGROUND**

In this proceeding, Union Pacific Railroad Company (UP) filed a petition under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10903 for UP to abandon an approximately 3.45-mile line of railroad in Douglas and Sarpy Counties, Nebraska. The rail line extends between milepost 22.85 in Omaha and milepost 19.4 in La Vista. A map depicting the rail line in relationship to the area served is appended to the Environmental Assessment (EA). If the petition is granted, UP would be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

**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)].<sup>1</sup> The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

***Diversion of Traffic***

According to UP, the portion of the line between milepost 22.0 and milepost 19.4 is in an advanced stage of deterioration and has not had any traffic since 1994. Two customers, Millard Lumber, Inc. and Safety-Kleen Systems, Inc., have moved traffic over the portion of the line between milepost 22.85 and 22.0 within the past two years. However, no traffic currently moves over the line. Millard Lumber has moved into a different facility in Omaha that is located on a different UP rail line. Safety-Kleen had been moving traffic via Millard Lumber's facilities, but

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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. 260X).

its agreement to utilize that facility terminated in February 2008. According to UP, Safety-Kleen is seeking the acquisition of a different transloading location in the Omaha area. Thus, no rail traffic would be diverted to truck traffic as a result of the proposed abandonment.

### *Salvage Activities*

The line passes through agricultural, residential and industrial areas in Omaha and La Vista. In addition, the right-of-way is generally level and is 100 feet wide. UP does not believe that the line is suitable for public use, because the area is adequately served by numerous streets, highways, and public utilities. However, UP believes that the line may be suitable for recreational trails use.<sup>2</sup>

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the 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 identified ten geodetic station markers that may be affected by the proposed abandonment and has requested notification at least 90 days in advance of any activities that would disturb or destroy these markers in order to plan for their relocation. Accordingly, we recommend that UP consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

The U.S. Army Corps of Engineers' Omaha District (Corps) submitted comments stating that there are no concerns regarding floodplains. The Corps further stated, however, that if salvage activities would involve any work in waters of the United States, a Section 404 permit may be required. In a May 28, 2008 phone call with SEA, a representative for UP indicated that some of the bridges on the line may be removed as part of the proposed abandonment. Accordingly, prior to commencement of any salvage activities, we recommend that UP consult with the Corps regarding its requirements and, if applicable, comply with the reasonable requirements of the Corps.

The Nebraska Department of Environmental Quality reviewed the proposed abandonment and had no comments regarding the project.

At the time of this EA, the Natural Resource Conservation Service (NRCS) had not submitted any comments. Because the line passes through some agricultural areas, SEA has included the NRCS on the service list for this proceeding to ensure that they receive a copy of this EA.

At the time of this EA, the U.S. Environmental Protection Agency (USEPA) had not submitted comments. SEA has included the USEPA on the service list for this proceeding to ensure that they receive a copy of this EA.

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<sup>2</sup> UP notes that the line contains some reversionary property.

The U.S. Fish and Wildlife Service's Nebraska Field Office (USFWS) submitted comments stating that, based on the description and location of the project, the proposed abandonment will not adversely affect Federally-listed threatened or endangered species or their designated critical habitat. In addition, the proposed abandonment is not likely to affect either the bald eagle or the golden eagle.

USFWS has indicated that, under the Migratory Bird Treaty Act (MBTA), certain activities in or around grasslands, wetlands, streams, woodland habitats, and bridges that would otherwise result in the taking of migratory birds, eggs, young, or active nests should be avoided. Although the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. If the proposed project may occur during the primary nesting season or at any other time which could 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 nesting migratory birds. Accordingly, we recommend a condition requiring that UP consult with USFWS in order to ensure that removal and salvage activities are conducted in a manner that avoids or minimizes impacts to migratory birds.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, SEA is providing a copy of this EA to the following groups and agencies for review and comment: NRCS; USEPA; and USFWS.

### ***Additional Comments***

The Nebraska Trails Foundation, Inc., has expressed an interest in converting the rail line into a trail and filed a Petition for Interim Trail Use on May 12, 2008. SEA notes that the National Trails System Act (Trails Act), 16 U.S.C. 1247(d), gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad right-of-way that otherwise would be abandoned.<sup>3</sup> The Trails Act is intended to preserve railroad rights-of-way for future railroad use. Under the Trails Act and the Board's implementing procedures (49 CFR 1152.29), a state or local government or private organization can request a trail condition. This process allows railroad rights-of-way to be preserved by allowing interim trail use on lines that otherwise would be abandoned.

### **HISTORIC REVIEW**

The railroad has submitted an Historic Report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Nebraska State Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). According to the

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<sup>3</sup> The Board does not conduct an environmental review of a potential conversion to interim rail use/railbanking because it does not exercise sufficient Federal control so as to qualify as a major Federal action under NEPA. Only major actions by Federal agencies require environmental review.

railroad, the line was originally constructed in 1866, and there are four bridges on the line that are 50 years old or older. Based on available information, the SHPO believes that the proposed abandonment would not adversely affect any National Register historic properties located within the right-of-way (the Area of Potential Effect or APE) of the proposed abandonment.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 CFR 800.5(b), and following consultation with the SHPO and the public, we have 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 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 through posting on the Board's website at <http://www.stb.dot.gov>.

SEA also 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 indicated that the following Federally recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: Arapaho Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; and Yankton Sioux Tribe of South Dakota. Accordingly, SEA is sending a copy of this EA to those tribes for review and comment.

## **CONDITIONS**

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

1. Union Pacific Railroad Company shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
2. Prior to commencement of any salvage activities, Union Pacific Railroad Company shall consult with the U.S. Army Corps of Engineers' Omaha District (Corps) regarding its requirements and, if applicable, shall comply with the reasonable requirements of the Corps.
3. Prior to commencement of any salvage activities, Union Pacific Railroad Company shall consult with the U.S. Fish and Wildlife Service's Nebraska Field Office in order to ensure that removal and salvage activities are conducted in a manner that avoids or minimizes impacts to migratory birds.

## 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 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 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 EA, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean who prepared this EA. 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. 260X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Christa Dean the environmental contact for this case, by phone at (202) 245-0299, fax at (202) 245-0454, or e-mail at [christa.dean@stb.dot.gov](mailto:christa.dean@stb.dot.gov).

Date made available to the public: June 6, 2008.

**Comment due date: July 7, 2008.**

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

Anne K. Quinlan  
Acting Secretary

Attachment