

SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB Docket No. AB-33 (Sub-No. 237X)**

**Union Pacific Railroad Company and Salt Lake City Corporation – Abandonment  
Exemption – in Salt Lake City, UT**

**BACKGROUND**

In this proceeding, Union Pacific Railroad Company (UP) and Salt Lake City Corporation (City) have filed a joint petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 in connection with the conditional abandonment of UP's 900 South Line (line) in Salt Lake City, UT. The abandonment is to be conditioned on substantial completion of improvements to an alternate UP route via Grant Tower, which runs a short distance north of the line (the Grant Tower Project).<sup>1</sup> The proposed exemption covers 2.22 miles of line from milepost 780.1 west of Redwood Road, to milepost 782.32 near 4<sup>th</sup> West Street in Salt Lake City, UT.

The abandonment exemption and the requested condition are contained in an agreement between UP and the City to resolve outstanding issues and appellate litigation generated from the Surface Transportation Board's (Board) decision in Docket No. AB-33 (Sub-No. 183) Salt Lake City Corporation – Adverse Abandonment decision filed April 11, 2002 in Case No. 2:01-CV-655ST, Salt Lake City Corporation v. Union Pacific Railroad Company.<sup>2</sup> The 900 South Line was constructed between 1905 and 1906 as part of a main line between UP's Salt Lake City passenger terminal and the western United States. The use of the line diminished as passenger service declined, and many industries located on the rail line either closed or converted to truck transportation. In 1999, UP suspended service over the portion of the line east of Redwood Road, at milepost 780.79, to facilitate the Salt Lake City Gateway Area Redevelopment Project and related highway improvements. However, in 2001, UP decided to reactivate the line as a freight bypass for through train traffic, to relieve pressure on its existing routings via Grant Tower.

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<sup>1</sup> The Grant Tower Project is not part of the abandonment proposal. It consists of improvements to existing UP lines, which according to said Railroad, do not require approval from the Surface Transportation Board (Board).

<sup>2</sup> A petition for review of the Board's decision and an appeal of the District Court decision are presently pending before the U.S. Court of Appeals for the 10<sup>th</sup> Circuit. Both cases have been held in abeyance pending settlement negotiations between UP and the City, although the Court has indicated it is not willing to continue doing so indefinitely.

The City opposed the reactivation, citing that a Franchise Agreement dated March 20, 1989, obligated UP to remove its track to prevent potential conflicts with the City's plans for the area. The Franchise Agreement covers 50 street crossings on all UP lines in Salt Lake City, including three crossings on the line. Among other things, the City argued that reactivating the line would allow trains to run through a minority community and cross a major thoroughfare, posing safety risks and environmental justice violations.<sup>3</sup> The City exercised what it believed to be its right to terminate UP's use of the line and directed UP to remove its tracks at street crossings on the line. In response, UP filed with the Board a Declaratory Order. In the Declaratory Order, UP stated that the City's attempt to void its rights under the Franchise Agreement to use street crossings, and to direct the removal of UP's tracks at these crossings, if carried out, would sever the line of railroad, or prevent its reactivation, without first obtaining abandonment authority from the Board. UP argued that the Board has exclusive jurisdiction over the line until abandonment is authorized and exercised and that enforcement of the Franchise Agreement by the City requiring removal of the track on the line was preempted under the broad scope of 49 U.S.C. 10501 (b).<sup>4</sup>

On November 13, 2001, the City filed the adverse abandonment application requesting that the Board authorize abandonment of a portion of the South Line extending from milepost 781.0 to milepost 782.32, a distance of 1.32 miles.<sup>5</sup> On December 28, 2001, UP filed a protest. On the same day, UP also filed a motion for a protective order that the discovery not be had, pursuant to 49 CFR 1114.21 (c)(1). Also, on December 28, 2001, the City filed a petition to hold the adverse abandonment in abeyance, pending the outcome of court proceedings instituted by the City. The City was unsuccessful in preventing reactivation, and the line was reopened in December 2001. According to UP, the line is currently in use for overhead traffic only and operates about 10-12 trains per day.

In 2002, UP and the City began negotiations to address the line and its impact on the communities through which it traverses. The negotiations resulted in two agreements. The first agreement established "Quiet Zones" in accordance with the Federal Railroad Administration's final rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings. The second agreement (2004 Agreement), signed on April 7, 2004, allows for the reconfiguration of UP's

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<sup>3</sup> Executive Order (EO) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, (59 FR 7629, February 11, 1994) directs Federal agencies to "promote nondiscrimination in Federal programs substantially affecting human health and the environment and provide minority and low-income communities access to public information on, and an opportunity for public participation in, matters relating to human health and the environment".

<sup>4</sup> In the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995), Congress broadened the express preemption provision at 49 U.S.C. 10501(b), so that the jurisdiction of the Board over transportation by rail carriers and the remedies are exclusive.

<sup>5</sup> Several parties in this proceeding filed information in support of the adverse abandonment application alleging issues of "environmental racism" in an environmental justice community. The Board, as an independent regulatory agency, is not decisionally part of the executive branch of the Federal government, and is not legally bound by EOs. Nevertheless, the Board's Section of Environmental Analysis (SEA) assessed the potential impacts of the proposed abandonment to determine if it could result in disproportionately high or adverse impacts on minority or low-income communities. Based on available information, SEA determined that the proposed abandonment did not warrant an Environmental Justice analysis because abandonment (defined as discontinuance of service over a dormant line and authority to dismantle the tracks) would not adversely affect the community. Rather, SEA believed that abandonment of that particular segment could have a beneficial impact in areas of noise and safety by removing the rail line from the community.

main line tracks at Grant Tower. The 2004 Agreement also provides for related track and signal changes at other nearby locations of the Grant Tower Project. The 2004 Agreement and Grant Tower Project are most directly relevant to this proceeding. Pending approval of the subject abandonment, the traffic currently moving over the 900 South Line would be rerouted through Grant Tower where capacity on UP lines is projected to increase. To date, the City and UP agree on preliminary design and cost estimates of the Grant Tower Project; however, funding has not yet been secured. UP and the City have indicated that funding will be secured in the near future, and that the project will go forward. UP and the City are requesting that the Board issue an exemption permitting the abandonment of the 900 South Line conditioned on substantial completion of the Grant Tower Project. Should the abandonment be approved, all overhead traffic from UP; Burlington Northern and Santa Fe Railway Company; Utah Railway; Salt Lake, Garfield and Western; and Salt Lake City Southern would be diverted to the Grant Tower Project.

### **DESCRIPTION OF THE LINE**

UP states that the right-of-way varies in width from 50 to 125 feet and the terrain is generally level. According to the railroad, the original track is no longer in place and the current structure contains 136-pound continuous welded rail from 2002. UP indicates that there are two bridges, both over 50 years of age, within the location of the subject abandonment. The bridges are identified as Bridge Number 780.94, a 15-foot beam open-deck structure constructed in 1928, and Bridge Number 781.81, a 75-foot timber pile trestle open deck structure constructed in 1931. UP has not indicated whether the line traverses any water resources such as streams, 100-year floodplain, or wetlands; however, the map provided by the railroad shows a stream at Bridge Number 781.81. Any disturbance thereof would require prior consultation with the appropriate Federal and State agencies. Land uses range from residential to light industrial and commercial. UP believes that the property east of Redwood Road may be suitable for public use, including conversion to interim trail use or as a conservation area.

The line traverses U.S. Postal Service Zip Codes 84101 and 84104, and does not include any stations. A majority of the properties along the line are non-reversionary, and there are no Federally-granted rights-of-way. If the exemption becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances, and dispose of the right-of-way. A map depicting the rail line in relationship to the area served is appended to the Environmental Assessment (EA).

### **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. The railroad has served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules at 49 CFR 1105.7(b). We have investigated and reviewed the record in this proceeding.

UP indicates that the line has no local industry business and that overhead traffic consisting of 10 to 12 trains per day will be rerouted to the Grant Tower Project upon its substantial completion. UP states that this rerouting will occur regardless of whether the

abandonment is approved. There should be no effect on traffic patterns and no increase in truck traffic on area roads. Accordingly, the proposed abandonment should 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.

The proposed abandonment is consistent with the City's land use plans for redevelopment. In the March 2002 Board decision on the adverse abandonment, the City and commenters argued that reactivating train service on the line would have a harmful effect on the quality of life in the surrounding community. Community residents also raised concerns about increases in noise and vibration from trains passing by houses and schools and possible decreases in property values. They contended that reactivation of train service would negatively impact the environment, including neighborhood parks and trails, and increase the risk of hazardous materials incidents. Further, they argued that reactivation of rail service would increase traffic delays and emergency response time at grade crossings. As such, the proposed abandonment and subsequent rerouting of train traffic to Grant Tower would likely relieve traffic congestion, reduce noise, vibration, traffic delays, and the risk of hazardous materials incidents within the surrounding community. Any short-term increases in noise associated with salvaging activities would not be significant.

The abandonment is located in an urban area, therefore, it is unlikely that there would be adverse impacts on prime agricultural farmland, threatened and endangered species, wildlife sanctuaries, refuges, or National or State parks or forests. In addition, the proposed abandonment is not within any State coastal zone management areas, therefore Coastal Zone Consistency in accordance with 49 CFR 1105.9 is not required.

The US Environmental Protection Agency (USEPA) and the Utah Department of Environmental Quality (UDEQ) have not commented on whether salvage activities, such as the removal of ties and track for trail construction, or repair or replacement of track materials for reactivation of rail service, from the proposed abandonment will trigger the permit requirements of Section 402, National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act for stormwater discharges. However, one segment of the line crosses a major tributary of the Jordan River and may be impacted during salvage activities. Therefore, SEA recommends that a condition be imposed requiring UP and the City to consult with USEPA and UDEQ prior to commencement of salvage activities.

The U.S. Army Corps of Engineers (Corps) has not provided comments on whether the proposed abandonment will require a permit under Section 404 of the Clean Water Act. However, one segment of the line crosses a tributary of the Jordan River and may be impacted during salvage activities. SEA will therefore recommend a condition requiring UP and the City to consult with the USACE prior to commencement of salvage activities.

## **HISTORIC REVIEW**

UP submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)]. UP served the report on the Utah Department of Community and Culture (SHPO) pursuant to 49 CFR 1105.8(c). The SHPO submitted comments to UP stating that the two bridges (constructed in 1928 and 1931) located along the line are eligible for inclusion in the National Register of Historic Places (National Register). The SHPO indicates that no determination of eligibility has been made at this time. However, in verbal discussion with SEA, the SHPO pointed out that a determination of eligibility and effect will need to be made prior to commencement of salvage operations. Accordingly, UP and the City shall retain said interests in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are eligible for listing or listed in the National register of Historic Places until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470(f).

SEA conducted a search of the National Park Service's Native American Consultation Database regarding tribes that may have an interest in the project. SEA is required to consult with tribes pursuant to 36 CFR 800.3(f)(2) to seek their input regarding National Register eligible properties of traditional religious and cultural significance that may be affected by the proposed abandonment. The database provides the information on Federally recognized tribes that may have ancestral connections to the project area and may therefore have an interest in the project's potential impacts in any areas of tribal interest. The tribe includes the Ute Indian Tribe. SEA has added the tribe to the service list for this proceeding to ensure that it receives a copy of this EA for comment.

## **CONDITIONS**

We recommend that the following environmental conditions be placed on any decision granting abandonment authority:

1. To ensure appropriate consideration of the National Pollutant Discharge Elimination System (NPDES) requirements, the Union Pacific Railroad Company (UP) and the Salt Lake Corporation (City) shall consult with the US Environmental Protection Agency and the Utah Department of Environmental Quality prior to commencement of any salvage activities and shall comply with the reasonable NPDES requirements.
2. Prior to commencement of any salvage activities, UP and the City shall consult with the US Army Corps of Engineers (Corps) regarding its requirements for salvage activities in and around major water bodies and, if applicable, shall comply with the reasonable requirements of the Corps.
3. UP and the City shall retain their interest in and take no further steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470(f), has been completed. UP and the City shall report back to the Section of Environmental Analysis regarding any consultations with the Utah Department of Community and Culture and any other Section 106 consulting parties. UP and the City may not file their consummation notice or initiate any salvage activities related to abandonment until the Section 106 process has been completed and the Surface Transportation 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), and discontinuance of service on the existing line without abandonment. 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 the time specified in the Federal Register notice. 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 responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services 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 Diana Wood, 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. 237X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 565-1552, fax at (202) 565-9000, or e-mail at [woodd@stb.dot.gov](mailto:woodd@stb.dot.gov).

Date made available to the public: April 14, 2006.

**Comment due date: May 15, 2006 (30 days).**

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

Vernon A. Williams  
Secretary

Attachment