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OEA

SERVICE DATE – JULY 7, 2011

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 1074X**

**Lassen Valley Railway, LLC - Abandonment Exemption -  
in Washoe County, Nev. and Lassen County, Cal.**

**BACKGROUND**

On April 20, 2011, Lassen County Railway, LLC (LVR) filed a petition under 49 U.S.C § 10502 seeking exemption from the provisions of 49 U.S.C. § 10903 to abandon a 21.77 mile line of railroad located between milepost 338.33 near Flanigan, Washoe County, NV, and milepost 360.10 near Wendel,<sup>1</sup> Lassen County, CA (Line). A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

The Line was a portion of a larger rail line abandonment in filed by Union Pacific Railroad in 2006. In 2007, the Surface Transportation Board approved the UP abandonment. See Union Pacific Railroad—Abandonment Exemption—in Lassen County, Cal., and Washoe County, Nev., AB 33 (Sub-No. 230X) (STB served Jan. 26, 2007). The abandonment was to become effective on February 25, 2007, but three timely notices of intent to file Offers of Financial Assistance (OFA) to purchase the UP line were filed. Various legal proceedings involving one of the OFAs ensued, which were dismissed by the Board in a decision issued on January 27, 2009.

LVR states that UP did not consummate its abandonment of the line and LVR acquired the entire line approved for abandonment two years later. See Lassen Valley Railway—Acquisition & Operation Exemption—Union Pacific Railroad, STB Finance Docket 35306 (STB served Dec. 3, 2009).

Later in 2009, the Lassen County Board of Supervisors (County) sought to preserve the Line as an active line to enhance the County's economic development and asked UP to defer abandonment. UP agreed but gave the County until August 17, 2009, to find another entity to acquire the Line. On August 10, 2009, LVR advised the County and two potential shippers located approximately two miles from the Line (HL Power Company and Vincent P. Estell), that it would agree to purchase the Line from UP and operate it for at least one year. The year ended on December 17, 2010, during which time neither potential shipper had installed any connecting

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<sup>1</sup> By letter filed May 4, 2011, LVR corrected the milepost near Wendel at the end of the line from 359.25 to 360.10. The letter also added a corrected zip code (96136).

track or tendered or received any rail traffic for handling by LVR. There are no other shippers on the Line. As stated above, no revenue rail freight has moved over the Line since 2004.

### **DESCRIPTION OF THE RAIL LINE**

The Line is located in high desert area of northeastern California and northwestern Nevada. The Line begins in Wendel, CA, and passes through the communities of Herlong, CA, Empire, NV, before ending just west of Flanigan, NV. Each of these communities is small with populations of less than 1,000. The area adjacent to the Line is considered rural high desert with little development. At Herlong, CA, the Line passes just north of the Sierra Army Depot and Honey Lake.

The Sierra Army Depot is a munitions disposal site for the United States Army. It consists of approximately 33,000 acres, including the Amedee Airfield. The facility is also licensed by the Nuclear Regulatory Commission to receive, store, issue, renovate, and demilitarize deplete uranium rounds.

Honey Lake is a desert lake that can spread to cover approximately 47,000 acres during the cool season while entirely drying up during the summer. Some of the animals that can be seen at Honey Lake include hundreds of migratory and nesting waterfowl, birds of prey, sandhill cranes, beavers, pronghorn antelope, and deer.

The width of the right-of-way is generally 150 feet wide with some portions being 300 feet wide and includes 5 bridges that are 50 years old or older. If approved, LVR would not salvage any of the bridges. LVR has been advised that segment of the Line may contain federally granted rights-of-way. According to LVR, the Line traverses United States Postal Service Zip Codes 89405, 96113, 96130, and 96136.

As noted above, if the Board should approve this proposed abandonment, LVR seeks to abandon the Line so that it can conduct salvage operations and sell the track, ties, and other track materials.

### **ENVIRONMENTAL REVIEW**

LVR submitted an Environmental Report that concludes that 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. LVR served the Environmental Report on a number of appropriate federal, state, and local agencies as required

by the Board's environmental rules (49 C.F.R. § 1105.7(b)).<sup>2</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

According to LVR, no rail traffic has moved over the Line in more than a year since it was acquired from UP in 2009. LVR also notes, as stated earlier, that under UP's ownership, that no revenue generating rail traffic moved of the Line since 2004.

According to LVR, the proposed abandonment would effect on regional or local transportation systems. In addition, there would be no diversion of traffic to other transportation systems or modes.

### ***Salvage Activities***

As stated above, if the Board should approve the proposed abandonment, LVR intends to salvage the Line but would leave the 5 bridges in place. LVR's salvage process would begin with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) would be removed. Next the wooden ties would be raised from among the ballast with a tool designed for minimum disruption of the ground material. The ties would then be separated into three groups as follows: (1) good quality ties that would be re-used in rail service, (2) landscape-quality ties that would be re-sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties would then be loaded into railcars and shipped by the railroad to an EPA-approved disposal site.

LVR notes that once abandoned, the Line could serve a public purpose or be used as a recreational trail.

### ***Comments***

OEA has received a number of comments from state agencies indicating that the proposed abandonment would not result in adverse environmental impacts or indicating that the agency has no comment. The Nevada Department of Administration has no comment on the proposed abandonment. The California Coastal Commission the proposed abandonment would not affect the California coastal zone. The Nevada Natural Resources Conservation Service

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<sup>2</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 1074 (Sub-No. 0X).

(NRCS) has no concerns regarding the proposed abandonment. The California Environmental Protection Agency has no comments or objections on the proposed abandonment.

We have not heard back from the U.S. Fish and Wildlife Service regarding the potential of the abandonment to affect threatened or endangered species or from the U.S. Army Corps of Engineers regarding that agencies' opinion of the proposed abandonment's impact on wetlands, or waterways. LVR opines in its Environmental Report that the proposed abandonment would not affect endangered or threatened animal or plant species or areas designated as critical habitats. LVR also does not believe that the proposed abandonment would affect water quality standards, designated wetlands, or any 100-year flood plains through with the Line passes. According to LVR, there are no known hazardous waste sites or sites where known hazardous material spills have occurred on or along the right-of-way.

The Lassen County Board of Supervisors (County) has submitted a letter respectfully requesting that the Board deny LVR's petition for abandonment. According to the County, LVR has been fair and accurate in its presentation of the facts. Nonetheless, the County believes that the abandonment should be denied because of the possibility that new industry in need of rail service could be developed to use the Line in the foreseeable future.

In an email dated April 6, 2011, the U.S. Department of Commerce, National Geodetic Survey (NGS) states that there are approximately 12 geodetic survey markers located in the area of the proposed abandonment. OEA will recommend that LVR consult with the NGS prior to the commencement of any salvage activities to allow for relocation of any affected survey markers.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts.

## **HISTORIC REVIEW**

In its Historic Report, LVR states that the right-of-way is generally 150 feet wide with some portions being 300 feet wide and includes 5 structures that are 50 years old or older. As a result of the land disturbance during original construction and maintenance of the Line, LVR believes that any archaeological resources that may have been located in the area of the proposed abandonment would have been affected at that time.

The Line was originally constructed as part of the Fernley & Lassen Railway between 1912 -1914 between Fernley, NV and Westwood, CA. The railroad was constructed to connect the Red River Lumber Company's facilities in Westwood with the Southern Pacific's main line at Fernley. Following construction of the Line, it was heavily used by other nearby lumber companies as well as the Fruit Growers Supply Company. However, by 1934 passenger service had been discontinued with local freight rail ending in 1956.

LVR served the Historic Report as required by the Board's environmental rules (49 C.F.R. § 1105.8(a)) and served the report on the California Office of Historic Preservation, Department of Parks and Recreation and the Nevada Department of Cultural Affairs, State Historic Preservation Office (SHPO) pursuant to 49 C.F.R. § 1105.8(c). Based on available information, the CA SHPO, in a letter dated April 26, 2011, concludes that there will be no historic properties affected by the proposed abandonment. However, by letter dated March 23, 2011, the NV SHPO notes that it has not received sufficient historic context which is required to evaluate the resource for National Register eligibility. 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>.

With respect to the portion of the Line located in CA and pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the CA 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. 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, and this EA, which have been provided to the CA SHPO and made available to the public through posting on the Board's Web site at <http://www.stb.dot.gov>.

However, because the NV SHPO requires additional documentation, we are recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties located in Nevada, including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process.

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 ancestral connections to the project area.<sup>3</sup> The database indicated that the following 9 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:

1. Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon
2. Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
3. Pit River Tribe, California

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<sup>3</sup> Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited June 7, 2011).

4. Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
5. Reno-Sparks Indian Colony, Nevada
6. Susanville Indian Rancheria, California
7. Walker River Paiute Tribe of the Walker River Reservation, Nevada
8. Washoe Tribe of Nevada & California
9. Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada

Accordingly, OEA is sending a copy of this EA to the above mentioned 9 tribes for review and comment.

### **CONDITIONS**

We recommend that the following 2 conditions be imposed on any decision granting abandonment authority:

- 1. Lassen Valley Railway, LLC, shall consult with the National Geodetic Survey at least 90 days prior to the beginning of salvage activities that will disturb or destroy any geodetic station markers.**
- 2. Lassen Valley Railway, LLC, shall retain its interest in and take no steps to alter the historic integrity of all historic properties, located in the State of Nevada, including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) 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. § 470f, has been completed. Lassen Valley Railway, LLC, shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Nevada SHPO and the public. Lassen Valley Railway, LLC, may not file its consummation notice or initiate any salvage activities related to abandonment located in the State of Nevada (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.**

### **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, that 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 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.

### **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 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 Environmental Assessment, send original and 2 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 website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 1074X 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](mailto:Troy.Brady@stb.dot.gov).

Date made available to the public: July 7, 2011.

**Comment due date: July 18, 2011.**

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

Attachment