

UNION PACIFIC RAILROAD  
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Chicago, Illinois 60606-1718

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Mack H. Shumate, Jr.  
Senior General Attorney, Law Department

May 23, 2013

**VIA E-FILE**

The Honorable Cynthia T. Brown  
Chief, Section of Administration  
Surface Transportation Board  
395 E. Street, S.W., Room #100  
Washington, DC 20423-0001

234299  
ENTERED  
Office of Proceedings  
May 23, 2013  
Part of  
Public Record

**RE: Proposed Abandonment and Discontinuance of Service of Osawatomie Industrial Lead from M.P. 335.0 to M.P. 335.5 near Osawatomie, a total distance of 0.5 miles in Miami County, Kansas; STB Docket No. AB-33 (Sub-No. 313X)**

Dear Ms. Brown:

Attached for filing in the above-referenced docket is the Combined Environmental and Historic Report prepared pursuant to 49 C.F.R. §1105.7 and §1105.8, with a Certificate of Service, and a transmittal letter pursuant to 49 C.F.R. §1105.11.

Union Pacific anticipates filing a Notice of Exemption to Abandon the Line in this matter on or after June 12, 2013.

Yours very truly,



2013\_05\_23 STB-313X Filing Cover Ltr.doc



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**Docket No. AB-33 (Sub-No. 313X)**

**UNION PACIFIC RAILROAD COMPANY  
-- ABANDONMENT EXEMPTION --  
IN MIAMI COUNTY, KS  
(OSAWATOMIE INDUSTRIAL LEAD)**

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**Combined Environmental and Historic Report**

UNION PACIFIC RAILROAD COMPANY

Mack H. Shumate, Jr.  
Senior General Attorney  
101 North Wacker Drive, #1920  
Chicago, Illinois 60606  
312/777-2055 (Tel.)  
312/777-2065 (Fax)  
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Dated: May 23, 2013  
Filed: May 23, 2013

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**Docket No. AB-33 (Sub-No. 313X)**

**UNION PACIFIC RAILROAD COMPANY  
-- ABANDONMENT EXEMPTION --  
IN MIAMI COUNTY, KS  
(OSAWATOMIE INDUSTRIAL LEAD)**

---

**Combined Environmental and Historic Report**

Union Pacific Railroad Company ("UP") submits this updated Combined Environmental and Historic Report ("EHR") pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, for an exempt abandonment of the Osawatomie Industrial Lead, from Milepost 335.0 to Milepost 335.5 near Osawatomie, a distance of 0.5 miles in Miami County, KS (the "Line"). The Line traverses U.S. Postal Service Zip Code 66064. UP anticipates that it will file a Notice of Exemption to abandon the Line on or after June 12, 2013.

A map of the Line (**Attachment No. 1**), and UP's letter dated December 14, 2012 to federal, state and local government agencies (**Attachment No. 2**), are attached to this EHR. Responses received thus far to UP's letters are also attached.

ENVIRONMENTAL REPORT  
49 C.F.R. ' 1105.7(e)

**(1) Proposed action and alternatives.** Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

**Response:** The proposed action involves an exempt abandonment of UP's Osawatomie Industrial Lead. The Line proposed for abandonment extends from Milepost 335.0 to Milepost 335.5 near Osawatomie, in Miami County, Kansas, a total distance of 0.5 miles. A map of the Line is attached as **Attachment No. 1**.

The Line was constructed in 1880 by the St. Louis, Kansas & Arizona Railway and later served as the eastern end of the Missouri Pacific Railroad route to Pueblo, Colorado. There were never any rail customers located along the Line. The only reason the Line was excluded from an earlier abandonment to the west (AB-3 Sub – No. 115) was to continue its role, along with an adjacent wye track, in turning railroad cars and engines handled at the Osawatomie yard which lies on UP's Coffeyville Subdivision. The Line was most recently constructed with 136 pound welded rail laid in 1976. Portions of track on the Line not needed for turning railroad cars and engines have been removed.

The land proposed for abandonment contains reversionary property. Based upon information in UP's possession, the Line does not contain federally granted right-of-way. Any documentation in UP's possession with regard to the Line will be made available to those requesting it.

After the proposed abandonment, Osawatomie will continue to receive rail service from the Coffeyville Subdivision of UP. Osawatomie is served by U.S. Highway

169/Kansas Route 7, which is a multi-lane highway between Osawatomie and Olathe, KS, that connects about 28 miles to the north to the interstate highway network serving the Kansas City area.

No local traffic has moved to or from the Line in the past two years and there is no overhead traffic. No complaint regarding cessation of service has been filed, is pending, or has been ruled upon in favor of a complainant in at least two years.

**(2) Transportation System.** Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

**Response:** Given that no rail traffic utilizes the Line, the proposed abandonment will have no impact on area transportation systems and patterns.

**(3) Land Use.**

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 49 C.F.R. § 1105.9.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

**Response:**

(i) UP is unaware of any adverse effects on local and existing land use plans. The Miami, Kansas County Board of Commissioners has been contacted. To date, UP has not received a response.

(ii) The response received from the Miami County Conservation District/Natural Resources Conservation District for Miami County, Kansas, attached as **Attachment No. 3**, states that the proposed action will have no effect on prime farmland.

(iii) Not Applicable.

(iv) The property proposed for abandonment is not suitable for public purposes, including roads or highways, other forms of mass transportation, energy production or transmission, as this area is adequately served by existing roads and utility lines at the present time. The property may be suitable for conservation as a hike/bike trail, as this property could connect two existing trails.

**(4) Energy.**

(i) Describe the effect of the proposed action on transportation of energy resources.

(ii) Describe the effect of the proposed action on recyclable commodities.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

**Response:** (i) There are no effects on the transportation of energy resources.

(ii) There are no recyclable commodities moved over the Line.

(iii) There will be no change in energy consumption from the proposed

action.

(iv)(A)(B) UP does not anticipate that there will be any rail-to-motor diversion.

**(5) Air.** (i) If the proposed action will result in either:

(A) an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) an increase in rail yard activity of at least 100% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. §10901 (or §10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

**Response:** UP does not anticipate any such effects.

**(5) Air.** (ii) If the proposed action affects a class 1 or nonattainment area under the Clean Air Act, and will result in either:

(A) an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or

(B) an increase in rail yard activity of at least 20% (measured by carload activity), or

(C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. §10901 (or 49 U.S.C. §10505), or a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

**Response:** There will be no increase in rail traffic, rail yard activity, or truck traffic as a result of the proposed action.

**(5) Air.** (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

**Response:** The proposed action will not affect the transportation of ozone depleting materials.

**(6) Noise.** If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) an incremental increase in noise levels of three decibels Ldn or more or

(ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

**Response:** Not applicable.

**(7) Safety.**

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

**Response:** (i) The proposed action will have no detrimental effects on public health and safety.

(ii) The proposed action will not affect the transportation of hazardous

materials.

(iii) There are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the subject right-of-way.

**(8) Biological resources.**

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

**Response:** (i) The U.S. Fish and Wildlife Service has been contacted. To date there has been no response.

(ii) The National Park Service has been contacted. To date, UP has not received a response.

**(9) Water.**

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

**Response:** (i) The U. S. Environmental Protection Agency Regional Office and Kansas Bureau of Environmental Health have been contacted. To date,

UP has not received a response.

(ii) The U. S. Army Corps of Engineers has been contacted, and its response dated January 15, 2013 is attached as **Attachment No. 4**. The Corps response is that permitting may be required only if salvage activities lead to discharge of material in wetlands.

There will be no such discharge of material. The Line has no bridges the removal of which might cause the discharge of material into a water way or wetland. The National Wetlands Inventory Map indicates that wetlands in the immediate vicinity of the proposed abandonment are limited to two small ponds (0.1 and 0.19 acres, respectively) located outside of but adjacent to the north boundary of the right of way of the Line. The simple removal of track structure should not produce silt or other material that can reach these ponds, in that the ponds are isolated from the track area by a thick line of trees and shrubs along the edge of the right of way.

(iii) UP does not anticipate that there will be any requirements for Section 402 permits.

**(10) Proposed Mitigation.** Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

**Response:** There are no known adverse environmental impacts.

**HISTORIC REPORT**  
**49 C.F.R. § 1105.8(d)**

(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action:

**Response:** See **Attachment No. 1.**

(2) A written description of the right-of-way (including approximate widths to the extent known), and the topography and urban and/or rural characteristics of the surrounding area:

**Response:** The right-of-way considered in this abandonment passes through a residential and agricultural area located just west of Osawatomie, KS. The right-of-way is a 100 foot wide strip of land.

(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area:

**Response:** There are no such structures on the Line.

(4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations to the extent such information is known:

**Response:** Not applicable.

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

**Response:** See UP's response to question (1) in the Environmental Report for a brief history and description.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic:

**Response:** UP does not have any relevant documentation.

(7) An opinion (based on readily available information in the UP's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archeological

resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities):

**Response:** At this time, UP knows of no historic sites or structures or archeological resources on the Line or in the project area. Attached as **Attachment No. 5** is a letter dated December 21, 2012 from the Kansas Historical Society stating that the abandonment project as proposed should have no effect on properties listed in the National Register of Historic Places or otherwise identified in its files. The letter also states that the Kansas Historical Society has no objection to implementation of the project.

**(8)** A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

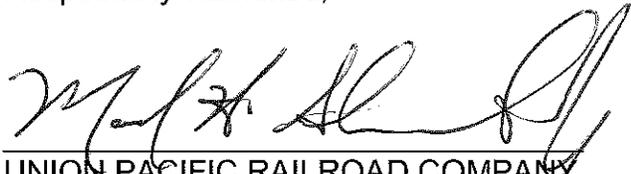
**Response:** UP does not have any such readily available information.

**(9)** Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified non-railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way. Photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the locations and type of the site (i.e., prehistoric or native American):

**Response:** Not applicable.

Dated this 23<sup>rd</sup> day of May, 2013.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", written in a cursive style.

UNION PACIFIC RAILROAD COMPANY

Mack H. Shumate, Jr.

Senior General Attorney

101 North Wacker Drive, #1920

Chicago, Illinois 60606

312/777-2055 (Tel.)

312/777-2065 (Fax)

[mackshumate@up.com](mailto:mackshumate@up.com)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Combined Environmental and Historic Report in Docket No. AB-33 (Sub-No. 313X), the Osawatomie Industrial Lead in Miami County, Kansas was served by First Class U.S. Mail, postage prepaid, on the 23<sup>rd</sup> day of May, 2013, on the following parties:

**State Clearinghouse (or alternate)**

Kansas Transportation Department  
27960 Beaver Creek Road  
Louisburg, KS 66053

**State Environmental Protection**

Kansas Dept of Health and Environment  
Bureau of Environmental Health  
1000 SW Jackson, Suite 310  
Topeka, KS 66612-1366

**Head of Each County:**

Miami County Board of Commissioners  
Miami County Administration Building  
201 S. Pearl, Suite 200  
Paola, KS 66071

**Environmental Protection Agency  
(Regional Office):**

US EPA Region 7  
(Indicate environmental subject, program or office)  
11201 Renner Blvd.  
Lenexa, KS 66219

**State Historic Society of Kansas**

Kansas Historical Society  
6425 SW 6th Avenue  
Topeka KS 66615-1099

**U.S. Fish and Wildlife**

USFWS Mountain-Prairie Region Office  
134 Union Blvd.  
Lakewood, Colorado 80228

**U.S. Army Corps of Engineers**

U.S. Army Corps of Engineers  
District of Kansas City  
601 East 12<sup>th</sup> Street  
Kansas City, MO 64106-2896

**National Park Service (Regional Office)**

NPS Midwest Regional Office  
601 Riverfront Drive  
Omaha, NE 68102-4226

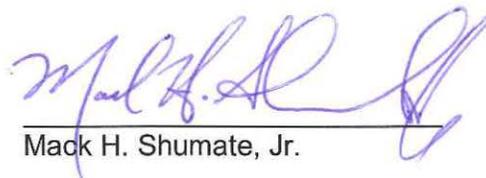
**U.S. Natural Resources Conservation  
Service:**

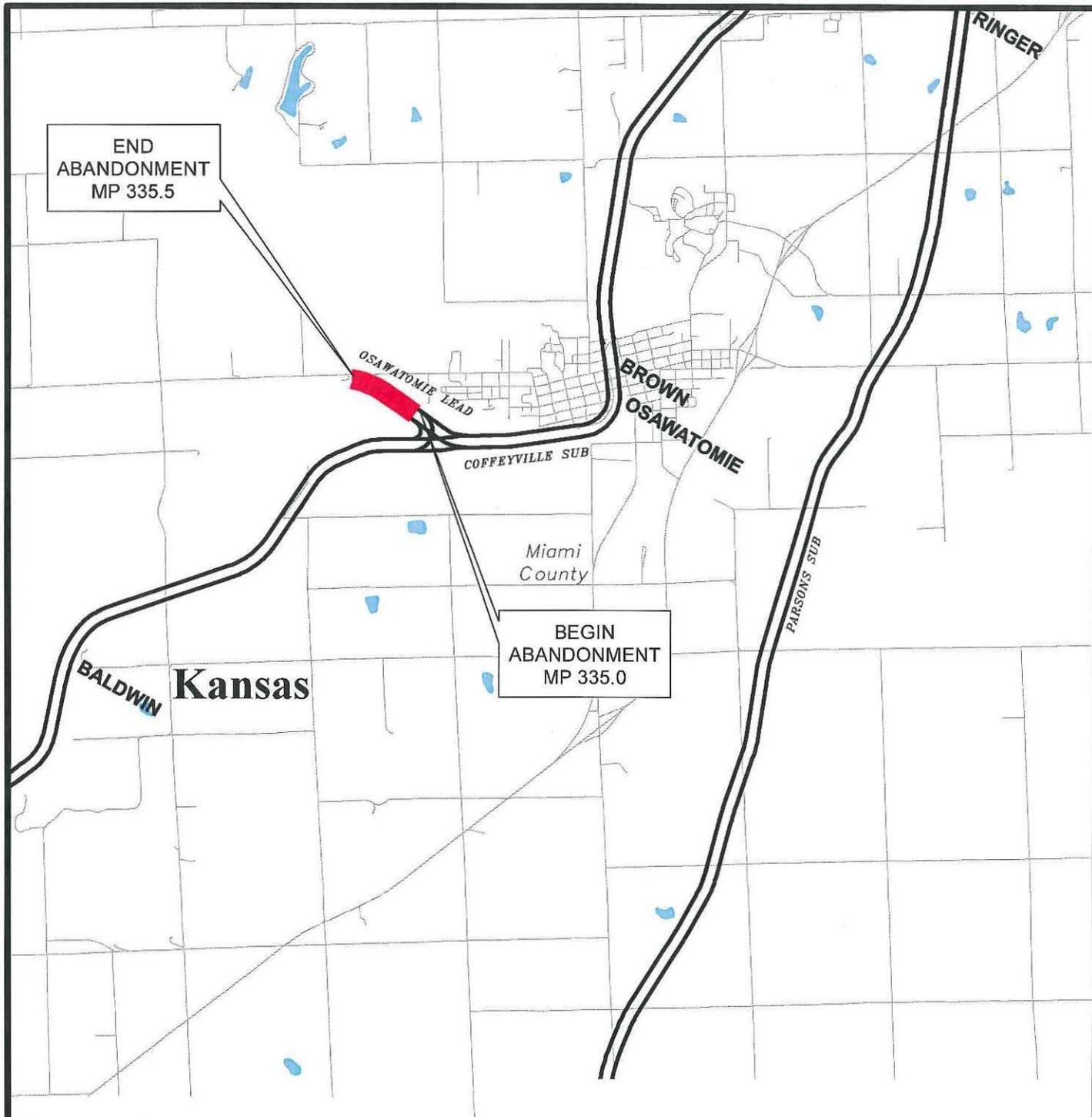
Natural Resources Conservation Service  
Office  
100 North Angela Street, Suite 3  
Paola, KS 66071-1399

**National Geodetic Survey:**

Geodetic Services Division  
Information Services  
NOAAINGS12  
1315 E-W Highway  
Silver Spring, MD 20910-3282

Dated this 23<sup>rd</sup> day of May, 2013.

  
Mack H. Shumate, Jr.



**Legend**

- UPRR TO BE ABANDONED
- OTHER UPRR LINES
- OTHER RAILROADS
- PRINCIPAL HIGHWAYS
- OTHER ROADS

**OSAWATOMIE INDUSTRIAL LEAD**

UNION PACIFIC RAILROAD CO.  
 MP 335.0 TO MP 335.5  
 TOTAL OF 0.5 MILES IN MIAMI COUNTY  
 IN KANSAS

**UNION PACIFIC RAILROAD CO.  
 OSAWATOMIE INDUSTRIAL LEAD  
 KANSAS**

NOTE : THERE ARE NO 50+ YEAR OLD STRUCTURES



Q:\abandonments\lab33\_313x\_Osawatomie.mxd

December 14, 2012

**State Clearinghouse (or alternate)**

Kansas Transportation Department  
27960 Beaver Creek Road  
Louisburg, KS 66053

**State Environmental Protection**

Kansas Dept of Health and Environment  
Bureau of Environmental Health  
1000 SW Jackson, Suite 310  
Topeka, KS 66612-1366

**Head of Each County:**

Miami County Board of Commissioners  
Miami County Administration Building  
201 S. Pearl, Suite 200  
Paola, KS 66071

**Environmental Protection Agency**

**(Regional Office):**

US EPA Region 7  
(Indicate environmental subject, program or office)  
11201 Renner Blvd.  
Lenexa, KS 66219

**State Historic Society of Kansas**

Kansas Historical Society  
6425 SW 6th Avenue  
Topeka KS 66615-1099

**U.S. Fish and Wildlife**

USFWS Mountain-Prairie Region Office  
134 Union Blvd.  
Lakewood, Colorado 80228

**U.S. Army Corps of Engineers**

U.S. Army Corps of Engineers  
District of Kansas City  
601 East 12<sup>th</sup> Street  
Kansas City, MO 64106-2896

**National Park Service (Regional Office)**

NPS Midwest Regional Office  
601 Riverfront Drive  
Omaha, NE 68102-4226

**U.S. Natural Resources Conservation Service:**

Natural Resources Conservation Service Office  
100 North Angela Street, Suite 3  
Paola, KS 66071-1399

**National Geodetic Survey:**

Geodetic Services Division  
Information Services  
NOAAINGS12  
1315 E-W Highway  
Silver Spring, MD 20910-3282

Re: Proposed Abandonment of the Osawatomie Industrial Lead from Milepost 335.0 to Milepost 335.5 near Osawatomie, a total distance of 0.5 miles in Miami County, Kansas, STB Docket No. AB-33 (Sub-No. 313X).

To Whom It May Concern:

Union Pacific Railroad Company plans to request authority from the Surface Transportation Board (STB) to abandon and discontinue service on the Osawatomie Industrial Lead from Milepost 335.0 to Milepost 335.5 near Osawatomie, a total distance of 0.5 miles in Miami County, Kansas. A map of the proposed track abandonment shown in black and red is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 40 C.F. R. Part 1105.7, this is to request your assistance in identifying any potential effects of this action as indicated in the paragraphs below. We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

LOCAL AND/OR REGIONAL PLANNING AGENCIES. State whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.



UNION PACIFIC RAILROAD  
1400 Douglas Street Omaha, Nebraska 68179

U. S. SOIL CONSERVATION SERVICE. State the effect of the proposed action on any prime agricultural land.

U. S. FISH AND WILDLIFE SERVICE (And State Game And Parks Commission, If Addressed). State (1) whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects, and, (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

STATE WATER QUALITY OFFICIALS. State whether the proposed action is consistent with applicable Federal, State or Local water quality standards. Describe any inconsistencies.

U. S. ARMY CORPS OF ENGINEERS. State (1) whether permits under Section 404 of the Clean Water Act (33 U.S. C. § 1344) are required for the proposed action and (2) whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

U. S. ENVIRONMENTAL PROTECTION AGENCY AND STATE ENVIRONMENTAL PROTECTION (OR EQUIVALENT AGENCY). (1) Identify any potential effects on the surrounding area, (2) identify the location of hazardous waste sites and known hazardous material spills on the right-of-way and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

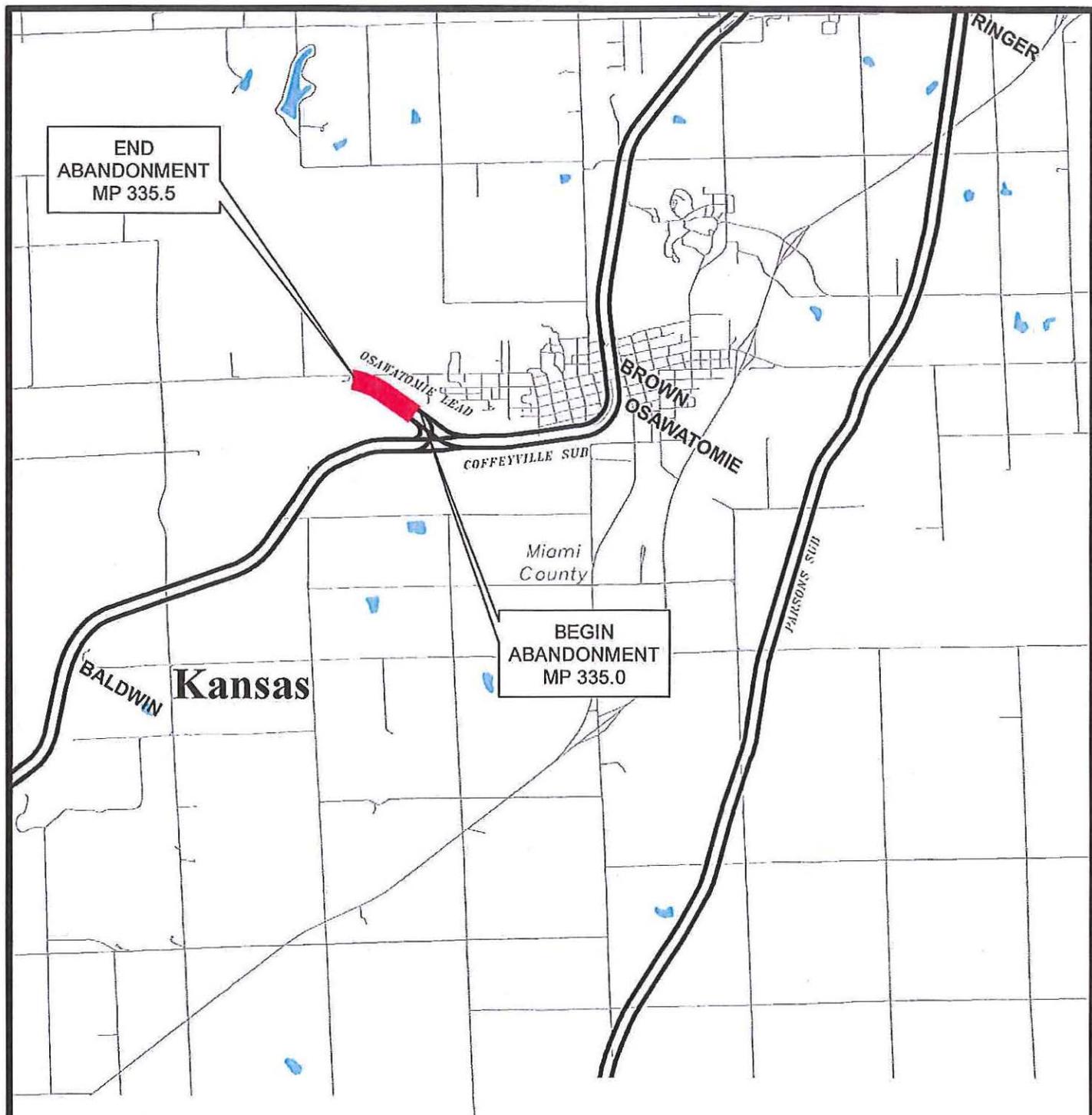
Thank you for your assistance. Please send your reply to the undersigned.

Sincerely,



Jessica Johnson  
Paralegal- Law Department  
Union Pacific Railroad  
1400 Douglas Street  
Omaha, NE 68179  
402-544-3868  
jjjohnson@up.com





**Legend**

 UPRR TO BE ABANDONED

 OTHER UPRR LINES

 OTHER RAILROADS

 PRINCIPAL HIGHWAYS

 OTHER ROADS

**OSAWATOMIE INDUSTRIAL LEAD**

UNION PACIFIC RAILROAD CO.  
 MP 335.0 TO MP 335.5  
 TOTAL OF 0.5 MILES IN MIAMI COUNTY  
 IN KANSAS

**UNION PACIFIC RAILROAD CO.  
 OSAWATOMIE INDUSTRIAL LEAD  
 KANSAS**

NOTE : THERE ARE NO 50+ YEAR OLD STRUCTURES



*Miami County Conservation District  
Natural Resource Conservation District*



Jessica Johnson,

There is NO effect of Prime farmland anticipating any concern for the proposed action of the abandonment of the described location of the Rail Road.

Thank you.

Sincerely,

*Grover DePriest by Austin Jost*

Grover DePriest  
DC Soil Conservation  
Miami County  
Natural Resource Conservation Service  
100 N. Angela St. Ste 3  
Paola, KS. 66071  
PH: 913-294-3751

*"Helping People, Help the Land."*





REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
KANSAS CITY DISTRICT, CORPS OF ENGINEERS  
635 FEDERAL BUILDING  
601 E 12<sup>TH</sup> STREET  
KANSAS CITY MO 64106-2824

January 15, 2013

Regulatory Branch  
(NWK-2012-1738)

Ms. Jessica Johnson  
Union Pacific Railroad  
1400 Douglas Street  
Omaha, Nebraska 68179

Dear Ms. Johnson:

This is in reply to your letter dated December 14, 2012 requesting comments regarding the abandonment of the Union Pacific Railroad track located between milepost 335.0-335.5 near Osawatomie, Kansas. The project site is located within Section 9, Township 18 south, Range 22 east, Miami County, Kansas.

The Corps of Engineers has jurisdiction over all waters of the United States. Discharges of dredged or fill material in waters of the United States, including wetlands, require prior authorization from the Corps under Section 404 of the Clean Water Act (Title 33 United States Code Section 1344). The implementing regulation for this Act is found at Title 33 Code of Federal Regulations Parts 320-332.

The action to legally abandon a rail line does not require authorization under the Clean Water Act. If however, any excavation or fill activities are anticipated, including temporary work, that will require the discharge of dredged or fill materials into streams or wetlands, a Department of the Army (DA) permit may be required. Federal regulations require that a DA permit be issued by the Corps of Engineers prior to the initiation of any construction on the portion of a proposed activity which is within the Corps' regulatory jurisdiction. Enclosed is a copy of our brochure entitled "Activities Requiring Permits."

We are interested in your thoughts and opinions concerning your experience with the Kansas City District, Corps of Engineers Regulatory Program. We have placed an automated version of our Customer Service Survey form on our website at: <http://per2.nwp.usace.army.mil/survey.html>. At your request, we will mail a paper copy that you may complete and return to us by mail or fax.

If you have any questions concerning this matter, please feel free to contact Mr. Brian Donahue at (816) 389-3703. Please reference Regulatory File No. 2012-1738 in all comments and/or inquiries relating to this project.

Enclosure

# Activities Requiring Permits

Contractors	Builders	Planners
Excavators	Engineers	Homeowners
Consultants	Landowners	Farmers

The Corps of Engineers is charged with the responsibility for protecting the public interest in waters of the United States. This is accomplished through a Department of the Army permit program. Under this program, most activities involving work in waters of the United States, including wetlands, require authorization from the Corps of Engineers. Individuals, companies, corporations, Federal and State agencies, and local governments planning construction activities in a stream, river, lake or wetland should contact the Kansas City District, U.S. Army Corps of Engineers, **BEFORE ANY WORK IS BEGUN.**

## Why?

Because your proposed work may be subject to one or both of the following Federal Acts:

**Section 10 of the Rivers and Harbors Act of 1899** regulates any work or structure in, over, or under navigable waters of the United States. This includes such items as boat docks, boat ramps, powerlines, excavation, filling, etc.

**Section 404 of the Clean Water Act** regulates the discharge of dredged or fill material in all waters of the United States, including rivers, streams, lakes and wetlands. This includes work such as site development fills, causeways or road fills, dams and dikes, artificial islands, bank stabilization (riprap, seawalls and breakwaters) levees, landfills, fish attractors, mechanized clearing of wetlands, and certain types of excavation activities, etc.

## Be Sure Before you Start Construction

Department of the Army permits must be obtained prior to starting any work within the Corps' jurisdiction. Persons planning any construction activities in or near any water body should write or call:

Corps of Engineers, Kansas City District  
Regulatory Branch  
601 East 12<sup>th</sup> Street, Room 402  
Kansas City, MO 64106  
Telephone: 816-389-3990  
FAX: 816-389-2032

<http://www.nwk.usace.army.mil/Missions/RegulatoryBranch.aspx>

A map of the Kansas City District, Regulatory Program Service Areas can be found at:  
<http://www.nwk.usace.army.mil/Portals/29/docs/regulatory/webregmap-sep2006.pdf>



US Army Corps  
of Engineers  
Kansas City District

6425 SW 6<sup>th</sup> Avenue  
Topeka, KS 66615



KSR&C No. 12-12-107

phone: 785-272-8681  
fax: 785-272-8682  
cultural\_resources@kshs.org

Kansas Historical Society

Sam Brownback, Governor  
Jennie Chinn, Executive Director

December 21, 2012

Jessica Johnson  
Paralegal-Law Department  
Union Pacific Railroad  
1400 Douglas Street  
Omaha NE 68179

RE: Osawatomie Industrial Lead Abandonment  
Union Pacific Railroad  
Miami County

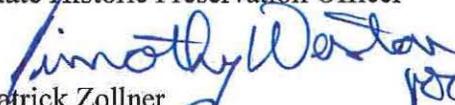
Dear Ms. Johnson:

The Kansas State Historic Preservation Office has reviewed its cultural resources files for the area of the above-referenced project in accordance with 36 CFR 800. The project, as proposed, should have no effect on properties listed in the National Register of Historic Places or otherwise identified in our files. This office has no objection to implementation of the project.

Any changes to the project area that include additional ground disturbing activities will need to be reviewed by this office prior to beginning construction. If construction work uncovers buried archaeological materials, work should cease in the area of the discovery and this office should be notified immediately.

This information is provided at your request to assist you in identifying historic properties, as specified in 36 CFR 800 for Section 106 consultation procedures. If you have questions or need additional information regarding these comments, please contact Tim Weston 785-272-8681 (ex. 214). Please refer to the Kansas Review & Compliance number (KSR&C#) above on all future correspondence relating to this project.

Sincerely,  
Jennie Chinn  
State Historic Preservation Officer

  
Patrick Zollner  
Deputy State Historic Preservation Officer

ATTACHMENT 5



Sam Brownback, Governor

Historical Society

6425 SW 6th Avenue  
Topeka, KS 66615-1099  
kshs.org

288-09

Jessica Johnson  
Paralegal-Law Department  
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