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210654



April 20, 2004



VIA UPS NEXT DAY AIR

Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street, N.W., Room 504
Washington, DC 20423-0001

Attention: Victoria Rutson

RE: Proposed Abandonment of the Vliets Industrial Lead from M. P. 409.1 near Frankfort to M. P. 403.8 near Vliets, a distance of 5.3 miles in Marshall County, Kansas; STB Docket No. AB-33 (Sub-No. 172X)

Dear Ms. Rutson:

Pursuant to 49 U.S.C. §10502, Union Pacific Company submits the original and ten (10) copies of a Petition for Exemption, with Verification, to abandon the above-referenced rail line. The Certificate of Service and Publication pursuant to 49 C.F.R. §1152.60(d) and 49 C.F.R. §1105.12 is attached to the petition.

Also enclosed is a draft Federal Register notice pursuant to 49 C.F.R. §1152.60(c). Three computer diskettes containing the draft Federal Register notice, as well as the Petition for Exemption and Certificate of Service and Publication is also enclosed.

Please file the Petition for Exemption in Docket No. AB-33 (Sub-No. 172X). Enclosed is a voucher for \$4,700 for the filing fee.

Sincerely yours,

FEE RECEIVED

APR 21 2004

**SURFACE
TRANSPORTATION BOARD**

Enclosures

FILED

APR 21 2004

**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings

APR 21 2004

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

UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718
ph. (312) 777-2055 fx. (312) 777-2065

210654

cc: w/Encls.

MTMCTEA
Attn: Railroads for National Defense
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

U. S. Department of the Interior
National Park Service
Recreation Resources Assistance Div.
P.O. Box 37127
Washington, D.C. 20013-7127

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor NW, Auditors Building
14th Street & Independence Ave., S.W.
Washington, D.C. 20250

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

Transportation Planning Bureau
Kansas Department of Transportation
Docking State Office Building
915 West Harrison
Topeka, KS 66612

County Commissioners
Marshall County Courthouse
1201 Broadway
Marysville, KS 66508-1844

ENTERED
Office of Proceedings

APR 21 2004

DRAFT FEDERAL REGISTER NOTICE
[49 C.F.R. § 1152.60(c)]

STB No. AB-33 (Sub-No. 172X)
Notice of Petition for Exemption to Abandon or
to Discontinue Service

On April 21, 2004, Union Pacific Railroad Company filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment of a line of railroad known as the Vliets Industrial Lead from M.P. 409.10 near Frankfort, Kansas to M.P. 403.80 near Vliets, Kansas, a distance of 5.30 miles in Marshall County, Kansas (the "Line"). The Line traverses U. S. Postal Service Zip Codes 66427 and 66544. The proceeding has been docketed as No. AB-33 (Sub-No.172X). There are no agency stations on the Line.

The Line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected as required by 49 U.S.C. 10903(b)(2).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following abandonment of rail service and salvage of the Line, the Line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis, telephone (202) 565-1545.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

210654

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 172X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN MARSHALL COUNTY, KANSAS
(VLIETS INDUSTRIAL LEAD, KANSAS)

PETITION FOR EXEMPTION

UNION PACIFIC RAILROAD COMPANY

Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive
Room 1920
Chicago, IL 60606
Tel: 312/777-2055
Fax: 312/777-2065

Dated: April 20, 2004
Filed: April 21, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 172X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN MARSHALL COUNTY, KANSAS
(VLIETS INDUSTRIAL LEAD, KANSAS)

PETITION FOR EXEMPTION

I.

INTRODUCTION

Union Pacific Railroad Company ("UP") hereby petitions the Board, pursuant to 49 U.S.C. §10502, to grant an exemption from 49 U.S.C. §§10903 in order to permit abandonment of operations over the Vliets Industrial Lead, from Milepost 409.10 near Frankfort, Kansas to Milepost 403.80 near Vliets, Kansas (the "Line"), a distance of 5.30 miles in Marshall County, Kansas. The sole active customer on the Line was Beattie Farmers Union Cooperative Association ("Beattie Coop"), 104 Railroad Avenue, Frankfort, Kansas 66427. Beattie Coop utilized a track near the beginning of the Line in Frankfort for the receipt of fertilizer. The last shipment destined to this track was billed in January, 2003. Beattie Coop has since commenced the receipt of fertilizer at another track in Frankfort served from UP's Kansas Subdivision. Beattie Coop had no shipments in the year 2001; 2 cars of diammonium phosphate, STCC 2871235, totaling 194 tons in the year 2002, and 1 car of diammonium phosphate, STCC 2871235, totaling 97 tons along with 1 car of monoammonium phosphate, STCC 2871236, totaling 96 tons in the year 2003. Beattie Coop does not oppose the proposed abandonment. Due to the relocation of this sole

customer and its continuing ability to use rail service via UP, there will be no adverse shipper impact due to the proposed abandonment.

UP seeks exemption of this proposed abandonment from regulation under 49 U.S.C. §10903 in accordance with 49 U.S.C. §10502 and the Rules applicable thereto at 49 C.F.R. §1121 and 49 C.F.R. §1152 and the Special Rules at 49 C.F.R. §1152.60.

II.

PETITIONER'S BACKGROUND AND REPRESENTATIVE

UP has rail operations in the States of Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming. UP owns and operates the Line proposed for abandonment which is located near the Cities of Frankfort and Vliets, Marshall County, Kansas.

The name, address and telephone number of UP's representative is listed below:

Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive
Room 1920
Chicago, IL 60606
Tel: 312/777-2055
Fax: 312/777-2065

III.

LINE DESCRIPTIONS, ZIP CODE INFORMATION AND MAP

The proposed action involves the abandonment and discontinuance of service over the Vliets Industrial Lead from M.P. 409.10 near Frankfort to M.P. 403.80 near Vliets, a distance of 5.30 miles, in Marshall County, Kansas. The Vliets Industrial Lead was constructed in 1868 by the Central Branch Union Pacific Railroad. The Line is constructed with 112-pound continuous welded rail, except for the first mile, which is laid with 85-pound jointed rail.

The property is not suitable for other public purposes including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation, as this area is adequately served by existing roads and utility lines at the present time. The main area highways are state route 99, a north-south route running through Frankfort and connecting approximately twelve miles north to U.S. 36, an east-west route; and state route 9, running through Frankfort and connecting approximately twelve miles west to U.S. 77, a north-south route.

The Line traverses U.S. Postal Service Zip Codes 66427 and 66544.

A map of the Line is attached hereto as **Attachment 1** and hereby made a part hereof.

IV.

SHIPPER INFORMATION

The sole active customer on the Line in the time period 2002 - 2003 was Beattie Farmers Union Cooperative Association, 104 Railroad Avenue, Frankfort, Kansas 66427.

Beattie Coop utilized a track near the beginning of the Line in Frankfort for the receipt of fertilizer. The last shipment destined to this track was billed in January, 2003. Beattie has since commenced the receipt of fertilizer at another track in Frankfort served from UP's Kansas Subdivision. Beattie had no shipments in the year 2001; 2 cars of diammonium phosphate, STCC 2871235, totaling 194 tons in the year 2002, and 1 car of diammonium phosphate, STCC 2871235, totaling 97 tons along with 1 car of monoammonium phosphate, STCC 2871236, totaling 96 tons in the year 2003. Beattie does not oppose the proposed abandonment. Due to the relocation of this sole customer and its continuing ability to use rail service via UP, there will be no adverse shipper impact due to the proposed abandonment.

Given the continuation of rail service to the current customer, there should be no impact on regional or local transportation systems or patterns, and thresholds for rail to truck diversion and changes in rail activity are not applicable since there is no longer traffic on the Line.

V.

REASONS FOR THE ABANDONMENT

There appears to be no reasonable alternative to the abandonment. There will be no adverse effect on the sole shipper, and present development trends in Marshall County, Kansas make it unlikely that a new rail user would locate in the area of the proposed abandonment. There is no overhead traffic on the Line. With the departure of the sole shipper on the Line there is no need for train service to operate on the Line.

Significant potential harm to the affected shipper and communities is virtually non-existent in this matter. UP is of the opinion that the proposed abandonment would be beneficial to both the UP, area shippers and interstate commerce.

VI.

REASONABLE ALTERNATIVE; VIABILITY

There appears to be no reasonable alternative to this abandonment. Even the prior shipments over the Line by the only previous shipper on the Line, Beattie Coop, do not economically justify retention of the Line and there are no known expected future shippers interested in using the Line.

VII.

THE EXEMPTION STANDARDS HAVE BEEN MET

- A. The abandonment requires an exemption from 49 U.S.C. §10903.

Abandonment of rail lines requires authorization and approval of the Board pursuant to 49 U.S.C. §10903. However, 49 U.S.C. §10502 requires the Board to exempt

a transaction when it finds: (1) continued regulation is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. §10101; and (2) either the transaction is of limited scope or Board regulation is not necessary to protect shippers from an abuse of market power. UP's proposal for abandonment and discontinuance of operations clearly satisfies the standards for exemption under 49 U.S.C. §10502.

Detailed scrutiny by the Board under 49 U.S.C. §10903 is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. §10101. An exemption will minimize UP's administrative expense and the cost, preparation and review associated with progressing the proposed abandonment in a full application proceeding. An exemption will expedite regulatory action and will reduce regulatory barriers to exit from the Line consistent with Sections 10101(2) and (7). An exemption will permit UP to enhance its service to Kansas resulting in cost savings to UP and thereby enhancing UP's ability to compete with other Kansas rail carriers consistent with Sections 10101(4) and (5). An exemption will foster sound economic conditions in the transportation industry consistent with Section 10101(5), by permitting UP's abandonment of the Line and avoiding the need to retain and operate a rail line that is not only currently unused by any shipper, but has no prospects of additional shippers seeking to use the Line.

The proposed abandonment is clearly a transaction of "limited scope." The Line is only 5.30 miles long and will have no recurring local traffic. In addition, regulation of this abandonment is not needed to protect shippers from an abuse of market power, since the only former local shipper did not provide sufficient traffic to justify retention of the Line especially in light of the alternative shipping opportunities that exist in the immediate vicinity.

VIII.

LAND AREA, FEDERAL GRANT INFORMATION, AND PUBLIC USE

The right-of-way is typically 100 feet in width and level. The property is primarily rolling agricultural land in a lightly populated rural area of Kansas. UP is unaware of any adverse effects on local and existing land use plans. The Marshall County Commissioners Office has been contacted. To date no response has been received. Given the absence of any customer activity on the Line, abandonment will free right-of-way in Marshall County, Kansas for desirable alternate development. Otherwise sale of the non-reversionary property will be to the adjoining land owners.

Based on information in UP's possession, the Line does not contain federally granted rights of way. There will be no increase in rail traffic, rail yard activity, or truck traffic as a result of the proposed action. UP is unaware of any adverse effect on local and existing land use plans. Any documentation in Petitioner's possession will be made available promptly to those requesting it.

IX.

LABOR

UP is agreeable to the labor protection conditions imposed in abandonment proceedings as prescribed in Oregon Short Line R. Co. - Abandonment - Goshen, 360 ICC 91 (1979).

X.

ENVIRONMENTAL AND HISTORIC REPORT.

The required environmental and historic information is contained in the Combined Environmental and Historic Report which was served on January 9, 2004. A

copy of the Report is attached hereto as **Attachment 2** and hereby made a part hereof. The original and ten (10) copies were sent to Ms. Victoria Rutson, Section of Environmental Analysis, on January 8, 2004 for filing.

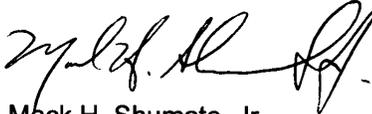
Subsequent to the filing of the Combined Environmental and Historic Report, no additional comment letters were received from any governmental entity.

WHEREFORE, Union Pacific Railroad Company respectfully requests that the Board issue a decision exempting the proposed abandonment from the provisions of 49 U.S.C. §10903 and direct that the exemption be effective on the date of the Board's decision.

Dated this 20th day of April, 2004.

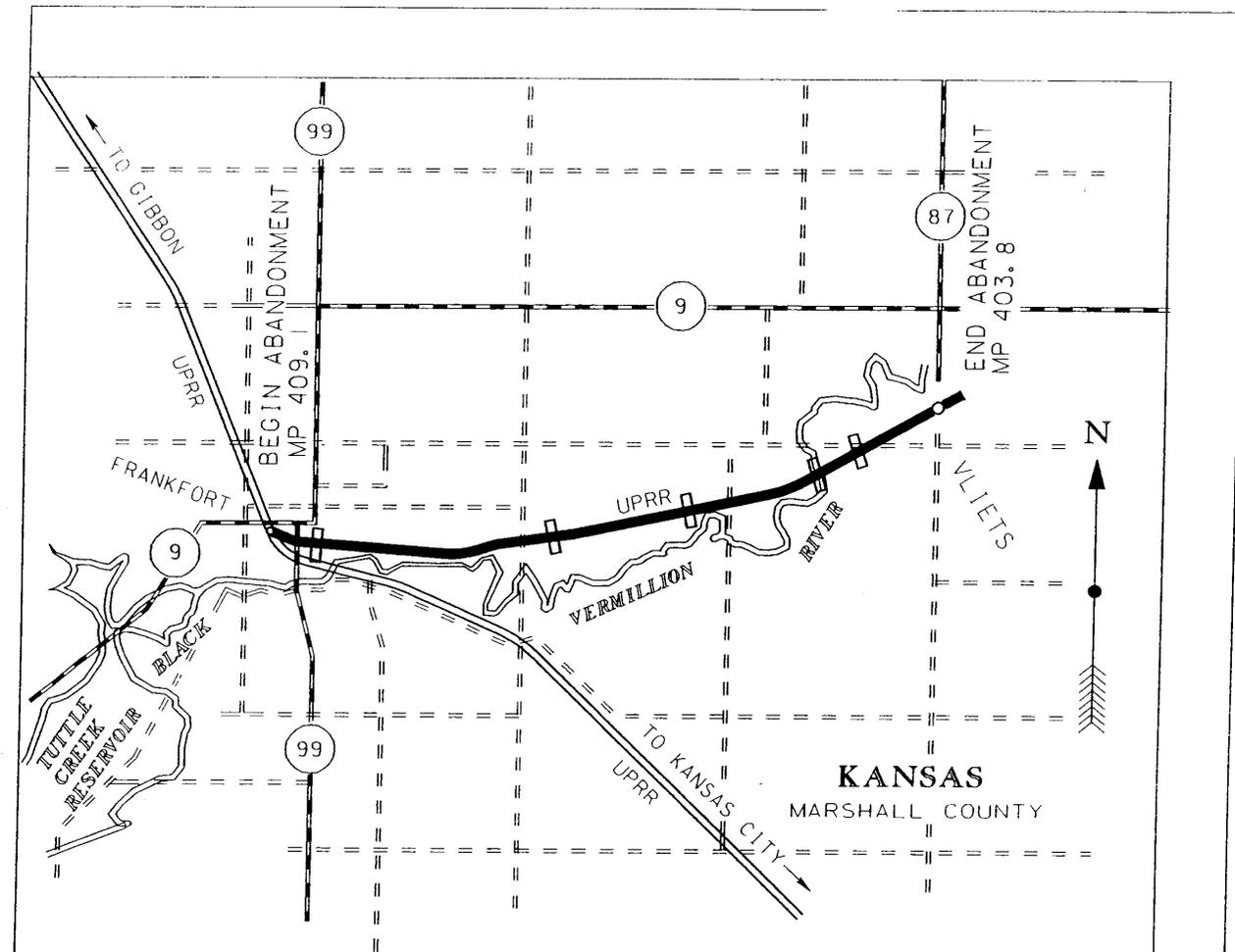
Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY



Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive
Room 1920
Chicago, IL 60606
Tel: 312/777-2055
Fax: 312/777-2065

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BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
404.70	TIMBER PILE TRESTLE /TST-O.D.	27'	1950
405.00	TIMBER PILE TRES /THRU-PL. G. O. D.	176'	1940
406.00	TIMBER PILE TRESTLE /TST-O.D.	126'	1923
407.00	TIMBER PILE TRESTLE /TST-O.D.	42'	REBUILT 1943 1963
408.50	TIMBER PILE TRES. /TST OPEN DECK	34'	1897
	DECK PLATE TRES. /D.P.G. OPEN DECK	52'	1897
	TIMBER PILE TRES. /TST OPEN DECK	37'	1963

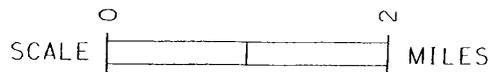
VLIETS INDUSTRIAL LEAD
 MP 403.80 TO MP 409.1
 VLIETS INDUSTRIAL LEAD A TOTAL OF 5.30 MILES
 IN MARSHALL COUNTY, KS.

STATION	MILE POST	AGENCY
VLIETS	404.00	NO

LEGEND

- UPRR LINES TO BE ABANDONED
- UPRR LINES
- OTHER RAILROADS
- 50+ YEAR OLD STRUCTURES
- PRINCIPAL HIGHWAYS
- OTHER ROADS

UNION PACIFIC RAILROAD CO.
VLIETS INDUSTRIAL LEAD
 INCL. 50+ YEAR OLD STRUCTURES



BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 172X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN MARSHALL COUNTY, KANSAS
(VLIETS INDUSTRIAL LEAD)

Combined Environmental and Historic Report

UNION PACIFIC RAILROAD COMPANY
Mack H. Shumate, Jr., Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

Dated: January 8, 2004
Filed: January 9, 2004

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 172X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN MARSHALL COUNTY, KANSAS
(VLIETS INDUSTRIAL LEAD)

Combined Environmental and Historic Report

UNION PACIFIC RAILROAD COMPANY
Mack H. Shumate, Jr., Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

Dated: January 8, 2004
Filed: January 9, 2004

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 172X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN MARSHALL COUNTY, KANSAS
(VLIETS INDUSTRIAL LEAD)

Combined Environmental and Historic Report

Union Pacific Railroad Company ("UP") submits this Combined Environmental and Historic Report pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, for an exempt abandonment and discontinuance of service from M.P. 409.10 near Frankfort to M. P. 403.80 near Vliets, a distance of 5.30 miles, in Marshall County, Kansas (the "Line"). The Line traverses U. S. Postal Service Zip Codes 66427 and 66544.

The applicants anticipate that a Petition For Exemption to abandon the Line will be filed at the STB on or after January 29, 2004.

A map of the Line marked **Attachment No. 1** is attached hereto and hereby made part hereof. UP's letters to federal, state and local government agencies, marked **Attachment No. 2** and **Attachment No. 3**, are attached hereto and hereby made a part hereof. Responses received to UP's letters to date are attached and sequentially numbered as indicated below.

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 the abandonment and discontinuance of service over the Vliets Industrial Lead from M.P. 409.10 near Frankfort to M.P. 403.80 near Vliets, a distance of 5.30 miles, in Marshall County, Kansas. The sole active customer on the Line had been Beattie Farmers Union Cooperative Association, 104 Railroad Avenue, Frankfort, KS 66427. This customer utilized a track near the beginning of the Line in Frankfort for the receipt of fertilizer. The last shipment destined to this track was billed in January, 2003. Beattie has since commenced the receipt of fertilizer at another track in Frankfort served from UP's Kansas Subdivision. Beattie had no shipments in the year 2001; 2 cars of diammonium phosphate, STCC 2871235, totaling 194 tons in the year 2002, and 1 car of diammonium phosphate, STCC 2871235, totaling 97 tons along with 1 car of monoammonium phosphate, STCC 2871236, totaling 96 tons in the year 2003. Beattie does not oppose the proposed abandonment. Due to the relocation of this sole customer and its continuing ability to use rail service via UP, there will be no adverse shipper impact due to the proposed abandonment.

There appears to be no reasonable alternative to the abandonment. There will be no adverse effect on the sole shipper, and present development trends in Marshall County, Kansas make it unlikely that a new rail user would locate in the area of the

proposed abandonment. There is no overhead traffic on the Line. With the departure of the sole shipper, no train service is operated on the Line at present.

The Vliets Industrial Lead was constructed in 1868 by the Central Branch Union Pacific Railroad. The Line is constructed with 112-pound continuous welded rail, except for the first mile, which is laid with 85-pound jointed rail.

The property is not suitable for other public purposes including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation, as this area is adequately served by existing roads and utility lines at the present time. The main area highways are state route 99, a north-south route running through Frankfort and connecting approximately twelve miles north to U.S. 36, an east-west route; and state route 9, running through Frankfort and connecting approximately twelve miles west to U.S. 77, a north-south route.

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

A map of the Line is attached as **Attachment No. 1**.

(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 the continuation of rail service to the current customer, there should be no impact on regional or local transportation systems or patterns, and thresholds for rail to truck diversion and changes in rail activity are not applicable since there is no longer traffic on the Line.

(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 effects land or water uses within a designated coastal zone, include the coastal zone information required by § 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) Applicants are unaware of any adverse effects on local and existing land use plans. The Marshall County Commissioners Office has been contacted. To date no response has been received.

(ii) The United States Natural Resources Conservation Service has been contacted. To date no response has been received.

(iii) Not Applicable.

(iv) Given the absence of any customer activity on the Line, abandonment will free right-of-way in Marshall County, Kansas for desirable alternate development.

(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 will be no effects on the transportation of energy resources.

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

(iii) There will be no increase in energy consumption from the abandonment.

(iv)(A)(B) There will be no rail-to-motor diversion of this magnitude.

(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 §§ (5)(i)(A) will apply.

Response: There is no such effect anticipated.

(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 material 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. The results of the State of Kansas Department of Wildlife & Parks review in 2001 indicated that there will be no significant impacts to crucial wildlife habitats and that no mitigation measures are recommended. In 2003, the Fish and Wildlife Service Kansas Field Office reconfirmed that there should be no adverse impacts to fish and wildlife resources, including threatened and endangered species and had no objection to the proposed abandonment. The Kansas Department of Wildlife & Parks and the Fish and Wildlife Service Kansas Field Office responses are attached as **Attachment No. 4** and **Attachment No. 5**, respectively, and are hereby made part hereof.

(ii) Applicants are not aware of any wildlife sanctuaries or refuges, or of any National or State parks or forests, that will be affected by the proposed abandonment.

(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 Kansas Department of Agriculture, Division of Water Resources has been contacted and their response is attached as **Attachment No. 6**, and is hereby made part hereof. It is not anticipated that abandonment will include the construction of any facility, levee, flood plain, fill or other structure which controls, regulates or changes flood waters in the state of Kansas nor is the construction of a dam contemplated.

(ii) The U.S. Army Corps of Engineers has been contacted and determined that an Army permit authorization is not required in for the proposed abandonment. The Corps of Engineers response is attached as **Attachment No. 7**, and is hereby made part hereof.

(iii) It is not anticipated there will be any requirements for Section 404 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 is typically 100 feet in width and level. The property is primarily rolling agricultural land in a lightly populated rural area of Kansas.

(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: The Kansas State Historical Society Office was provided with photographs of the five applicable railroad bridges. A copy of the letter to the Historical Society and pictures are attached hereto as **Attachment No. 8**, and hereby made a part hereof. The Historical Society's response which finds that the abandonment should not affect any property listed in the National Register of Historic Places is attached hereto as **Attachment No. 9**, and hereby made a part hereof.

(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: The bridges and their dates of construction are listed on the map, **Attachment No. 1**, and in the letter, **Attachment No 8**.

(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 the preceding pages for a brief history and description of carrier operations.

(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: Not applicable.

(7) An opinion (based on readily available information in the railroad'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. UP believes that there is nothing in the scope of the project that merits historical comment and that any archeological sites within the scope of the right-of-way would have previously been disturbed during the construction and maintenance of the Line.

(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: Applicants do 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 nonrailroad owned properties or group of properties immediately adjacent to the railroad right-of-way. Photographs of specified properties that can be readily seen from the railroad

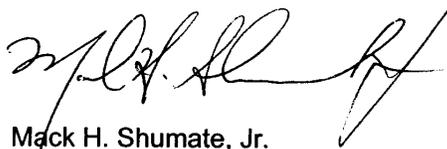
right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the locations and type of the site (i.e., prehistoric or native American):

Response: Not applicable.

Dated this 8th day of January, 2004.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY



Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

CERTIFICATE OF SERVICE
OF THE
COMBINED ENVIRONMENTAL AND HISTORIC REPORT

The undersigned hereby certifies that a copy of the foregoing Combined Environmental and Historic Report in Docket No. AB-33 (Sub-No. 172X) for the Vliets Industrial Lead in Marshall County, Kansas was served by first class mail on the 8th day of January, 2004 on the following:

State Clearinghouse (or alternate):

Transportation Planning Bureau
Kansas Department of Transportation
Docking State Office Building
915 West Harrison
Topeka, KS 66612

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

State Environmental Protection Agency:

Kansas Department of Health and Environment
Forbes Field, Bldg. 740
Topeka, KS 66620

State Coastal Zone Management Agency

(if applicable):
Not Applicable

Head of County (Planning):

County Commissioners
Marshall County Courthouse
1201 Broadway
Marysville, KS 66508-1844

Environmental Protection Agency

(regional office):
U.S. Environmental Protection Agency
Region 7
901 North 5th Street
Kansas City, KS 66101

U.S. Fish and Wildlife:

U.S. Fish & Wildlife Service, Region 6
Assistant Regional Director
Box 25486
Denver Federal Center
Denver, CO 80225

U.S. Army Corps of Engineers:

U.S. Army Engineer Division - Kansas City District
700 Federal Building
Kansas City, MO 64106-2896

National Park Service:

National Park Service
William D. Shaddox
Chief, Land Resources Division
1849 "C" St., N. W., #MS3540
Washington, DC 20240

U.S. Natural Resources Conservation Service:

Natural Resource Conservation Service
501 State
Westmorland, KS 66549

National Geodetic Survey:

National Geodetic Survey
Edward J. McKay, Chief
Spatial Reference System Division
NOAA N/NGS2
1315 E-W Highway
Silver Spring, MD 20910-3282

State Historic Preservation Office:

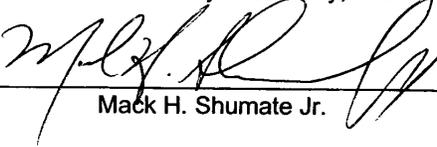
Kansas State Historical Society
6425 SW Sixth Avenue
Topeka, KS 66615

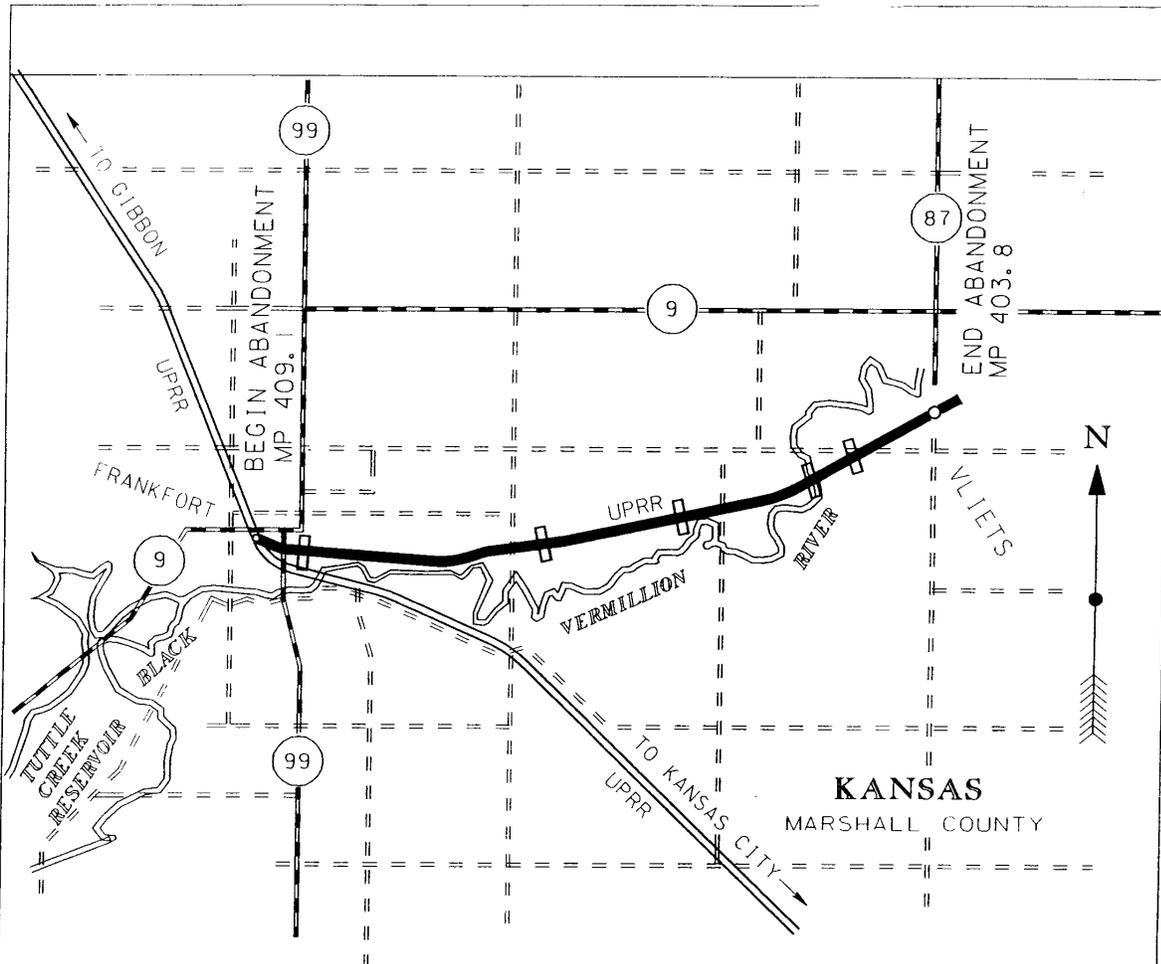
Other Agencies Consulted:

Wildlife & Parks Department
900 Southwest Jackson Street, \$502 N
Topeka, KS 66612

Water Resources Division
921 S. Kansas Ave., FI 2
Topeka, KS 66612

Dated this 8th day of January, 2004


Mack H. Shumate Jr.



BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
404.70	TIMBER PILE TRESTLE /TST-O.D.	27'	1950
405.00	TIMBER PILE TRES /THRU-PL.G. O.D.	176'	1940
406.00	TIMBER PILE TRESTLE /TST-O.D.	126'	1923
407.00	TIMBER PILE TRESTLE /TST-O.D.	42'	1942
408.50	TIMBER PILE TRES./TST OPEN DECK	34'	1963
	DECK PLATE TRES./D.P.G. OPEN DECK	52'	1897
	TIMBER PILE TRES./TST OPEN DECK	37'	1963

VLIETS INDUSTRIAL LEAD
 MP 403.80 TO MP 409.1
 VLIETS INDUSTRIAL LEAD A TOTAL OF 5.30 MILES
 IN MARSHALL COUNTY, KS.

STATION	MILE POST	AGENCY
VLIETS	404.00	NO

LEGEND

- UPRR LINES TO BE ABANDONED
- UPRR LINES
- OTHER RAILROADS
- 50+ YEAR OLD STRUCTURES
- PRINCIPAL HIGHWAYS
- OTHER ROADS

UNION PACIFIC RAILROAD CO.
 VLIETS INDUSTRIAL LEAD
 INCL. 50+ YEAR OLD STRUCTURES



Revised 10-23-03 ab0091vliets.dgn

UNION PACIFIC RAILROAD COMPANY
ENVIRONMENTAL MANAGEMENT

R. M. (Bob) Grimaila
Assistant Vice President-Environmental
(402) 271-4344

L. A. (Lanny) Schmid
Director Environmental Field Operations
(402) 271-2262

J. R. (Joel) Strafelda
Program Manager-Site Remediation
(402) 271-6572



Mailing Address:
Room 930
1416 Dodge Street
Omaha, NE 68179
Fax: (402) 271-4461

December 28, 2000

R. L. (Rick) Eades
Director Environmental Field Ops-North
(402) 661-6825

G. (Glenn) Thomas
Director Environmental Field Ops-South
(281) 350-7542

B. A. (Brock) Nelson
Director Environmental Field Ops-West
(916) 789-6370

File: Vliets Industrial Lead
Marshall County, Kansas
Abandonment
Environmental

State Contacts

Transportation Planning Bureau
Kansas Department of Transportation
Docking State Office Building
915 West Harrison
Topeka, Kansas 66612

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604

State Environmental Protection Agency

Kansas Department of Health and
Environment
Forbes Field, Bldg 740
Topeka, Kansas 66620

State Coastal Zone Management Agency

Not Applicable

Head of each County

Marshall County Commissioners
1201 Broadway
Marysville, KS 66508

Environmental Protection Agency

U.S. Environmental Protection Agency,
Region 7
901 North 5th Street
Kansas City, Kansas 66101

U.S. Fish and Wildlife

U.S. Fish & Wildlife Service-Region 6
Assistant Regional Director
Box 25486
Denver Federal Center
Denver, Colorado 80225

U.S. Army Corps of Engineers

U.S. Army Engineer Division-Kansas
City District
700 Federal Building
Kansas City, Missouri 64106-2896

National Park Service

Mr. William D. Shaddox
Chief, Land Resources Division
National Park Service
800 North Capitol Street, NE., Room
540
Washington, DC 20002

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

Natural Resources Conservation
Service
501 State
Westmoreland, KS 66549

National Geodetic Survey

Director, Captain Lewis A. LaPine
National Geodetic Survey
NOAA N/NGS Rm. 8687
1315 E-W Highway
Silver Springs, MD 20910-3282

Other Agencies Consulted

Wildlife & Parks Department
900 Southwest Jackson Street, #502 N
Topeka, Kansas 66612

Water Resources Division
921 S Kansas Ave. FI 2
Topeka, Kansas 66612

RE: Proposed Abandonment of the Vliets Industrial Lead near Frankfort, Kansas

Dear Sirs:

Union Pacific Railroad plans to request authority from the Surface Transportation Board (STB) to abandon the Vliets Industrial Lead from M.P. 408.5 near Frankfort, Kansas to the end of Track at M.P. 403.8 at Vliets, Kansas. A map of the proposed track abandonment shown in black is attached.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 49 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. If any adverse environmental impacts are identified, 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.

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,

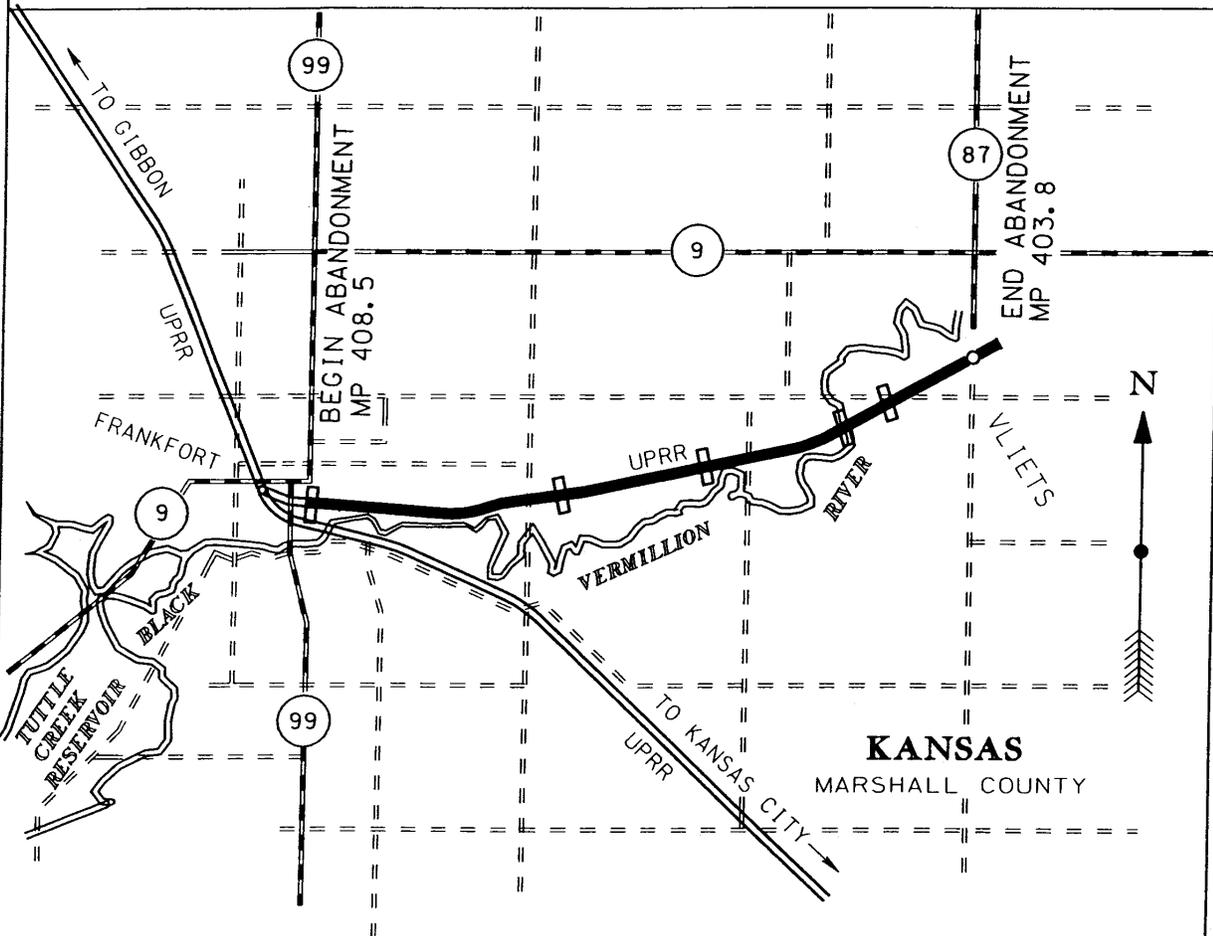
and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

Thank you for your assistance. Please send your reply to Union Pacific Railroad, Mr. Chuck Saylor, 1416 Dodge Street, Room 830, Omaha, Ne, 68179. If you need further information, please contact me at (402) 271-4078.

Yours truly,

Harry P. Patterson, P. E.
Manager Environmental Site Remediation

Attachment



BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
404.70	TIMBER PILE TRESTLE /TST-O.D.	27'	1950
405.00	TIMBER PILE TRES /THRU-PL.G. O.D.	176'	1940
406.00	TIMBER PILE TRESTLE /TST-O.D.	126'	1923
407.00	TIMBER PILE TRESTLE /TST-O.D.	42'	1963
408.50	TIMBER PILE TRES./TST OPEN DECK	34'	1943
	DECK PLATE TRES./D.P.G. OPEN DECK	52'	1897
	TIMBER PILE TRES./TST OPEN DECK	37'	1963

VLIETS INDUSTRIAL LEAD

MP 403.80 TO MP 408.50
 VLIETS INDUSTRIAL LEAD A TOTAL OF 4.70 MILES
 IN MARSHALL COUNTY, KS.

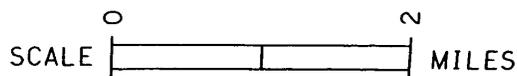
STATION	MILE POST	AGENCY
VLIETS	404.00	NO

LEGEND

- UPRR LINES TO BE ABANDONED
- UPRR LINES
- OTHER RAILROADS
- 50+ YEAR OLD STRUCTURES
- PRINCIPAL HIGHWAYS
- OTHER ROADS

UNION PACIFIC RAILROAD CO.

VLIETS INDUSTRIAL LEAD
 INCL. 50+ YEAR OLD STRUCTURES



Revised 12-19-00 ab0091

19
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CHARLES W. SAYLORS
DIRECTOR-LEGAL SUPPORT SERVICES

UNION PACIFIC RAILROAD COMPANY

1416 DODGE STREET
OMAHA, NEBRASKA 68179
(402) 271-4861



(402) 271-5625 (FAX)

October 24, 2003

State Clearinghouse (or alternate):

Transportation Planning Bureau
Kansas Department of Transportation
Docking State Office Building
915 West Harrison
Topeka, KS 66612

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

State Environmental Protection Agency:

Kansas Department of Health and Environment
Forbes Field, Bldg. 740
Topeka, KS 66620

State Coastal Zone Management Agency

(if applicable):
Not Applicable

Head of County (Planning):

County Commissioners
Marshall County Courthouse
1201 Broadway
Marysville, KS 66508-1844

Environmental Protection Agency

(regional office):
U.S. Environmental Protection Agency
Region 7
901 North 5th Street
Kansas City, KS 66101

U.S. Fish and Wildlife:

U.S. Fish & Wildlife Service, Region 6
Assistant Regional Director
Box 25486
Denver Federal Center
Denver, CO 80225

U.S. Army Corps of Engineers:

U.S. Army Engineer Division - Kansas City District
700 Federal Building
Kansas City, MO 64106-2896

National Park Service:

National Park Service
William D. Shaddox
Chief, Land Resources Division
1849 "C" St., N. W., #MS3540
Washington, DC 20240

U.S. Natural Resources Conservation Service:

Natural Resource Conservation Service
501 State
Westmorland, KS 66549

National Geodetic Survey:

National Geodetic Survey
Edward J. McKay, Chief
Spatial Reference System Division
NOAA N/NGS2
1315 E-W Highway
Silver Spring, MD 20910-3282

State Historic Preservation Office:

Kansas State Historical Society
6425 SW Sixth Avenue
Topeka, KS 66615

Other Agencies Consulted:

Wildlife & Parks Department
900 Southwest Jackson Street, \$502 N
Topeka, KS 66612

Water Resources Division

921 S. Kansas Ave., Fl 2
Topeka, KS 66612

Re: Proposed Abandonment of the Vliets Industrial Lead from M. P. 409.1 near Frankfort to M. P. 403.8 near Vliets, a distance of 5.3 miles in Marshall County, Kansas; STB Docket No. AB-33 (Sub-No. 172X)

Dear Sirs:

On December 28, 2000 Union Pacific Railroad Company sent you a letter indicating the intent to request authority from the Surface Transportation Board (STB) to abandon its Vliets Industrial Lead from M.P. 408.5 near Frankfort, Kansas to the end of the line at M. P. 403.8 at Vliets, Kansas and we asked your assistance in identifying any potential effects of the action. Many of you responded that our proposed action would have no negative effect in your respective area of interest. Union Pacific did not go forward with its plans for the Vliets Industrial Lead in 2001.

Union Pacific again plans to request authority from the Surface Transportation Board (STB) to abandon and discontinue service on the Vliets Industrial Lead extending an additional 0.6 mile to M.P. 409.1 near Frankfort and ending at M.P. 403.8 at Vliets, for a total of 5.30 miles in Marshall County, Kansas. A map of the proposed track abandonment shown in black 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 again 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.

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.

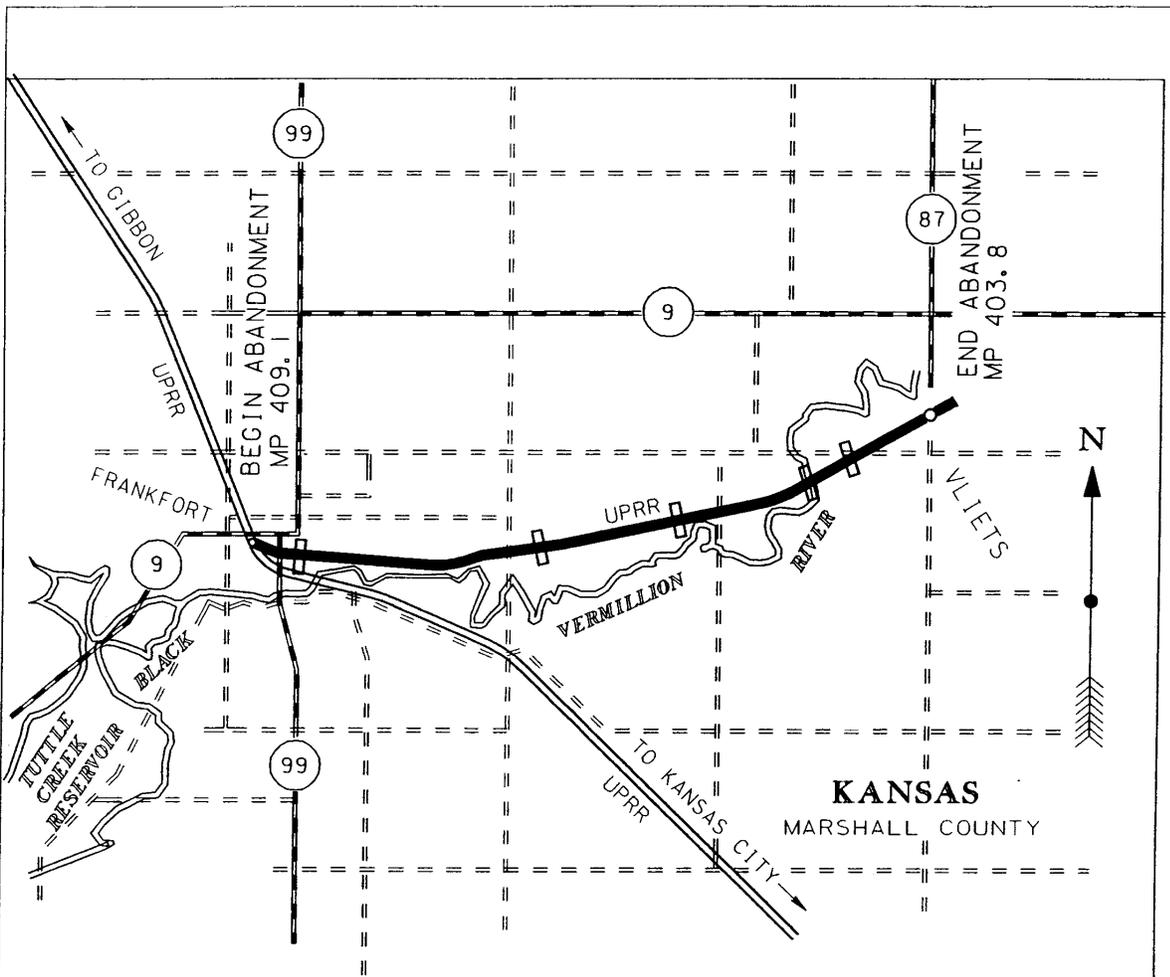
If you responded to our December, 2000 request, a copy of your response is attached. We will consider this response your current position unless you send a revised letter.

Thank you for your assistance. Please send your reply to Union Pacific Railroad, Mr. Chuck Saylor, 1416 Dodge Street, Room 830, Omaha, NE, 68179. If you need further information, please contact me at (402) 271-4861.

Yours truly,


Charles W. Saylor

Attachment



BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
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406.00	TIMBER PILE TRESTLE /TST-O.D.	126'	1923
407.00	TIMBER PILE TRESTLE /TST-O.D.	42'	1945
408.50	TIMBER PILE TRES. /TST OPEN DECK	34'	1963
	DECK PLATE TRES. /D.P.G. OPEN DECK	52'	1897
	TIMBER PILE TRES. /TST OPEN DECK	37'	1963

VLIETS INDUSTRIAL LEAD

MP 403.80 TO MP 409.1
 VLIETS INDUSTRIAL LEAD A TOTAL OF 5.30 MILES
 IN MARSHALL COUNTY, KS.

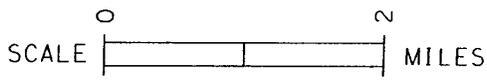
STATION	MILE POST	AGENCY
VLIETS	404.00	NO

LEGEND

- UPRR LINES TO BE ABANDONED
- UPRR LINES
- OTHER RAILROADS
- 50+ YEAR OLD STRUCTURES
- PRINCIPAL HIGHWAYS
- OTHER ROADS

UNION PACIFIC RAILROAD CO.

VLIETS INDUSTRIAL LEAD
 INCL. 50+ YEAR OLD STRUCTURES



Revised 10-23-03 ab0091 vliets.dgn



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Operations Office
512 SE 25th Avenue
Pratt, KS 67124-8174
316/672-5911 FAX 316/672-6020



January 24, 2001

Mr. Chuck Saylor
Union Pacific Railroad Company
Room 930
1416 Dodge Street
Omaha, NE 68179

Ref: D2.0401A
Marshall
UPRR Abandonment
Track: 20010012

Dear Mr. Saylor:

We received the brief information submitted for the proposed abandonment of the Vliets Industrial Lead near Frankfort, Kansas and have discussed abandonment procedures with Mr. Harry Patterson of your office. The project was reviewed for potential impacts on crucial wildlife habitats, current state-listed threatened and endangered species and species in need of conservation, and public recreation areas for which this agency has some administrative authority.

Mr. Patterson indicated all work would take place within existing UPRR right-of-way, erosion control BMP's would be utilized, and disturbed areas would be reseeded to native grasses. We concur with these project activities, as proposed.

Results of our review indicate there will be no significant impacts to crucial wildlife habitats; therefore, no special mitigation measures are recommended. The project will not impact any public recreational areas, nor could we document any potential impacts to currently listed threatened or endangered species or species in need of conservation. No Department of Wildlife and Parks permits or special authorizations will be needed if construction is started within one year, and no design changes are made in the project plans. Since the Department's recreational land obligations and the State's species listings periodically change, if construction has not started within one year of this date, or if design changes are made in the project plans, the project sponsor must contact this office to verify continued applicability of this assessment report. For our purposes, we consider construction started when advertisements for bids are distributed.

Sincerely,


Jim Hays, Terrestrial Ecologist
Environmental Services Section

JFH:md
xc: Region 2, Wolfe

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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Kansas Field Office
315 Houston Street, Suite E
Manhattan, Kansas 66502-6172

November 24, 2003

Charles W. Saylor
Director-Legal Support Services
Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179

RE: STB Docket No. AB-33 (Sub-No. 172X)

Dear Mr. Saylor:

Your letter of October 24, 2003 to our Denver Regional Office, describing a proposed abandonment of 5.3 miles of existing railway line between Frankfort and Vliets, in Marshall County, Kansas, was forwarded to this office for review on November 3. We have reviewed this proposal and conclude that there should be no adverse impacts to fish and wildlife resources, including threatened and endangered species. Therefore, the U.S. Fish and Wildlife Service has no objection to your proposal as planned.

The Service encourages the Union Pacific Railroad Company to keep the right-of-way in a natural condition for the benefit of native wildlife, plants, and the public. You may wish to contact the National Park Service, Omaha, Nebraska, 402-221-3350, for more information on the "Rails to Trails" Program. You may also wish to contact the Kansas Department of Wildlife and Parks in Pratt, Kansas (316-672-5911) to determine their interest in acquiring a nature trail.

Thank you for this opportunity to comment on your proposal.

Sincerely,

William H. Gill
Field Supervisor

cc: KDWP, Pratt, KS (Environmental Services)

WHG/dwm

STATE OF KANSAS

BILL GRAVES, GOVERNOR
Jamie Clover Adams, Secretary of Agriculture
109 SW 9th Street
Topeka, Kansas 66612-1280
(785) 296-3558
FAX: (785) 296-8389



Division of Water Resources
David L. Pope, Chief Engineer
109 SW 9th Street, 2nd Floor
Topeka, KS 66612-1283
(785) 296-3717 FAX (785) 296-1176

KANSAS DEPARTMENT OF AGRICULTURE

January 22, 2001

Mr. Chuck Saylor
Union Pacific Railroad
1416 Dodge Street Room 830
Omaha, Nebraska 68179

RE: DWR A-95 2001.001

Dear Mr. Saylor:

This will acknowledge receipt of your companies letter and attachments dated December 28, 2000 regarding the proposed abandonment of the Vliets Industrial Lead near Frankfort, Marshall County, Kansas.

If the proposed project includes the construction of any facility, levee, floodplain fill, or other structure which controls, regulates or changes the flood waters of a stream or watercourse in this state, it will be subject to the provisions of K.S.A. 24-126 or 24-105, both of which require plans for the project to be approved by the Chief Engineer of the Division of Water Resources prior to construction.

If the proposed project includes the construction of a dam, or if it in any way changes or diminishes the course, current or cross section of a stream or watercourse in this state, it is subject to the provisions of K.S.A. 82a-301 to 305a, which requires the issuance of a permit and approved by the Chief Engineer prior to construction.

If you have questions regarding water structures, please contact Dennis Lawlor at (785) 296-5440.

Sincerely yours,

Bob Lytle
Environmental Scientist
Technical Services Section

RFL:drc

pc: Iona Branscum, Water Commissioner, Topeka Field Office



DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
STATE REGULATORY PROGRAM OFFICE - KANSAS
2710 N.E. SHADY CREEK ACCESS ROAD
EL DORADO, KANSAS 67042

January 9, 2001

REPLY TO
ATTENTION OF:

Kanopolis Regulatory Field Office
(200100495)
(Marshall, KS, NPR)

Chuck Saylor
Union Pacific Railroad Company
1416 Dodge Street, Room 830
Omaha, Nebraska 68179

Dear Mr. Saylor:

This is in response to your letter received on January 5, 2001, requesting a Department of the Army (DA) permit determination concerning the proposed abandonment of the Vliets Industrial Lead near Frankfort, Kansas. The project is located in Sections 13, 14, 15, and 16, Township 4 south, Range 9 east, and Sections 7 and 18, Township 4 south, Range 10 east, Marshall 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 (33 USC 1344). The implementing regulation for this Act is found at 33 CFR 320-330.

By review of maps and other resources we have determined that the waterways involved exhibit discernable ordinary high water marks (OHWM). This is a preliminary jurisdictional determination and is not appealable. However, as described in Section E of the enclosed Notification of Administrative Appeal Options and Process and Request for Appeal form (FORM), you may request that we issue an approved jurisdictional determination, which is appealable as described in Section D of the FORM.

We have reviewed the information furnished and have determined that the abandonment of the Vliets Industrial Lead will not involve the discharge of dredged or fill material in waters of the United States. Therefore, Department of the Army permit authorization is not required. Other Federal, state and/or local permits may be required, however, and you should verify this yourself.

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Ms. Cheryl Wanko, Environmental Protection Specialist,
reviewed the information furnished and made this determination.
If you have any questions concerning this matter, please feel
free to contact Ms. Wanko at 785-546-2130 (FAX 785-546-2050).

Enclosure

Copies Furnished:

Environmental Protection Agency,
Water Resources Protection Branch wo/enclosure
Kansas Department of Wildlife
and Parks wo/enclosure
Kansas Department of Agriculture wo/enclosure
Kansas Department of Health and Environment
wo/enclosure

SECTION II OF ADMINISTRATIVE APPEAL FORMS AND PROCESS AND
NOTES FOR APPEAL

Applicant: Union Pacific Railroad Company		File Number: 200100495	Date: 9 Jan 01
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
	APPROVED JURISDICTIONAL DETERMINATION		D
XX	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION II - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/mer/functions/cw/cecovo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

B

CHARLES W. SAYLORS
DIRECTOR-LEGAL SUPPORT SERVICES

UNION PACIFIC RAILROAD COMPANY

1416 DODGE STREET
OMAHA, NEBRASKA 68179
(402) 271-4861



October 24, 2003

Kansas State Historical Society
6425 SW Sixth Avenue
Topeka, KS 66615

RE: Proposed Abandonment of the Vliets Industrial Lead from M. P. 409.1 near Frankfort to M. P. 403.8 near Vliets, a distance of 5.3 miles in Marshall County, Kansas; STB Docket No. AB-33 (Sub-No. 172X)

Dear Sir:

Enclosed for your review are fourteen photographs of the bridges located on the Vliets Industrial Lead which are 50 years or older along with a map of the proposed abandonment. The bridges are described as follows:

<u>Milepost</u>	<u>Description</u>	<u>Year Constructed</u>
404.70	Timber Pile Trestle/TST-O.D. Total Length: 27 Feet	1950
405.00	Timber Pile Trestle/Thru-PL.G. O.D. Total Length: 176 Feet	1940
406.00	Timber Pile Trestle/TST-O.D. Total Length: 126 Feet	1923
407.00	Timber Pile Trestle/TST-O.D. Total Length: 42 Feet	Rebuilt 1943
408.50	Timber Pile Trestle/TST-O.D. Total Length: 34 Feet	1963
	Deck Plate Trestle/D.P.G. Open Deck Total Length: 52 Feet	1897
	Timber Pile Trestle/TST-O.D. Total Length: 37 Feet	1963

Please advise if you believe there is any historical significance to any of the bridges. Thank you for your assistance.

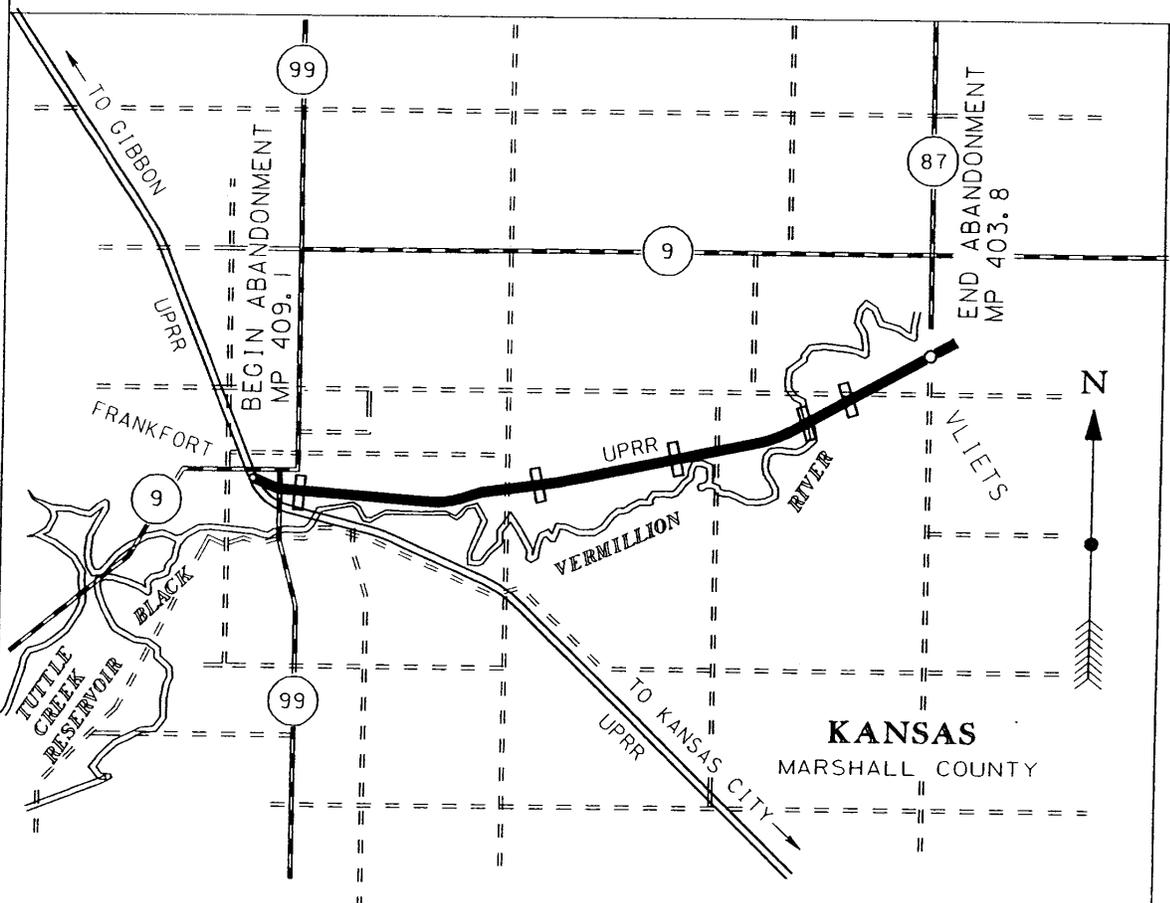
Sincerely,

Charles W. Saylor

Charles W. Saylor
(402) 271-4861

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BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
404.70	TIMBER PILE TRESTLE /TST-O.D.	27'	1950
405.00	TIMBER PILE TRES /THRU-PL.G. O.D.	176'	1940
406.00	TIMBER PILE TRESTLE /TST-O.D.	126'	1923
407.00	TIMBER PILE TRESTLE /TST-O.D.	42'	1943
408.50	TIMBER PILE TRES./TST OPEN DECK	34'	1963
	DECK PLATE TRES./D.P.G. OPEN DECK	52'	1897
	TIMBER PILE TRES./TST OPEN DECK	37'	1963

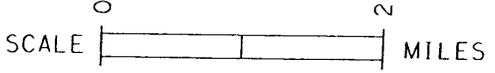
VLIETS INDUSTRIAL LEAD
 MP 403.80 TO MP 409.1
 VLIETS INDUSTRIAL LEAD A TOTAL OF 5.30 MILES
 IN MARSHALL COUNTY, KS.

STATION	MILE POST	AGENCY
VLIETS	404.00	NO

LEGEND

- UPRR LINES TO BE ABANDONED
- UPRR LINES
- OTHER RAILROADS
- 50+ YEAR OLD STRUCTURES
- PRINCIPAL HIGHWAYS
- OTHER ROADS

UNION PACIFIC RAILROAD CO.
 VLIETS INDUSTRIAL LEAD
 INCL. 50+ YEAR OLD STRUCTURES



Revised 10-23-03 ab0091vliets.dgn

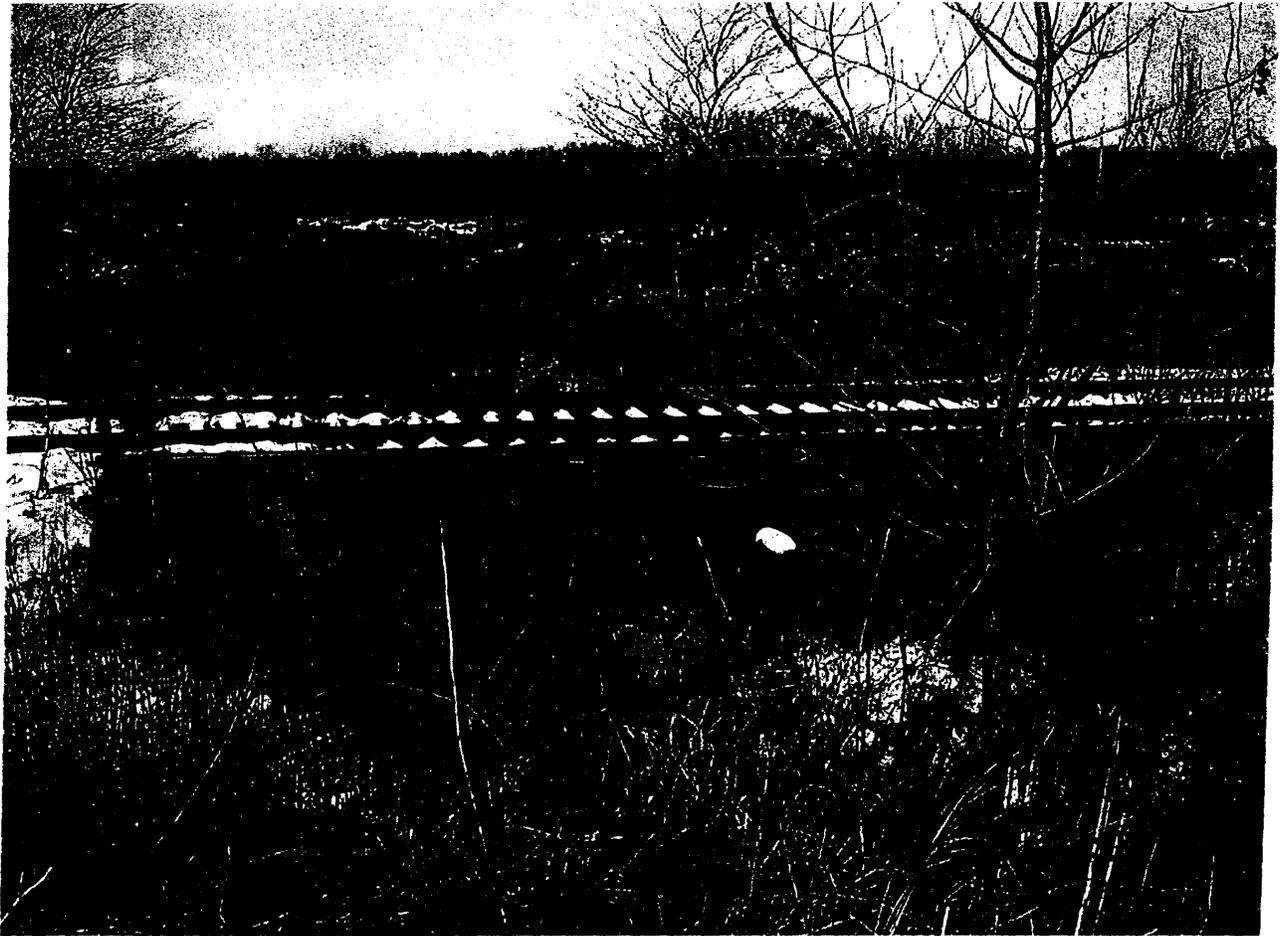
46
 32



404.70 - Bridge Looking East

47

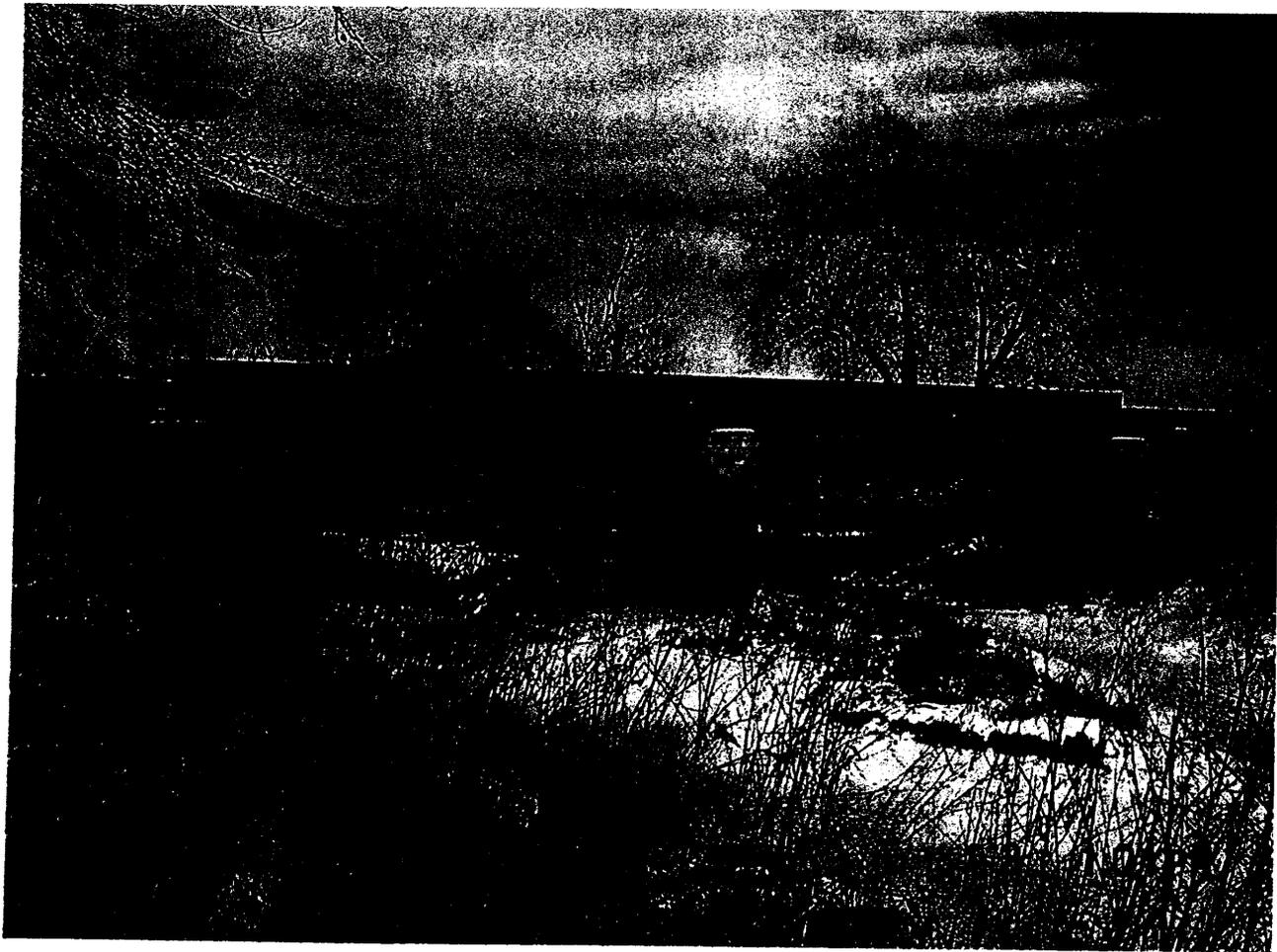
33



404.70 - Bridge

48

31



405.10 - Bridge Looking North



405.10 - Bridge Looking West 1



405.10 - Bridge Looking West 2

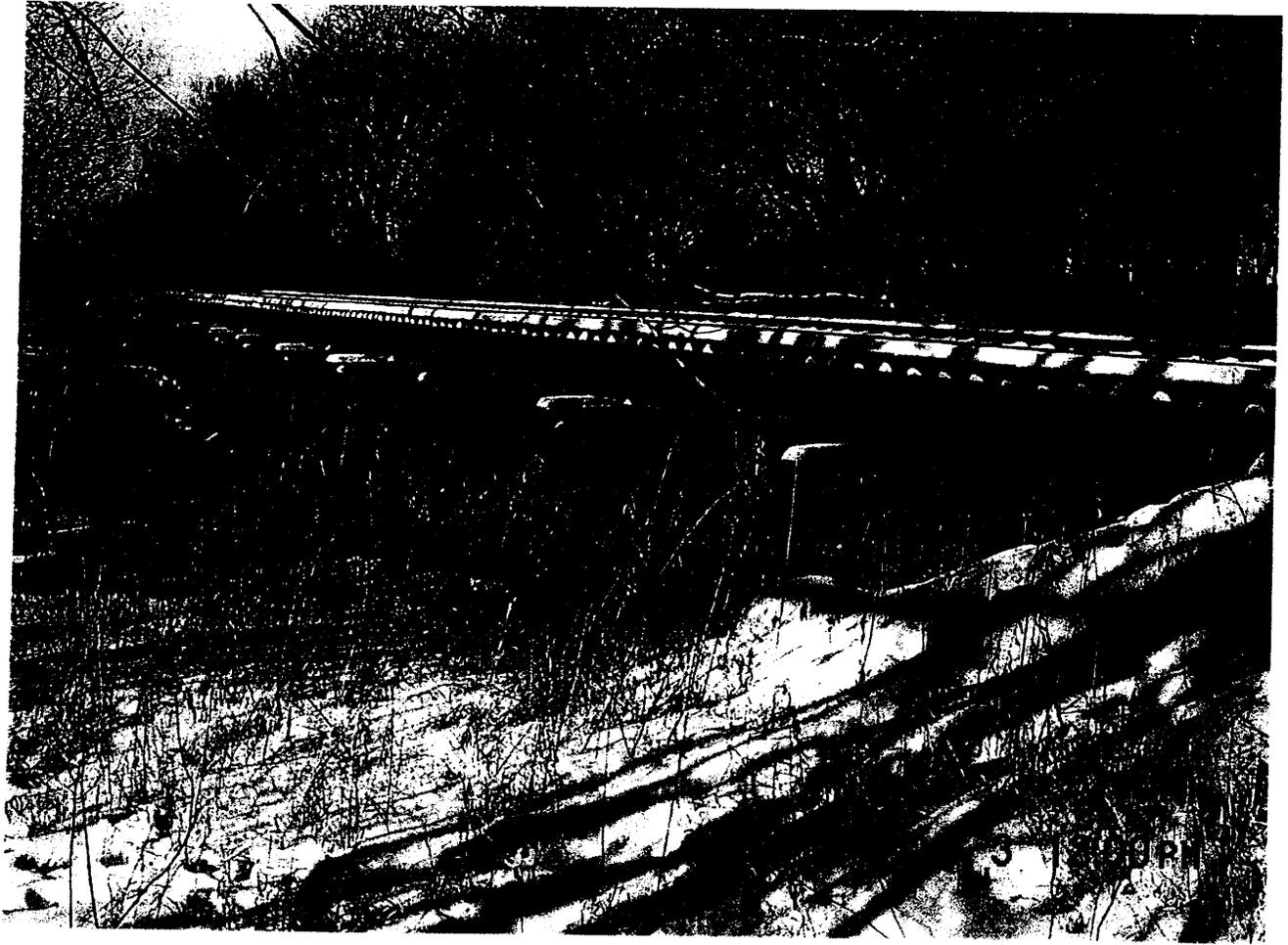
37
37



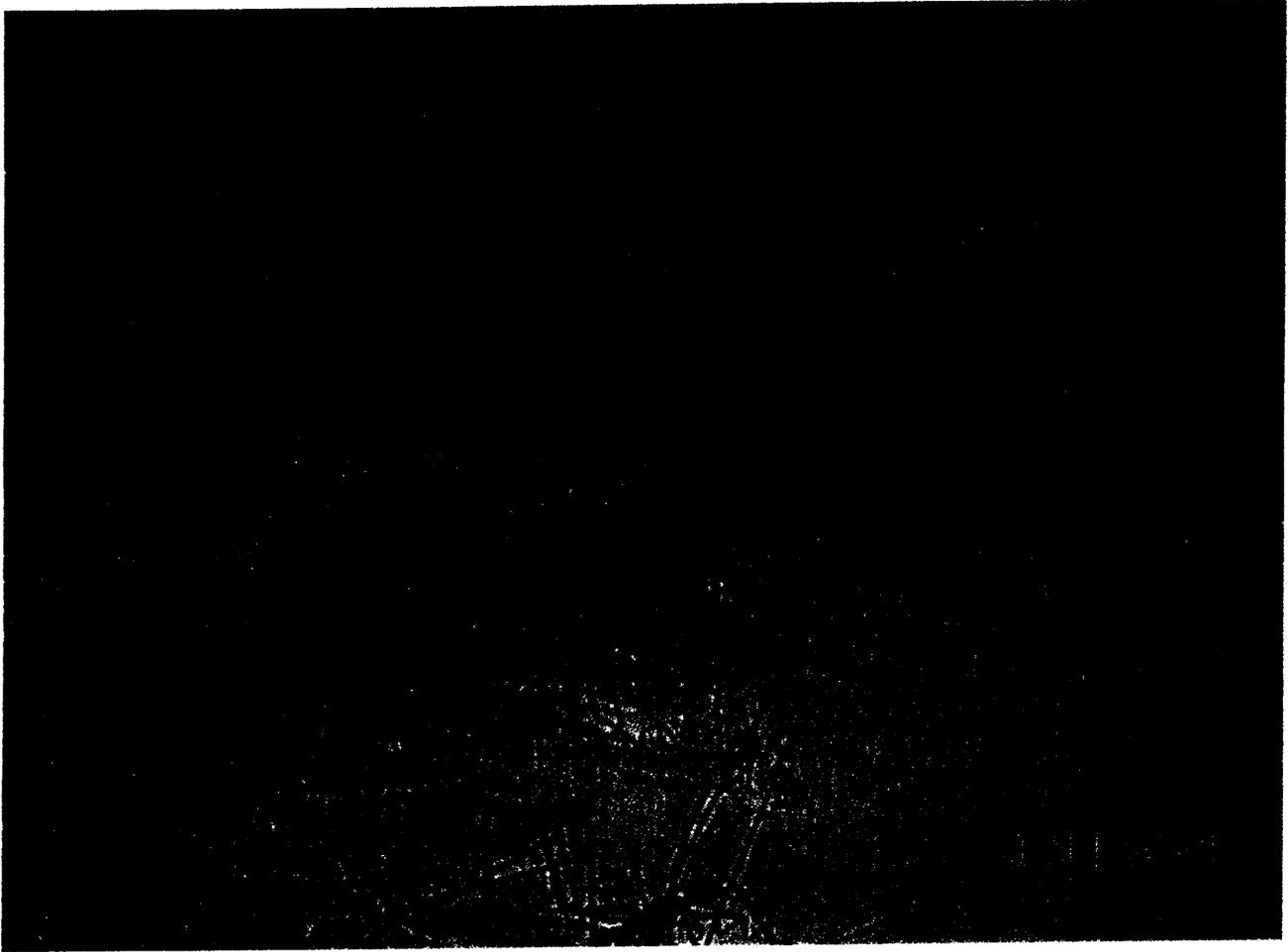
406.02 - Bridge Looking North



406.02 - Bridge Looking West



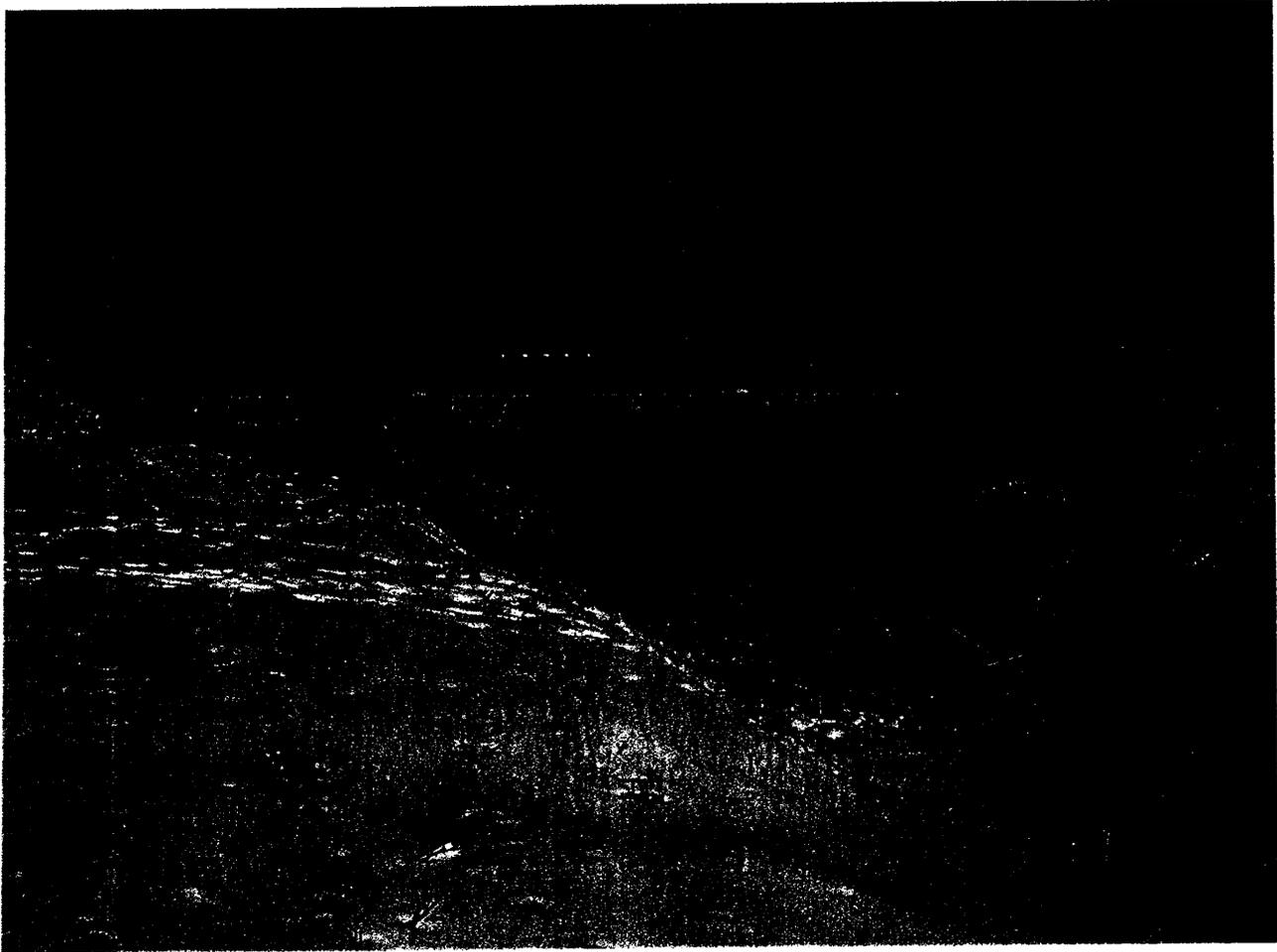
406.02 - Bridge



406.98 - Bridge Looking East



406.98 - Bridge Looking West



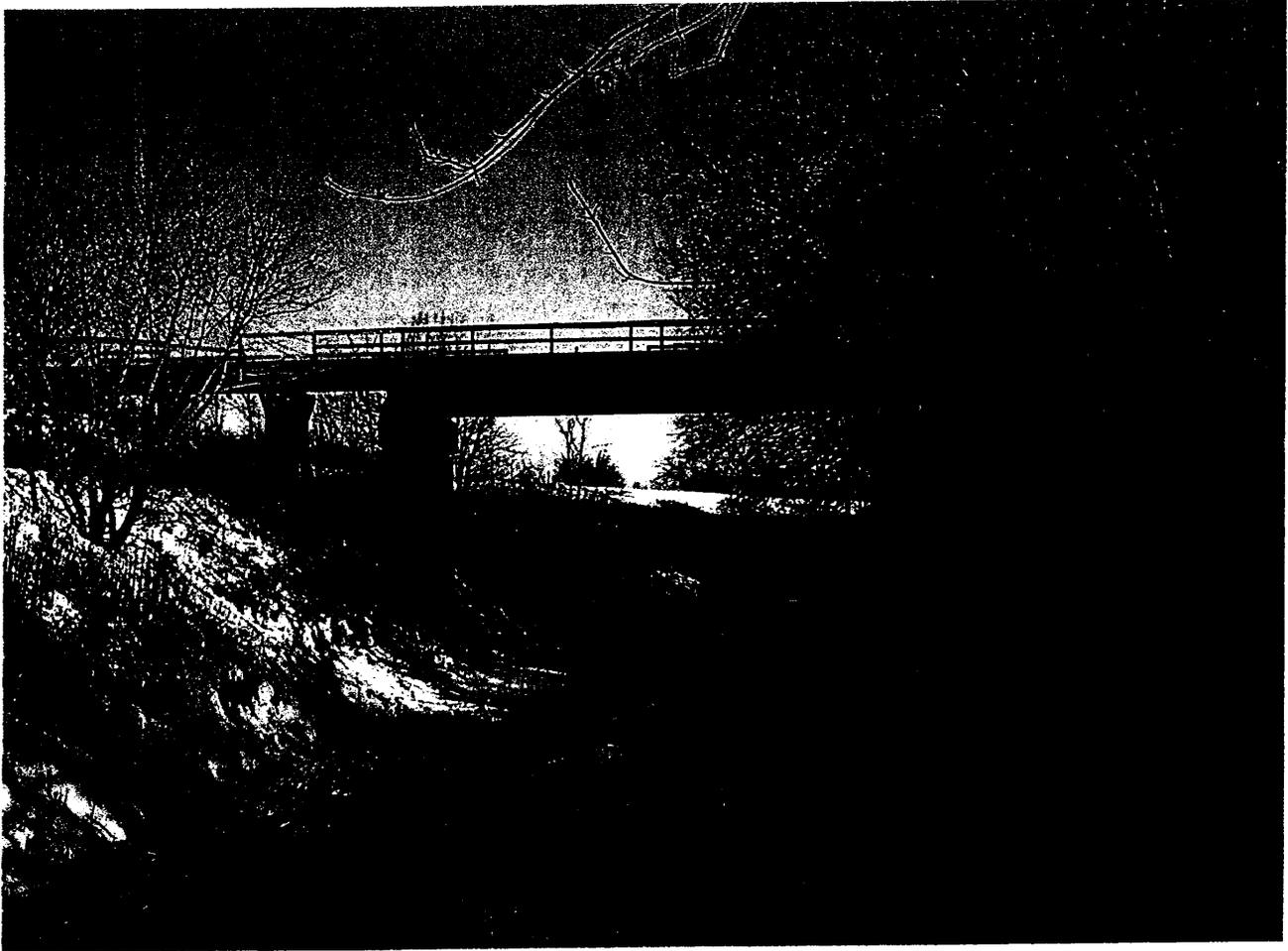
406.98 - Bridge



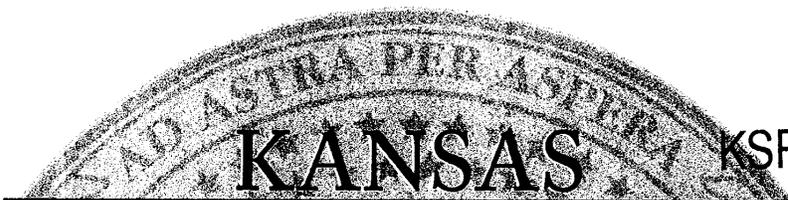
408.50 - Bridge A



408.50 - Bridge B



408.50 - Bridge C



KSR&C No. 03-10-152

Kansas State Historical Society
Dick Pankratz, Director, Cultural Resources Division

KATHLEEN SEBELIUS, GOVERNOR

October 28, 2003

Charles W Saylor
Union Pacific Railroad Co
1416 Dodge St
Omaha NE 68179

RE: Abandon Vliets Industrial Lead From MP 409.1 to MP 403.8, Vliets
Marshall County

Dear Mr. Saylor:

We have reviewed the project identified above and have determined that it should not affect any property listed on the National Register of Historic Places or otherwise identified in our files as having historical significance. This office has no objection to implementation of the project.

Sincerely yours,

Mary R. Allman
State Historic Preservation Officer

Richard Pankratz, Director
Cultural Resources Division

clg

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VERIFICATION

STATE OF NEBRASKA)
) ss:
COUNTY OF DOUGLAS)

I, RAYMOND E. ALLAMONG, JR., Senior Manager Rail Line Planning of Union Pacific Railroad Company, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing document and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of Union Pacific Railroad Company. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, I know that these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

Dated at Omaha, Nebraska, this sixth day of April, 2004.

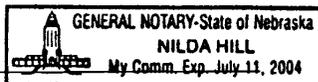
Raymond E. Allamong, Jr.
Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN TO
before me this 6th day of
April, 2004.

Nilda Hill

Notary Public

My Commission expires:



CERTIFICATE OF SERVICE AND PUBLICATION

The undersigned hereby certifies that a copy of the foregoing Petition for Exemption in Docket No. AB-33 (Sub-No. 172X) by Union Pacific Railroad Company was served on the date indicated below by mailing a copy, first class mail postage prepaid to the following:

MTMCTEA
Attn: Railroads for National Defense
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

U. S. Department of the Interior
National Park Service
Recreation Resources Assistance Div.
P.O. Box 37127
Washington, D.C. 20013-7127

Transportation Planning Bureau
Kansas Department of Transportation
Docking State Office Building
915 West Harrison
Topeka, KS 66612

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor NW, Auditors Building
14th Street & Independence Ave., S.W.
Washington, D.C. 20250

County Commissioners
Marshall County Courthouse
1201 Broadway
Marysville, KS 66508-1844

The undersigned further certifies that a notice of the abandonment was published one time in the County where the rail line is located as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Marshall	<i>Marysville Advocate</i>	April 8, 2004

The above newspaper is generally circulated in the county where the rail line is located. The Notice as published was in the form prescribed by the Board for a Petition for Exemption at 49 CFR 1105.12.

Dated this 12th day of April, 2004.


Charles W. Saylor

NOTICE OF INTENT TO ABANDON

UNION PACIFIC RAILROAD COMPANY ("UP") gives notice that on or after April 8, 2004, it intends to file with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption under 49 U.S.C. Section 10502 from the prior approval requirements of 49 U.S.C. 10903, permitting the abandonment and discontinuance of service over the Vliets Industrial Lead from M.P. 409.10 near Frankfort to M.P. 403.80 near Vliets, a distance of 5.3 miles, in Marshall County, Kansas (the "Line"). The Line traverses U. S. Postal Service Zip Codes 66427 and 66544. The proceeding has been docketed as No. AB-33 (Sub-No.172X).

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the SEA, Surface Transportation Board, Washington, D.C. 20423 or by calling SEA at (202) 565-1545.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street, N.W., Washington, D.C. 20423-0001 [See 49 C.F.R Sections 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 C.F.R. Section 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance at (202) 565-1650. Copies of any comments or requests for conditions should be served on the applicant's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, Illinois 60606.

UNION PACIFIC RAILROAD COMPANY