



212771



December 15, 2004

VIA UPS NEXT DAY AIR
Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 "K" Street, N.W., Room 504
Washington, DC 20423-0001

ENTERED
Office of Proceedings

DEC 16 2004

Part of
Public Record

RE: Docket No. AB-33(Sub-No.227X), Union Pacific Railroad Company
- **Abandonment Exemption - In Carribou County, Idaho from M.P. 23.90 to M.P. 24.11 (Dry Valley Subdivision)**

Dear Mr. Williams:

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. 227X). Further, enclosed is Union Pacific's voucher for \$5,000 for the filing fee.

Sincerely yours,

Enclosures

FILED

DEC 16 2004

SUPPLY
TRANSPORTATION BOARD

O:\ABANDONMENTS\33-227X\STB-PetLtr.doc

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

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BEFORE THE
SURFACE TRANSPORTATION BOARD



ENTERED
Office of Proceedings
DEC 15 2004
Part of
Public Record

Docket No. AB-33 (Sub-No. 227X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --

IN CARRIBOU COUNTY, IDAHO
(DRY VALLEY SUBDIVISION)

PETITION FOR EXEMPTION

FILED

DEC 15 2004

TRANSPORTATION BOARD

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: December 15, 2004
Filed: December 16, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 227X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --

IN CARRIBOU COUNTY, IDAHO
(DRY VALLEY SUBDIVISION)

PETITION FOR EXEMPTION

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Mack H. Shumate, Jr.
Senior General Attorney
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Chicago, IL 60606
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Dated: December 15, 2004
Filed: December 16, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 227X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --

IN CARRIBOU COUNTY, IDAHO
(DRY VALLEY SUBDIVISION)

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 and discontinuance of service over the Dry Valley Subdivision from milepost 23.90 to milepost 24.11, a distance of 0.21 miles in Carribou County, Idaho (the "Line").

There are no shippers on the Line that will be adversely affected by the proposed abandonment. The sole reason for the proposed abandonment is to facilitate the reclassification and sale of the Line to the sole shipper on the Line, Agrium.

UP seeks exemption of this proposed abandonment and discontinuance of service on the Line 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. The Line from milepost 23.90 to milepost 24.11 in Carribou County, Idaho is owned and operated by UP. The name, address and telephone number of UP's representative is listed below:

Mack H. Shumate, Jr.
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 Dry Valley Subdivision from milepost 23.90 to milepost 24.11, a distance of 0.21 miles near Dry Valley, in Caribou County, Idaho. The sole reason for the proposed abandonment is to facilitate the reclassification and sale of the Line to the customer, Agrium, so that Agrium can assemble optimally sized phosphate rock trains with its own crews, which will enhance the economic performance of this short segment and the rail line beyond. In 2002 and 2003, the Dry Valley traffic was moved by a firm named Astaris. Astaris has since sold the Dry Valley mining operations to a firm called Agrium. Agrium is the party that desires to operate the subject Line after the proposed abandonment,

reclassification, and sale. It is contemplated that Agrium will commence shipping activities in 2005.

The Line was constructed in 1965 by UP for El Paso Gas Products Company. The Line was purchased by UP through its subsidiary, the Oregon Short Line Railroad in 1973. It is laid with 131-pound jointed rail.

The Line traverses U.S. Postal Service Zip Code 83230.

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

IV.

SHIPPER INFORMATION

The recent shipping profile for the Line is as follows

Agrium (Successor-In-Interest to Astaris)
13131 Lake Fraser Drive S.E.
Calgary, AB T2J 7E8

(Note: Astaris was the sole shipper on the Line in 2002 and 2003 but subsequently sold its operations served by the Line to Agrium).

2002: Phosphate Rock, STCC 1471410, 1722 cars, 170,469 tons.
Covered Hoppers moved on own wheels, 14 cars, 0 tons lading.
Total: 1736 cars, 170,469 tons.

2003: Phosphate Rock, STCC 1471410, 1609 cars, 159,103 tons.

January-September 2004, no activity.

The abandonment will have no adverse effect on Agrium. Subsequent reclassification of the Line and sale of the Line by UP to Agrium will permit Agrium to build larger trains with its own personnel and permit it to maximize its rail shipping activity. Agrium will not have to utilize any transportation alternatives. UP will still provide rail service to the Agrium facility. Since the Line is at a track end, there will be no effect on overhead traffic.

V.

REASONS FOR THE ABANDONMENT

There appears to be no reasonable alternative to the abandonment. The Line serves the sole function of accessing the industry tracks of Agrium. There is no other industry in the area, and none is anticipated. There is no overhead traffic, The phosphate rock produced by Agrium will continue to move in dedicated unit trains over the UP.

UP does not believe the property proposed for abandonment is suitable for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, as the area because of its limited population base is adequately served by existing roads and utility lines. The Line contains approximately 3.992 acres of non-reversionary property. Based on information in UP's possession, the Line does not contain federally granted right-of-way. Any documentation in UP's possession will be made available to those requesting it.

The UP is of the opinion that the proposed abandonment would be beneficial to the UP, the shipper Agrium and interstate commerce in general.

VI.

REASONABLE ALTERNATIVE; VIABILITY

There appears to be no reasonable alternative to the abandonment. There will be no adverse effect on the sole shipper on the Line, Agrium, in that Agrium will continue to have rail service to the Line. That is, Agrium will continue to receive direct rail service from UP in that the Line serves the sole function of providing access to the industry tracks of Agrium.

There should be no effect on regional or local transportation systems or patterns, and there will be no diversion to other modes or transportation systems.

Since Agrium will be using the Line for its sole industrial purposes, 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.

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 foster sound economic conditions in the transportation industry consistent with Section 10101(5), by permitting UP's abandonment of the Line and subsequent sale to Agrium, the cost to maintain and

operate the Line will become the obligation of Agrium, the sole shipper, and will be accounted for as an industry track.

The proposed abandonment is clearly a transaction of "limited scope." The Line is only 0.21 miles long and will have no recurring local traffic except the Agrium traffic which will continue to receive direct rail service from UP through the connection to Agrium's facility via the Line. In addition, regulation of this abandonment is not needed to protect shippers from an abuse of market power, since the reclassification of the Line will permit Agrium exclusive utilization of the Line for Agrium's industrial shipping requirements.

VIII.

LAND AREA, FEDERAL GRANT INFORMATION, AND PUBLIC USE

The right-of-way is approximately 0.21 miles in length. The Line is 149 feet in width and is in a dale. The topography of the land is hilly, rocky with some gently rolling slopes and the property is generally 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 Line contains approximately 3.992 acres of non-reversionary property. Based on information in UP's possession, the Line does not contain federally granted right-of-way. Any documentation in UP's possession will be made available to those requesting it.

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 (the "CEHR") which was served on November 8, 2004. A copy of the CEHR transmittal letter is attached hereto as **Attachment 2** and is hereby made a part hereof. The original and ten (10) copies of the CEHR were sent to Ms. Victoria Rutson, Section of Environmental Analysis, on November 5, 2004, for filing.

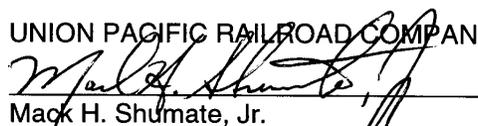
Subsequent to the filing of the combined CEHR one additional letter dated November 4, 2004 was received by UP from the Department of the Army Corps of Engineers ("Corp"). A copy of this letter is attached hereto as **Attachment 3** and is hereby made a part hereof. This letter states that based on the information provided the proposed project will not require a permit from the Corp.

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 15th day of December, 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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VERIFICATION

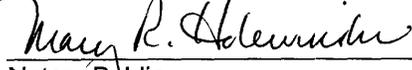
STATE OF NEBRASKA)
) ss:
COUNTY OF DOUGLAS)

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.

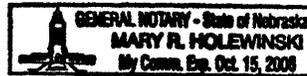
Dated at Omaha, Nebraska, this 9th day of November, 2004.


Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN TO
before me this 9th day of
November, 2004.



Notary Public



My Commission expires: October 15, 2008

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

STB No. AB-33 (Sub-No. 227X)
Notice of Petition for Exemption to Abandon or
to Discontinue Service

On December 16, 2004, Union Pacific Railroad Company filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment and discontinuance of service over the Dry Valley Subdivision from milepost 23.90 to milepost 24.11, a distance of 0.21 miles in Caribou County, Idaho (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.

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. 227X) 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

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

Commission Secretary
Idaho Public Utilities Commission
P. O. Box 83720
472 West Washington St.
Boise, ID 83702

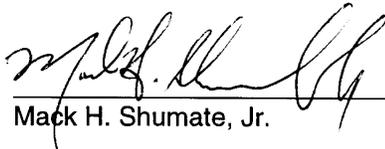
Caribou County Commissioners
County Courthouse
159 S. Main Street
Soda Springs, ID 83276-1427

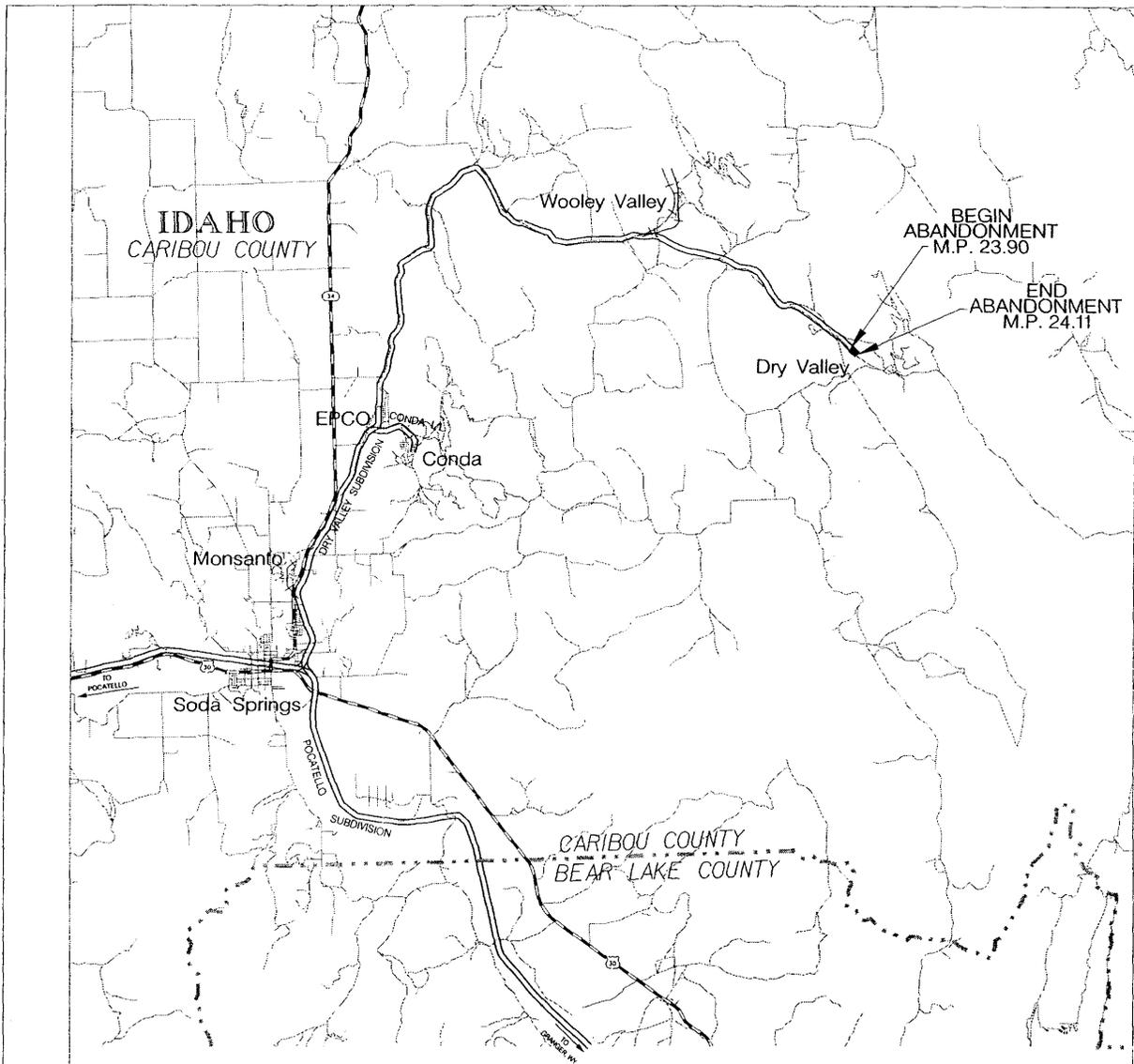
The undersigned further certifies that a notice of the abandonment was published one time in the County where the rail line is located as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Caribou	<i>Caribou County Sun</i>	December 9, 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 15th day of December, 2004.


Mack H. Shumate, Jr.



NOTE: THERE ARE NO 50+ YEAR OLD STRUCTURES

LEGEND

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

DRY VALLEY SUBDIVISION

MP 23.90 TO MP 24.11
TOTAL OF 0.21 MILES
IN CARIBOU COUNTY, IDAHO

UNION PACIFIC RAILROAD CO.
DRY VALLEY SUBDIVISION
DRY VALLEY, IDAHO
INCLUDING 50+ YEAR OLD STRUCTURES



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DATE: 04-Oct-04 11:07

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. 227X) for the Dry Valley Subdivision in Caribou County, Idaho was served by first class mail on the 5th day of November, 2004 on the following:

State Clearinghouse (or alternate):

Commission Secretary
Idaho Public Utilities Commission
P. O. Box 83720
472 West Washington St.
Boise, ID 83702

State Environmental Protection Agency:

Idaho Division of Environmental Quality
1410 N. Hilton
Boise, ID 83706

State Coastal Zone Management Agency
(if applicable):

None

Head of each County:

Caribou County Commissioners
County Courthouse
159 S. Main Street
Soda Springs, ID 83276-1427

Environmental Protection Agency

(Regional Office):

U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, WA 98101

U.S. Fish and Wildlife:

U.S. Fish & Wildlife Service, Region 1
911 NE 11th Avenue
Portland, OR 97232-4181

U.S. Army Corps of Engineers:

U.S. Army Engineer District
Walla Walla
201 North Third Avenue
Walla Walla, WA 99362-1876

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:

State Conservationist
Natural Resource Conservation Service
9173 W. Barnes Drive, Ste. C
Boise, ID 83709-1573

National Geodetic Survey:

National Geodetic Survey
Frank Maida, Chief
Spatial Reference System Division
NOAA N/NGS23
1315 E-W Highway
Silver Spring, MD 20910-3282

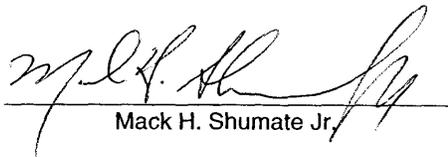
State Historic Preservation Office:

State Historic Preservation Officer
Idaho Historical Society
1109 Main St., Suite 250
Boise, ID 83702

Shipper:

Agrium
13131 Lake Fraser Drive S.E.
Calgary, AB T2J 7E8

Dated this 5th day of November, 2004


Mack H. Shumate Jr.

REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
IDAHO FALLS REGULATORY OFFICE
900 NORTH SKYLINE DRIVE, SUITE A
IDAHO FALLS, IDAHO 83402-1718

November 4, 2004

Regulatory Division

SUBJECT: NWW No. 053300005

Mr. Charles Saylor
Union Pacific Railroad
1400 Douglas St.
Stop 1580
Omaha, Nebraska 68119-1580

Dear Mr. Saylor:

This is in response to your October 11, 2004 letter requesting our comments for Union Pacific's proposed rail line abandonment at Dry Valley Mine from milepost 23.90 to 24.11. It is our understanding that the section of line will be abandoned in place for use by Agrium in their mine operation and that no actual work is proposed. Section 404 of the Clean Water Act (33 U.S.C. 1344) requires a Department of the Army permit be obtained for the discharge of dredged or fill material into waters of the United States. This includes most perennial and intermittent rivers and streams, natural and man-made lakes and ponds, and wetlands, as well as irrigation and drainage canals and ditches that are tributaries to other waters. The Dry Valley Creek is a water regulated under Section 404. Activities regulated under Section 404 include excavation and mechanized landclearing activities, which result in the discharge of dredged material and destroy or degrade waters of the United States. The term waters of the United States includes rivers, lakes, streams, (both perennial and intermittent), ponds, and wetlands.

Based on the information provided, it appears the proposed project will not involve work in areas subject to our jurisdiction and a Department of the Army permit will not be required. If you have any questions concerning these regulatory matters, please contact me at 208-522-1676 (fax 208-522-2994).

Sincerely,

James M. Joynce
James M. Joynce
Regulatory Project Manager

Enclosures