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THOMAS F. MCFARLAND

June 5, 2006

Vernon A. Williams, Secretary  
Surface Transportation Board  
Case Control Unit, Suite 713  
1925 K Street, N.W.  
Washington, DC 20423-0001

ENTERED  
Office of Proceedings  
JUN 12 2006  
Part of  
Public Record

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Re: STB Docket No. AB-33 (Sub-No. 242X), *Union Pacific Railroad Company -- Abandonment Exemption -- in Montgomery County, KS*

STB Docket No. AB-471 (Sub-No. 7X), *South Kansas & Oklahoma Railroad, Inc. -- Discontinuance of Service Exemption -- in Montgomery County, KS*

Dear Mr. Williams:

On May 16, 2006, Union Pacific Railroad Company (UP) and South Kansas & Oklahoma Railroad, Inc. (SKOL) filed a Draft Environmental and Historic Report in the above proceeding. UP and SKOL will file Notices of Exemption for abandonment and discontinuance of service under 49 C.F.R. § 1152.50 on or about June 9, 2006.

Hereby transmitted are 11 copies of an environmental comment submitted by the U.S. Department of the Interior, Fish and Wildlife Service, Manhattan, KS, dated May 25, 2006. The comment states that no threatened and endangered species are likely to be present in the project area when the rail line would be removed.

Very truly yours,

Thomas F. McFarland  
*Attorney for South Kansas  
& Oklahoma Railroad, Inc.*

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cc: Mack H. Shumate, Jr., Esq.  
Craig Richey, Esq.  
Edmund S. Gross, Esq.



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Kansas Ecological Services Office  
2609 Anderson Avenue  
Manhattan, Kansas 66502-6172



May 25, 2006

Chuck Saylor  
Union Pacific Railroad  
1400 Douglas Street, Mail Stop 1580  
Omaha, NE 68179



RE: STB Docket No. AB-33 and AB-471

FWS Tracking # 2006-P-0325

Dear Mr. Saylor:

This is in response to your April 24, 2006 notice requesting comment on the proposed abandonment of the Old Coffeyville Substation from Milepost 166.8 to Milepost 166.0.

Based on review of the proposed action and the land uses on site, I conclude that no threatened and endangered species are likely to be present in the project area.

Under the Migratory Bird Treaty Act (MBTA), construction activities in prairies, wetlands, stream and woodland habitats that would otherwise result in the taking of migratory birds, eggs, young, and/or active nests should be avoided. Although the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Kansas occurs during the period of April 1 to July 15, although some migratory birds are known to nest outside this period. If the proposed construction project may result in the take of nesting migratory birds, the USFWS recommends a field survey during the nesting season of the affected habitats and structures to determine the presence of active nests. Our office should be contacted immediately for further guidance if a field survey identifies the existence of one or more active bird nests that can not be avoided temporally or spatially by the planned construction activities.

If a permit from the Corps of Engineers is required, the USFWS will be given the opportunity to review the public notice on the proposed action and provide additional comments at that time. Section 404 guidelines require the sequence of avoidance of impacts, minimization of impacts and compensation for unavoidable impacts. When we review the public notice we will request information on alternatives considered, how the project avoided and minimized impacts to aquatic ecosystems, and the compensatory mitigation proposal, if one is required by the Corps.

Thank you for this opportunity to comment on the proposal.

Sincerely,

A handwritten signature in black ink that reads "Michael J. LeValley". The signature is written in a cursive style with a large, sweeping initial "M".

Michael J. LeValley  
Field Supervisor

cc: KDWP, Pratt, KS (Environmental Services)

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