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October 9, 2006 SURFACE TRANSPORTATION BOARD

VIA UPS NEXT DAY AIR

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

FILED

OCT 10 2006

SURFACE TRANSPORTATION BOARD

Re: Proposed Abandonment of the Flanigan Industrial Lead from M.P. 338.33 near Flanigan, Nevada to M.P. 360.10 near Wendel, California, a total distance of 21.77 miles in Washoe County, Nevada and Lassen County, California; and of the Susanville Industrial Lead from M.P. 358.68 to M.P. 359.25 near Wendel, California, a Total Distance of 0.57 Miles in Lassen County, California; STB Docket Number Ab-33 (Sub-No.230X)

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 are also enclosed.

Please file the Petition for Exemption in Docket No. AB-33 (Sub-No. 230X). Further, enclosed is Union Pacific's voucher for \$5,200 for the filing fee.

Sincerely yours,

Enclosures

ENTERED
Office of Proceedings
OCT 11 2006
Part of
Public Record

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

Mr. Vernon Williams
Surface Transportation Board
October 9, 2006
Page 2

cc:

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

National Park Service
Pacific West Region
1111 Jackson Street, Suite 700
Oakland, CA 94607

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

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

California Department of Parks and Recreation
Office of Historic Preservation
P. O. Box 942896
Sacramento, CA 94296-0001

Nevada State Historic Preservation Office
100 North Stewart Street
Carson City, NV 89701-4825

A&K Railroad Materials
1505 S. Redwood Road
Salt Lake City, UT 84104

Industrial Railways
890 San Pablo Avenue
Pinole, CA 94564

Mr. Vernon Williams
Surface Transportation Board
October 9, 2006
Page 3

Sierra Army Depot
IMWRF Building 143
Herlong, CA 96113

Sierra Pacific Industries
P. O. Box 496028
Redding, CA 96049-6028

BEFORE THE
SURFACE TRANSPORTATION BOARD



Docket No. AB-33 (Sub-No. 230X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --

IN LASSEN COUNTY, CALIFORNIA
AND WASHOE COUNTY, NEVADA
(FLANIGAN INDUSTRIAL LEAD AND SUSANVILLE INDUSTRIAL LEAD)

PETITION FOR EXEMPTION

ENTERED
Office of Proceedings

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OCT 10 2006

SURFACE
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: October 9, 2006
Filed: October 10, 2006

O:\ABANDONMENTS\33-230X\Petition.doc

FILED
OCT 10 2006
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD



Docket No. AB-33 (Sub-No. 230X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --

IN LASSEN COUNTY, CALIFORNIA
AND WASHOE COUNTY, NEVADA
(FLANIGAN INDUSTRIAL LEAD AND SUSANVILLE INDUSTRIAL LEAD)

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 both the Flanigan Industrial Lead from Milepost 338.33 near Flanigan, Nevada to Milepost 360.10 near Wendel, California, a distance of 21.77 miles in Washoe County, Nevada and Lassen County, California; and over the Susanville Industrial Lead from Milepost 358.68 to Milepost 359.25 near Wendel, California, a distance of 0.57 miles in Lassen County California, (collectively, the "Line").

The current plan is to reclassify the Line after abandonment and to sell it for operation as an industrial lead track to a railroad tie disposal contractor located at the southern end of the Line at Flanigan, Nevada. The Line will be used by the tie

disposal contractor to access a steam generating plant at Wendel, California that burns various salvaged wood items, such as processed used railroad ties for generation of electricity.

There is no practicable possibility for new rail business on the Line. There is no overhead traffic on the Line.

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 over the entire Line from Milepost 338.33 near Flanigan, Nevada to Milepost 360.10 near Wendel, California, a distance of 21.77 miles in Washoe County, Nevada and Lassen County, California (the "Flanigan Industrial Lead") and from Milepost 358.68 to Milepost 359.25 near Wendel, California, a distance of 0.57 miles in Lassen County, California (the "Susanville Industrial Lead").

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 of all of UP's interest in both the Flanigan Industrial Lead from Milepost 338.33 near Flanigan, Nevada to Milepost 360.10 near Wendel, California, a distance of 21.77 miles in Washoe County, Nevada and Lassen County, California; and over the Susanville Industrial Lead from Milepost 358.68 to Milepost 359.25 near Wendel, California, a distance of 0.57 miles in Lassen County California.

The majority of the Flanigan Industrial Lead from Flanigan to Wendel, as well as the Susanville Industrial Lead, was constructed by the Fernley and Lassen Railway in 1913 and 1914. The final mile or so of the Flanigan Industrial Lead on the north side of Wendel was constructed by the Nevada-California-Oregon Railway in the years 1899 and 1900. The Line is currently constructed with a combination of 110, 112, 113, and 119 pound rail put down primarily in the 1940's and 1950's.

The Line traverses U.S. Postal Service Zip Codes 89405, 96113, 96130 and 96136.

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

IV.

SHIPPER INFORMATION

Since July of 2004, the only revenue traffic on the Line has consisted of movements of scrap railroad track materials from abandoned UP railroad lines in the area generated by UP salvage contractors. Activity in 2004, 2005 and through early March, 2006 stemmed from salvage of a UP abandonment of a rail line between Wendel and McArthur, California. Activity in July and August, 2006 stemmed from salvage of the abandoned UP (SP) line running from Wendel to Susanville, California. Movement of Susanville materials is expected to end by, or shortly after, the anticipated effective date of an STB decision authorizing the subject abandonment. The salvage contractor has been notified of UP's plans and is aware that final movements might have to be made by truck. Given the special nature of this salvage based traffic and its limited remaining time frame, no base or forecast year economic data is warranted.

A&K Railroad Materials
1505 S. Redwood Road
Salt Lake City, UT 84104
(shipped from Wendel)

2004: STCC 3312868, tie plates, 14 cars, 1,008 tons
STCC 4021148, railway track materials, 1 car, 96 tons
STCC 4021149, track rails, 37 cars, 3,492 tons
Total: 52 cars, 4,596 tons

2005: STCC 3312839, track rails nec, 10 cars, 920 tons
STCC 3312868, tie plates, 4 cars, 358 tons
Total: 14 cars, 1,278 tons

2006: (active March only)
STCC 3312839, track rails nec, 2 cars, 142 tons
STCC 3312890, track material, mixed loads, 1 car, 81 tons
Total 3 cars, 223 tons

Jim Dobbas Company
PO Box 177
Newcastle, CA 95658
(shipped from Wendel)

2006: (activity commenced July and August)
STCC 4021125, scrap iron or steel, nec, 4 cars, 376 tons
STCC 4021122, scrap iron or steel, nec, copper clad, 1 car, 90
tons
Total 5 cars, 466 tons

All other traffic on the Line was waybilled prior to July, 2004.

Industrial Railways
890 San Pablo Avenue
Pinole, CA 94564
Traffic handled at Herlong, CA

2004: STCC 4021125, scrap iron or steel, nec, 9 cars, 776 tons.

This customer is also a salvage contractor for Union Pacific.

Sierra Army Depot
IMWRF Building 143
Herlong, CA 96113

2004: STCC 4111710, military impedimenta, 29 cars, 3,511 tons (one
movement)

The Sierra Army Depot remains an active customer of UP via another UP
main line serving the same facility. Such service will not be affected by
the proposed abandonment.

Sierra Pacific Industries
P. O. Box 496028
Redding, CA 96049-6028
Traffic handled at Wendel, CA

2004: STCC 2421184, lumber or timber, rough or dressed, 112 cars,
10,670 tons

Sierra Pacific Industries had a lumber mill at Susanville, CA, and operated an industrial rail line over previously abandoned track leased from SP and then UP, that brought the lumber to Wendel. This operation has ceased and the industrial rail line is in the process of being liquidated by UP.

After abandonment, the closest rail line would be the Union Pacific east – west main line at Flanigan on the southern end of the Line. The Line is served by local roads that connect to U.S. 395, a north – south route, near Wendel, California. It is unlikely that new rail oriented customers would locate along the Line. There is no overhead 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 shippers on the Line. The current plan is to reclassify the Line after abandonment and to sell it for operation as an industrial lead track to a railroad tie disposal contractor located at the southern end of the Line at Flanigan, Nevada. The Line will be used by the tie disposal contractor to access a steam generating plant at Wendel, California that burns various salvaged wood items, such as processed used railroad ties for generation of electricity.

Since the only traffic moving over the Line consists of temporary movements of salvaged railroad materials that will cease around the anticipated time

frame of the abandonment ruling, this abandonment should have no impact on regional or local transportation systems and patterns and there should be no diversion of traffic to other transportation systems or modes. (The abandonment might even lead to the removal of some trucks from area roads if the segment is reclassified and sold as an industrial line for the rail movement of railway ties between Flanigan and Wendel – such ties now move over the road.)

For all intents and purposes the only use for the Line is to haul out scrap and salvage material from the prior UP abandonment activities in the vicinity of the Line. After this salvage operation is completed, the only user of the Line will be the tie disposal contractor located at the southern end of the Line at Flanigan, Nevada. The current plan is for the tie disposal contractor to acquire the Line and own and operate it as an industrial lead track.

The UP is of the opinion that the proposed abandonment would be beneficial to the UP and interstate commerce.

VI.

REASONABLE ALTERNATIVE; VIABILITY

There appears to be no reasonable alternative to the abandonment. There will be no adverse effect on shippers on the Line in that, (1) the sole current use of the Line is by contractors hired by UP to dispose of salvage material from other UP abandonments in the area; (2) while the only other shipper on the Line, the Sierra Army Depot, did use the Line for one movement of 29 cars in 2004, their normal routing during 2004 to the present utilizes another UP mainline connection in the vicinity which is not the subject of this abandonment; and (3) after completion of the current salvage

operations, which are scheduled to be completed well before receipt of abandonment authority from the STB, the Line is expected to be transferred to a tie disposal contractor as an industrial track which will continue to have a direct connection to 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 532.588 acres of non-reversionary property and 36.418 acres of reversionary property. Based on information in UP's possession, the Line contains federally granted right-of-way. Any documentation in UP's possession will be made available to those requesting it.

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 avoiding the need to retain and operate a rail line that will not be used by any shipper.

The proposed abandonment is clearly a transaction of "limited scope." The Line which consists of the Flanigan Industrial Lead and the Susanville Industrial Lead is collectively only 22.34 miles long, will have no recurring local traffic and is expected to remain in place as an industrial track that directly connects to UP's mainline.

VIII.

LAND AREA, FEDERAL GRANT INFORMATION, AND PUBLIC USE

The right-of-way is approximately 22.34 miles in length. The major portion of the Line to be abandoned is 150 feet in width with some intermittent portions of 300 feet right-of-way widths. The property is considered to be in the high desert area of rural Nevada and California adjacent to the Amedee Mountains and the topography of the land is generally flat.

The property is generally not 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 at the present time. The Line contains approximately

532.588 acres of non-reversionary property and 36.418 acres of reversionary property. Based on information in UP's possession, the Line contains federally granted right-of-way. Any documentation in UP's possession concerning ownership of the Line will be made available to those requesting it.

After abandonment, the closest rail line would be the UP east-west main line at Flanigan on the southern end of the proposed abandonment. The Line is served by local roads that connect to U. S. 395, a north-south route, near Wendel.

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 (the "CEHR") which was served on July 20, 2006. A copy of the CEHR transmittal letter is attached hereto as **Attachment 2**. The original and ten (10) copies of the CEHR were sent to Ms. Victoria Rutson, Section of Environmental Analysis, on July 19, 2006, for filing.

Subsequent to the filing of the combined CEHR two (2) additional letters were received by UP concerning requested conditions to be imposed on the abandonment. The first letter dated June 23, 2006 is from the Nevada State Historic Preservation Office (the "Nevada SHPO"). The Nevada SHPO recommends that an

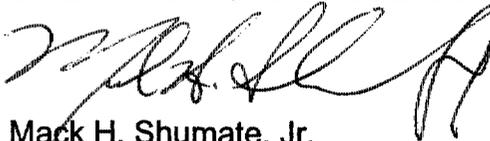
architectural survey of the bridge constructed in 1936 be undertaken. A copy of this letter is attached hereto as **Attachment 3** and is hereby made a part hereof. The second letter dated August 16, 2006 is from the United States Department of the Interior, Fish and Wildlife Service. The Fish and Wildlife Service has concerns that the abandonment project may impact a butterfly known as the "skipper." Since the railroad and the improvements thereon are expected to remain as an industrial track, UP sees no reason to require implementation of either condition at this time. Implementation of such conditions, if any, should be applied to the future owner of the industrial track under applicable state law if and when such owner in the future desires to salvage all or a portion of the line. A copy of this letter is attached hereto as **Attachment 4** and is hereby made a part hereof.

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 9th day of October, 2006.

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

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

STB No. AB-33 (Sub-No. 230X)
Notice of Petition for Exemption to Abandon or
to Discontinue Service

On October 10, 2006, 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 both the Flanigan Industrial Lead from Milepost 338.33 near Flanagan, Nevada to Milepost 360.10 near Wendel, California, a distance of 21.77 miles in Washoe County, Nevada and Lassen County, California; and over the Susanville Industrial Lead from Milepost 358.68 to Milepost 359.25 near Wendel, California, a distance of 0.57 miles in Lassen County, California, collectively (the "Line"). There are no shippers on the Line that will be adversely affected by the proposed abandonment.

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.

DOCKET NO. AB-33 (SUB-NO. 230X)

Flanigan Industrial Lead in Lassen County, CA and Washoe County, NV
and Susanville Industrial Lead in Lassen County, CA

CERTIFICATE OF SERVICE AND PUBLICATION

49 C.F.R. § 1105.11 -

The undersigned certifies that on July 20, 2006 (at least 20 days before a Notice of Exemption is filed), a Combined Environmental and Historic Report pursuant to 49 C.F.R. §§ 1105.7 and 1105.8 was served in Docket No. AB-33 (Sub-No. 230X) for abandonment of the Flanigan Industrial Lead in Lassen County, CA and Washoe County, NV and Susanville Industrial Lead in Lassen County, CA on the following:

- (1) State Clearinghouse (or alternate)
- (2) State Environmental Protection Agency
- (3) State Coastal Zone Management Agency
- (4) Head of each County
- (5) U.S. Environmental Protection Agency (regional office)
- (6) U.S. Fish and Wildlife Service
- (7) U.S. Army Corps of Engineers
- (8) National Park Service
- (9) U.S. Natural Resources Conservation Service
- (10) The National Geodetic Survey
- (11) State Historic Preservation Office
- (12) Other Agencies Consulted (as listed)

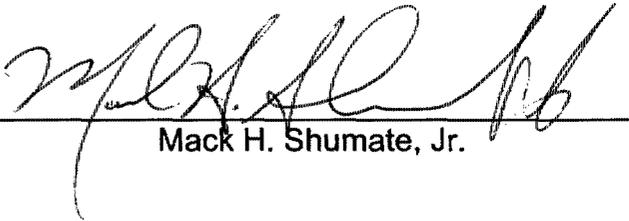
(The Certificate of Service attached to the Combined Environmental and Historic Report lists the names and addresses of the federal, state and local agencies served.)

49 C.F.R. § 1105.12 - Newspaper Notice

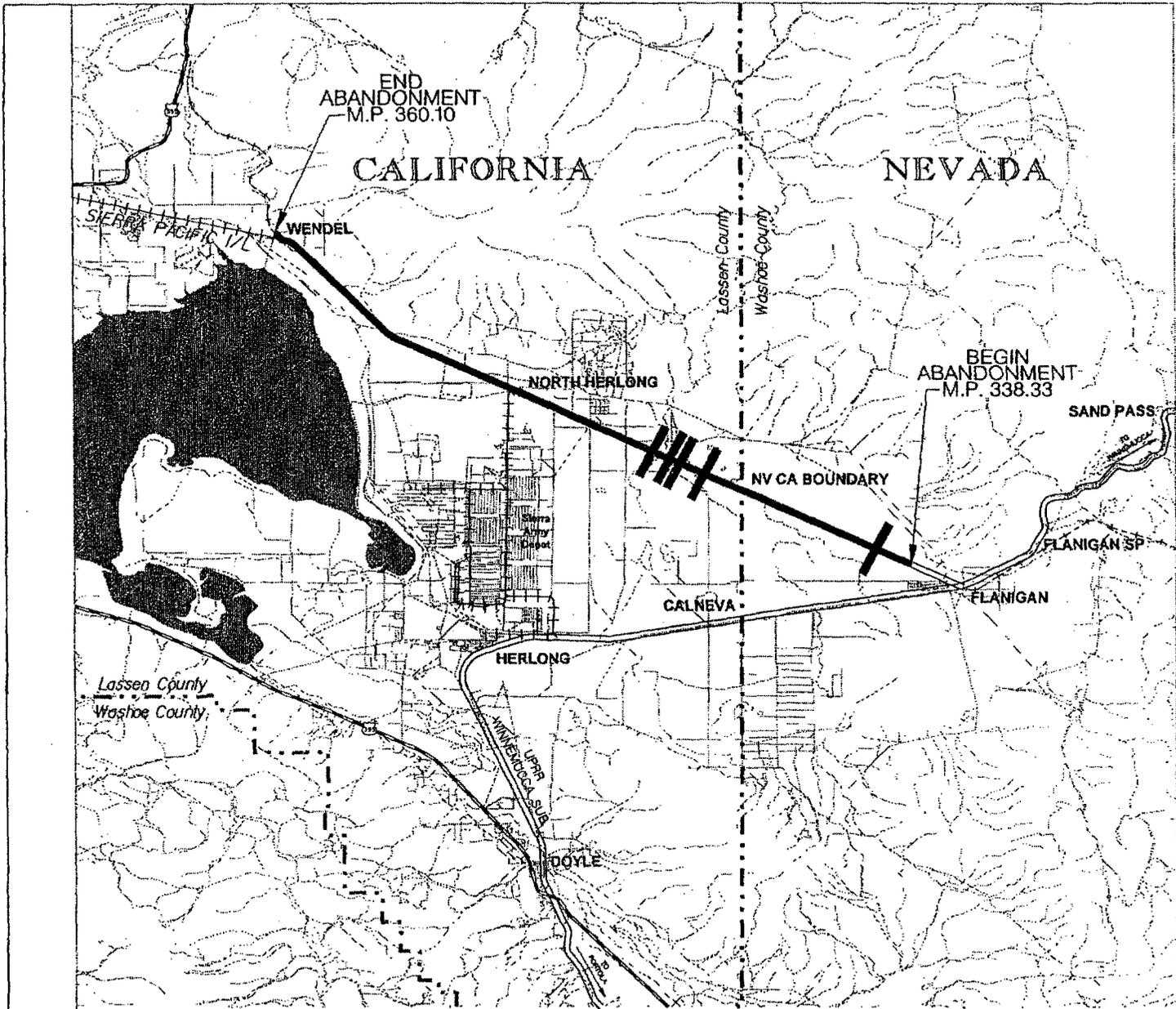
The undersigned further certifies that a "Notice of Intent to Abandon" was published in the form prescribed by the Board for a Notice of Exemption. The notice was published one time in a major newspaper in the county in which the Line is located as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Lassen	<i>Lassen County Times</i>	August 29, 2006
Washoe	<i>Reno Gazette Journal</i>	August 25, 2006

Dated this 9th day of October, 2006.



Mack H. Shumate, Jr.



STATION	MILE POST	AGENCY
CA/NV ST LINE	343.12	NO
NORTH HERLONG	349.8	NO
WENDEL	358.7	NO

BRIDGE NO.	BRIDGE TYPE	TOTAL LENGTH	DATE
333.74	2 SPAN TIMBER PILE TRESTLE OPEN DECK (TSTOD)	31.17	1938
344.62	3 SPAN TIMBER PILE TRESTLE OPEN DECK (TSTOD)	45.17	1940
345.68	10 SPAN TIMBER PILE TRESTLE OPEN DECK (TSTOD)	150.17	1939
345.95	3 SPAN TIMBER PILE TRESTLE OPEN DECK (TSTOD)	45.17	1941
346.67	2 SPAN TIMBER PILE TRESTLE (TST)	20.17	1931

LEGEND

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

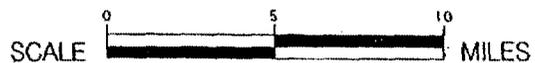
FLANIGAN INDUSTRIAL LEAD

MP 338.33 TO MP 360.10
TOTAL OF 21.77 MILES

IN WASHOE COUNTY, NEVADA = 4.79 MILES
IN LASSEN COUNTY, CALIFORNIA = 16.98 MILES

UNION PACIFIC RAILROAD CO.
FLANIGAN INDUSTRIAL LEAD
CALIFORNIA - NEVADA

INCLUDING 50+ YEAR OLD STRUCTURES



FILE: q:\abandonments\ab0353_flanigan.dgn

DATE: 25-Jan-05 11:47



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

July 19, 2006

COPY

VIA U.P.S. OVERNIGHT

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

Attention: Victoria Rutson

Re: Proposed Abandonment of the Flanigan Industrial Lead from M. P. 338.33 near Flanigan, Nevada to M. P. 360.10 near Wendel, California, a total distance of 21.77 miles in Washoe County, Nevada and Lassen County, California; and of the Susanville Industrial Lead from M. P. 358.68 to M.P. 359.25 near Wendel, California, a total distance of 0.57 miles in Lassen County, California; STB Docket No. AB-33 (Sub-No. 230X)

Dear Ms. Rutson:

Enclosed for filing in the above-referenced docket is the original and ten (10) copies of a Combined Environmental and Historic Report prepared pursuant to 49 C.F.R. §1105.7 and §1105.8, with a Certificate of Service, and a transmittal letter pursuant to 49 C.F.R. §1105.11.

Union Pacific anticipates filing a Petition for Exemption in this matter on or after July 10, 2006.

Sincerely,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", written over a horizontal line.

Mack H. Shumate, Jr.

Enclosures

O:\ABANDONMENTS\33-230C\STB-EHR.doc



KENNY C. GUINN
Governor

SCOTT K. SISCO
Interim Director

STATE OF NEVADA
DEPARTMENT OF CULTURAL AFFAIRS

Nevada State Historic Preservation Office

100 N. Stewart Street

Carson City, Nevada 89701

(775) 684-3448 • Fax (775) 684-3442

www.nvshpo.org

RONALD M. JAMES
State Historic Preservation Officer

June 23, 2006

Charles W. Saylor
Union Pacific Railroad
1400 Douglas St., Stop 1580
Omaha, NE 68179-1580

Re: Proposed Abandonment of Flanigan Industrial Lead from Milepost 338.33 near Flanigan, Washoe County, NV to Milepost 360.10 near Wendel, Lassen County, CA, a total distance of 21.77 miles.

Dear Mr. Saylor:

The Nevada State Historic Preservation Office (SHPO) has reviewed your request for information dated May 25, 2006 (received May 30, 2006) regarding the segment and bridge in Nevada. Based on a records search through our architectural database, this segment and bridge has not been previously surveyed. Due to its construction date of 1936, the SHPO recommends an architectural survey. The historic resource inventory forms and instructions are available online at: <http://dmla.clan.lib.nv.us/docs/shpo/siguidelines/guide.htm>.

If you have any questions, please let me know at 775-684-3441, or via email at: rossa@clan.lib.nv.us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rebecca R. Ossa".

Rebecca R. Ossa
Architectural Historian



United States Department of the Interior



FISH AND WILDLIFE SERVICE
 Sacramento Fish and Wildlife Office
 2800 Cottage Way, Room W-2605
 Sacramento, California 95825-1846

In Reply Refer To:
 1-1-06-TA-1716

AUG 16 2006

Charles Saylor
 Union Pacific Railroad Company
 1400 Douglas Street, Mail Stop 1580
 Omaha, Nebraska 68179

Subject: Proposed Abandonment of the Flanigan Industrial Lead from M.P. 338.33 near Flanigan, Nevada to M.P. 360.10 near Wendel, California, Washoe County, Nevada and Lassen County, California

Dear Mr. Saylor:

This is in response to your January 26, 2005 and December 12, 2005 letters requesting that the U.S. Fish and Wildlife Service (Service) review and comment on the proposed Abandonment of the Flanigan Industrial Lead in Washoe County, Nevada and Lassen County, California. We received your letter on July 24, 2006. At issue are the potential adverse effects on the endangered Carson wandering skipper (*Pseudocopaeodes eunus obscurus*) (skipper). Any indirect effects of the proposed project, including those of interrelated actions, such as development associated with the proposed action, may result in adverse effects on the skipper. The recommendations and comments in this letter are made under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)(Act).

The Union Pacific Railroad Company proposes to abandon and discontinue service over the Flanigan Industrial Lead from M.P. 338.33 near Flanigan, Nevada to M.P. 360.10 near Wendel, California. The plan is to reclassify the line after abandonment and to sell it, for operation as an industrial line. The major portion of the line to be abandoned is 150 feet in width with some intermittent portions of 300 feet right-of way widths and is approximately 22 miles in length.

The skipper's larval host plant is salt grass (*Distichlis spicata* var. *stricta*) and the skipper is typically associated with thermal springs. The Service is aware of at least one existing population of skippers in the Wendel area and a sighting of the skipper near Flanigan, Nevada. Given the close proximity of the project to known occurrences of the skipper and the potential presence of suitable habitat on the site, this endangered butterfly may be present on the property and be affected, directly or indirectly by the proposed project. Therefore, we recommend that the Service's most current habitat suitability guidance and survey guidelines (enclosed) be used to

RECEIVED

AUG 21 2006



TAKE PRIDE
 IN AMERICA

LAW DEPARTMENT
 UNION PACIFIC RR CO.

Mr. Charles Saylor

2

determine whether the skipper is present or absent on the project site, in areas that are identified to support salt grass. If the proposed project or interrelated actions can not be designed to avoid adverse effects to this species, exemption from the take prohibitions of section 9 of the Act should be obtained by the applicant under sections 7 or 10(a) of the Act. Take of a federally-listed species is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct.

We appreciate the opportunity to comment on the proposed project. Please address any questions or concerns regarding this response to Roberta Gerson, Branch Chief, at (916) 414-6600.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Nagano". The signature is written in a cursive, flowing style.

Chris Nagano
Deputy Assistant Field Supervisor

Enclosure

cc:

Mack H. Shumate, Jr., Union Pacific Railroad Company, Chicago, Illinois
Marcy Haworth, U.S. Fish and Wildlife Service, Reno, Nevada



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Nevada Fish and Wildlife Office

1340 Financial Blvd., Suite 234

Reno, Nevada 89502

Ph: (775) 861-6300 ~ Fax: (775) 861-6301



February 27, 2006

File: Carson Wandering Skipper

Dear Surveyor:

The U.S. Fish and Wildlife Service (Service) is providing the enclosed interim guidance for determining habitat suitability and presence or absence of the Carson wandering skipper (*Pseudocopaodes eunus obscurus*) during the 2006 survey season. The Service will evaluate the appropriateness of this guidance for accuracy, usefulness of data, and implementation. The enclosed guidance is provided on an interim basis and is subject to revision at any time. Successful implementation of the guidance will require ongoing contact with the Service before, during, and after site assessments and field surveys. Questions regarding this guidance for projects in Nevada may be addressed to Field Supervisor, Nevada Fish and Wildlife Office at the above address or call (775) 861-6300. For California projects, please address questions to Field Supervisor, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, California 95825-1846 or call (916) 414-6000.

Sincerely,

Robert D. Williams
Field Supervisor

Enclosure

TAKE PRIDE
IN AMERICA 

INTERIM SURVEY GUIDELINES

CARSON WANDERING SKIPPER

(*Pseudocopaeodes eunus obscurus* Austin and Emmel)

(Modified from Brussard [2002])

Introduction

The Carson wandering skipper (CWS) was emergency listed as endangered on November 29, 2001 (66 FR 59537). The subspecies was concurrently proposed for permanent protection under the Endangered Species Act of 1973, as amended (Act) on that date as well (66 FR 59550). A final rule was published in the *Federal Register* on August 7, 2002 (67 FR 51116). As a result of this action, the Fish and Wildlife Service (Service) has received requests from private and government entities for guidance in planning for the protection of CWS at sites where land use activities are proposed. These survey guidelines provide recommended guidance on survey methodology and reporting conditions. Ongoing contact and discussion with the Service, before, during, and after site assessments and field surveys are critical elements of this guidance. We will continue to work with local, State, and Federal biologists, scientific and academic institutions, and other interested parties to collect additional data on the distribution, ecology, and biology of the CWS. These survey guidelines replace the Service's previous guidance issued in 2005. The implementation of these guidelines should begin with the 2006 flight season and should be used in future years until further notice or revisions are issued by the Service. We will revise these survey guidelines as needed, using the best available data.

Species Background

The CWS is a subspecies in the monotypic genus of skipper butterfly *Pseudocopaeodes eunus*. It is a small (13 mm, forewing length from base to apex), brownish, orange butterfly with a black terminal line and veins. The CWS is currently known from only four populations, two in Washoe County, Nevada, one in Douglas County, Nevada, and one in Lassen County, California. This subspecies is locally distributed in grassland habitats on alkaline substrates in these two states. If alkaline-tolerant plant species are not available to serve as nectar sources for the adults, an area may be suitable if a freshwater source to support alkaline-intolerant nectar sources is located near salt grass, (*Distichlis spicata* (L.) Greene), which is the larval host plant. While any plant that is in flower during the CWS's flight period (June through July) is a potential nectar source, nectar sources known to be used by CWS include mustards (*Thelypodium crispum*, *Sisymbrium altissimum*) Brassicaceae; racemose golden-weed (*Pyrracoma racemosus*) and thistles (*Cirsium arvense*, *C. vulgare*) Asteraceae; slender birds-foot trefoil (*Lotus tenuis*) Fabaceae; small-flowered cleomella (*Cleomella parviflora*) Capparaceae; heliotrope (*Heliotropium* sp.) Boraginaceae; and cinquefoil (*Potentilla* sp.) Rosaceae.

Larvae of the CWS are not known to develop under water, therefore, sites that flood on an annual basis and are inundated for extended periods of time are not likely to provide suitable habitat. Dry, upland areas with sparse salt grass and dominated with cheat grass (*Bromus tectorum*) are also not likely to provide suitable habitat. Collecting information about a site's

history, including disturbance and flooding may provide important information about the suitability of the site for supporting CWS.

Surveying Techniques (use attached forms)

Surveying for habitat:

We require site assessments for all project sites within the recommended survey areas. Because knowledge of the distribution of CWS is likely to change as new locality information becomes available, surveyors should contact the appropriate field office of the Service to determine if a project site is within the range of the species in Lassen County, California and Washoe and Douglas counties, Nevada. As mentioned above, the larval host plant of the CWS is salt grass. While salt grass occurs on a variety of soils in lowland areas in the western Great Basin, it is most commonly found on relatively level, fine-sediment, lake plain soils. Salt grass can occur as a nearly monospecific meadow community or as understory in shrub-dominated communities. However, the key variable that makes a salt grass area CWS habitat is the presence of a suitable nectar source. In general, any plant that is in flower, regardless of its taxonomy, during the CWS's flight period (June and July) is a potential nectar source.

Because salt grass is persistent through the non-growing season, salt grass communities can be located during the winter. Once salt grass areas are located, they should be searched on foot. Look for salt grass areas with evidence of nectar plants in the form of dead flower stalks. These sites become high priority areas to search for the CWS during its flight period. Locating blooming flowers at a site outside of the June-July flight period may be helpful, but it is not a definite indication that suitable habitat will be available during the later June-July period. Salt grass areas without flower stalks also can support the CWS if nectar sources occur nearby (within visual range, within a ½ mile or so) or if the nectar plants in the area do not have stalks that persist through the winter (annuals). Salt grass areas with freshwater flows or seeps may be more likely to support potential nectar sources. Areas with these attributes in addition to some microtopographic variation in the salt grass areas are particularly important to survey.

- Habitat photographs must be taken during the flight season. Take several views of the salt grass habitat from various directions. These photos must include an overview as well as close, detailed shots. Indicate these photo points on the map discussed below. Characterize the salt grass habitat as independent clumps or as occurring in a meadow-like situation or as other descriptions. Also indicate whether or not salt has accumulated on the soil.

- Map and describe the upland and aquatic habitats within the project site and within 1.5 miles of the project boundaries. For example, use a U.S. Geological Survey 7.5' topographic quadrangle map and/or aerial photographs that contain the site and the surrounding area. Characterize and map the surrounding area in terms of agriculture crop land, pastureland, development, vegetation communities, etc. Indicate locations of aquatic habitats including geothermal areas. Overview photographs will assist in describing the landscape.

Surveying for the Carson wandering skipper:

- Surveyors must be familiar with butterflies of Nevada and California. Surveyors must submit their qualifications with survey results.
- Surveys must be conducted during June and July. Surveys should begin towards the end of the first week in June and end near July 15th.
- The VES (visual encounter survey) technique (Crump and Scott 1994) is the only effective method to determine presence of CWS in a particular habitat patch. The CWS is not captured or collected with the VES technique. This survey guidance does not authorize the surveyor with take of CWS, for example, the surveyor is not authorized to capture or collect CWS adults, larvae, or eggs (see permit requirements). Adults are almost always observed while nectaring. Thus, the VES is conducted by surveyors wandering through salt grass areas and examining all potential nectar sources within and nearby these areas (within visual range, within a ½ mile or so) and searching carefully for nectaring CWS. Surveyors must move slowly on foot through the area to minimize disturbance to CWS and its habitat. The amount of time searched depends on the size of the patch and the density and dispersion of the nectar sources. Extensive salt grass areas with no nectar sources within them or near them will require little survey time, while a small patch of salt grass with abundant nectar sources will require careful inspection.
- Surveys for the CWS must be conducted during mid-morning to mid-afternoon (1000-1400), on warm (warmer than 55° F, 12.8° C), sunny, and calm days (less than 10-15 mph).
- The CWS has bright orange upper wings and should not be confused with two other skippers that can occur in the same habitat. The sachem (*Atalopedes campestris*) and the salt grass (sand hill) skipper (*Polites sabuleti*) have much darker orange-brown or tawny upper wings. The sachem can be found in grassy areas including lawns. Host plant grasses include: Bermuda grass (*Cynodon dactylon*), red fescue (*Festuca rubra*), Augustine grass (*Stenotaphrum secundatum*), crabgrass (*Digitaria sanguinalis*), and goosegrass (*Eleusine indica*). The flight period is April-September in the CWS's portion of its range (Scott 1986). The salt grass (sand hill) skipper can be found in moist meadows, lawns, and alkali grassland in valley bottoms. Host plant grasses include: salt grass, Bermuda grass and Kentucky bluegrass (*Poa pratensis*). The flight period is April-October in the CWS's portion of its range (Scott 1986).
- All habitats with nectar sources must be surveyed carefully six times during the entire flight season. Surveys must be conducted on adequately spaced days (no consecutive days) but no more than 7 days apart with the first survey occurring towards the end of the first week of June. If CWS are detected prior to all six surveys being completed, surveyors need not conduct additional surveys. All potentially good habitats (i.e. those with abundant, healthy salt grass and at least some nectar source) must be surveyed for two years because of the potential for a two-year diapause in this species and because native annuals in salt desert environments flower in abundance irregularly. If CWS are detected in the first year's survey, a second survey during the following year is not necessary. The Service will monitor known occupied sites to determine if the adult flight season has occurred or if diapause due to environmental conditions has influenced CWS emergence. If CWS are in flight at the known occupied sites upon completion

of the first year's survey but are not detected at the location where a survey is being conducted, that location can be considered unoccupied. If at any time during the survey season CWS are known to be flying at a nearby known site, surveyors should concentrate their surveys during the weeks when CWS is known to be flying elsewhere.

- If a habitat patch contains CWS, indicate the number of individuals seen and/or use the following categories: low (1-10 individuals observed per day); medium (11-30 individuals observed per day); and high (31-100 or more individuals observed per day).

- Identify the nectar source(s) on which the CWS has been observed. Do not collect the plant(s) as this could constitute unpermitted take pursuant to the Act. Determine the area the nectar source occupies. If the nectar sources are not in the salt grass but are nearby (within visual range), determine the distance between them and the salt grass.

- Color photographs of CWS must be taken if they are detected. A 35 mm single-lens reflex camera with a macro lens is necessary to ensure in-focus, close-up images. A comparable digital camera may also be used. It is possible to get good images if the approach is made slowly. Do not make sudden movements. If a CWS is observed while flying, follow discreetly, keeping at least 5 to 6 feet away until it lands.

- Photograph the nectar source(s) in situ (in place). Good photographs of the flower, the flowering stalk, and the vegetative part of the plant will aid in later identification by surveyors if the species of nectar plant is initially not known.

Reporting Procedure:

The attached survey forms must be filled out completely for each visit to each habitat. Send copies of survey results, maps, and photographs to the appropriate Service office for the state (Nevada Fish and Wildlife Office in Reno, Nevada or the Sacramento Fish and Wildlife Office in Sacramento, California) for review and confirmation.

U.S. Fish and Wildlife Service
Nevada Fish and Wildlife Office
1340 Financial Boulevard, Suite 234
Reno, Nevada 89502-7147; (775) 861-6300

or

U.S. Fish and Wildlife Service
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846; (916) 414-6640

Based on the results of field surveys, the Service will provide guidance on how CWS should be addressed. The Service will work with the project proponent through the section 7 or section 10(a)(1)(b) process to develop conservation measures.

The Service may question the results of field surveys conducted under this guidance for any of the following reasons: 1) if the appropriate Service field office was not contacted prior, during, and after surveys were conducted; 2) if surveys were conducted in a manner inconsistent with this guidance; 3) if surveys were incomplete; or 4) if the reporting requirements were not fulfilled.

Permit Requirements

This field survey protocol allows for conducting visual surveys of CWS. Surveys following this guidance do not require a section 10(a)(1)(A) recovery permit pursuant to the Act. Activities that would require a section 10(a)(1)(A) recovery permit include: (1) any capture or handling of CWS adults, larvae, or eggs; (2) any activity which significantly modifies the behavior of CWS; and (3) any survey method not covered in this field survey guidance if any form of "take" would occur during such activities. All surveyors using this field survey guidance should make all possible efforts to avoid disturbing CWS and their habitats. If a proposed research project necessitates the capturing or collecting of CWS or may result in other forms of "take", a scientific permit under section 10 (a)(1)(A) of the Act is required to provide incidental "take" to prevent a violation of section 9 of the Act. A section 10 (a)(1)(A) permit must be applied for at the Service's Regional Office in Portland, Oregon. Information can be obtained from Endangered Species Permits, U.S. Fish and Wildlife Service, 911 N.E.11th Ave., Portland, Oregon, 97232-4181, (503) 231-2063.

Literature Cited

- Brussard, P.F. 2002. Species Profile, Carson wandering skipper *Pseudocopaeodes eunus obscurus*. Unpublished report, Biological Resources Research Center, University of Nevada, Reno.
- Crump, M.L. and N.J. Scott, Jr. 1994. Visual encounter surveys. Pp. 84-92 in W.R. Heyer *et al.* (eds.), *Measuring and Monitoring Biological Diversity. Standard Methods for Amphibians*. Smithsonian Institution Press, Washington, D.C.
- Scott, J.A. 1986. The Butterflies of North America. Stanford University Press, Stanford, California. Pp. 443-444 and p. 448.

Carson Wandering Skipper Survey Form
(site form-use one form per site)

Date: _____

Surveyor(s): _____

Site/Project Name: _____ Site Location: State _____ County _____

Lat: _____ Long: _____ Tnsp. _____ Rng. _____ Sec. _____ and Univ. Trans. Mercator

Coordinates _____

Name of Nearest Town _____

Quadrangle Map Name(s): _____

Elevation of Site: _____ (m) _____ (ft)

Size of Project Site: _____ (ac) General Vegetation Type Description: _____

Size of Salt Grass Habitat: _____ (ac) Describe Salt Grass
Habitat: _____

Is Salt Accumulating on Soil Surface: Yes No (circle one)

Further Comments: _____

Size of Non Salt Grass Habitat: _____ (ac)

Size of Nectar Patch(es): _____ (ac) Distance to Nearest Adjacent Nectar

Patch(es): _____ (ft) (miles) Distance to Saltgrass: _____ (ft) (miles)

If No Nectar Patch on Project Site, Estimate Distance to Nearest Patch: _____ (ft) (miles)

Presence of Springs or Other Freshwater Source on Site: Yes No (circle one)

If No Presence of Freshwater Source on Site, Distance to Nearest

Source: _____ (ft) (miles)

Presence of Geothermal Springs on Site: Yes No (circle one)

If No Presence of Geothermal Springs on Site, Distance to Nearest

Source: _____ (ft) (miles)

Number of Photographs Included: _____

Comments: _____

Carson Wandering Skipper Survey Form
(survey form-use one form per visit)

Date: _____

Surveyor(s): _____

Site/Project Name: _____ Site Location: State _____ County _____

Start Time: _____ Temp: _____ Cloud Cover: _____ Wind Speed: _____

Wind Direction: _____

End Time: _____ Temp: _____ Cloud Cover: _____ Wind Speed: _____

Wind Direction: _____

Experimental Design (check): Randomized walk _____; Quadrat _____; Transect _____

Patch Size of Each Potential Nectar Source (use scientific names): _____

Scientific Name of Nectar Source(s) Used by CWS:

Number of Carson Wandering Skippers Observed: _____ or low medium high (circle one)

Number of Photographs Included: _____

Comments: _____

