



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

220691



November 13, 2007

VIA UPS OVERNIGHT

Surface Transportation Board
Section of Environmental Analysis
395 E Street, S.W., Room 1149
Washington, DC 200024

ENTERED
Office of Proceedings

NOV 14 2007

Part of
Public Record

Attention: Victoria Rutson

Re: Proposed Abandonment of the Port Arthur Industrial Lead from M. P. 1.70 to M. P. 3.21 near Port Arthur, Jefferson County, Texas; STB Docket No. AB-33 (Sub-No. 245X)

Dear Ms. Rutson:

Enclosed for filing in the above-referenced docket are 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 an Application for Abandonment in this matter on or after December 4, 2007.

Sincerely yours,

Mack H. Shumate, Jr.

Enclosures

0 \ABANDONMENTS\33-245X\EHRLetter.doc

220691



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 245X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN JEFFERSON COUNTY, TEXAS
(PORT ARTHUR INDUSTRIAL LEAD)**

**ENTERED
Office of Proceedings**

NOV 14 2007

**Part of
Public Record**

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: November 13, 2007
Filed: November 14, 2007**

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 245X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN JEFFERSON COUNTY, TEXAS
(PORT ARTHUR 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 of the Port Arthur Industrial Lead from M. P. 2.0 to M. P. 3.21, a distance of 1.21 miles in Port Arthur, Jefferson County, Texas (the "Line").

The Line traverses U. S. Postal Service Zip Code 77640. A Notice of Exemption to abandon the Lines pursuant to 49 C.F.R. § 1152.50 (no local traffic for at least two years) will be filed on or after December 4, 2007. A map of the Line marked **Attachment No. 1** is attached hereto and hereby made part hereof. UP's letter to federal, state and local government agencies is marked **Attachment No. 2**, and is attached hereto and hereby made a part hereof. UP initially intended to propose a 1.51 mile abandonment beginning at milepost 1.70, which was illustrated on the map originally sent to the agencies. UP subsequently determined to reduce the

abandonment by 0.30 miles, and the beginning point reflected throughout this report is milepost 2.0. Responses, if any, 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 of the Port Arthur Industrial Lead from M. P. 2.0 to M. P. 3.21, a total distance of 1.21 miles in Port Arthur, Jefferson County, Texas (the "Line").

The Line was constructed in 1907 by the Texas & New Orleans Railroad. Except for some 110-pound jointed rail near the east end of the proposed abandonment, the Line was laid with 136-pound rail, much of which has been substantially removed.

After abandonment, the closest rail lines will be the remainder of the Port Arthur Industrial Lead and a KCS line that crosses the Line. BNSF and NS also have access to Port Arthur. Significant highways serving Port Arthur include Texas Route 73, an east-west route, and U. S. 69/287, a north-south route. Port Arthur is also provided with various water transportation alternatives.

There are no shippers on the Line, and no commodities have originated or terminated on the Line for over two years. There is no overhead traffic over the Line. No complaints regarding cessation of service have been filed or are pending at the Board and no such complaints have been decided in favor of a complainant in the past

two years. There are a total of 22.6 acres of property of which 1.8 acres is reversionary title. Based on information in the UP's possession, the Line proposed for abandonment does not contain federally granted right-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

A map of the Line is attached hereto 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: There will be no effect on regional or local transportation systems and patterns and no diversion of traffic to other transportation systems or modes.

(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 49 C.F.R. § 1105.9.

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

Response: (i) UP is unaware of any adverse effects on local and existing land use plans. The Jefferson County Supervisors' Office has been contacted. To date UP has received no response.

(ii) The Natural Resource Conservation Service has reviewed the proposed abandonment and concluded the project does not contain

Important Farmland Soils and is exempt from the FPPA law because the area is considered as already converted to urban land. The Natural Resource Conservation Service's response is attached as **Attachment No. 3**, and is hereby made part hereof.

(iii) Not Applicable.

(iv) The property proposed for abandonment is not suitable for public purposes such as roads, highways, or other forms of mass transportation, conservation, energy production or transmission, or recreation because there is a fully developed grid of public streets surrounding the right-of-way and no additional streets are needed.

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

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

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

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

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

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

Response: (i) There are no effects on the transportation of energy resources in view of the absence of rail shipments on the Line.

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

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

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

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

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

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

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

To date UP has received no response.

(ii) The National Park Service has been contacted. To date UP has received no response.

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

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

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

Response: (i) The U. S. Environmental Protection Agency Regional Office has been contacted. To date, UP has received no response.

(ii) The U.S. Army Corps of Engineers has been contacted. The Corps of Engineers response states that the proposed abandonment does not contain waters of the United States, including adjacent wetlands, and the property is not subject to the U. S. Army Corps of Engineers jurisdiction under Section 404 of the Clean Water Act and a Department of the Army permit is not required. The Corps of Engineers response is attached as **Attachment No. 4**, and is hereby made part hereof.

(iii) It is not anticipated that there will be any requirements for Section 402 permits.

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

Response: There are no known adverse environmental impacts.

HISTORIC REPORT
49 C.F.R. § 1105.8(d)

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

Response: See Attachment No. 1.

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

Response: The right-of-way consists of 0.04 miles of 100-foot right-of-way, 0.33 miles of right-of-way in a street and 0.84 miles of 300-foot wide fee property where the tracks were laid in the middle. The ground is level and entirely within the town of Port Arthur, Texas.

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

Response: There are no structures over fifty (50) years in age affected by the proposed abandonment.

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

Response: Not applicable.

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

Response: See UP's response to question (1) in the environmental Report for a brief history and description. The Line has been out of service for over two years.

(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 UP's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities):

Response: At this time, UP knows of no historic sites or structures or archeological resources in the project area. The Texas Historical Commission has been contacted and the State Historic Preservation Officer classified the project as not eligible for listing in the National Register of Historic Places and said the project may proceed. The Historic Preservation Officer's response is attached as **Attachment No. 5**, and is hereby made part hereof.

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

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

(9) Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding

specified nonrailroad owned properties or groups of properties immediately adjacent to the railroad right-of-way. Photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the locations and type of the site (i.e., prehistoric or native American):

Response: Not applicable.

Dated this 13th day of November, 2007.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

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

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



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

November 13, 2007

SEE ATTACHED SERVICE LIST

Re: Proposed Abandonment of the Port Arthur Industrial Lead from M. P. 1.70 to M. P. 3.21 near Port Arthur, Jefferson County, Texas; STB Docket No. AB-33 (Sub-No. 245X)

Dear Madam or Sir:

On or after December 4, 2007, Union Pacific Railroad Company ("Union Pacific") expects to be filing with the Surface Transportation Board ("STB") an Abandonment Exemption in accordance with 48 C.F.R. § 1152.50 to abandon and discontinue service over the Port Arthur Industrial Lead from Milepost 2.0 to Milepost 3.21, a distance of 1.21 miles in Port Arthur, Jefferson County, Texas. Attached is an Environmental and Historic Report describing the proposed action and any expected environmental and/or historic effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 395 E Street, S.W., Room 1149, Washington, DC 20423-0001, telephone: 202/245-0305 and refer to the above *Docket No. AB-33 (Sub-No. 245X)*. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA with a copy to Union Pacific Railroad Company's representative, Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606 would be appreciated within three (3) weeks.

Very truly yours,

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

Mack H. Shumate, Jr.

Enclosure

O Abandonments\33-245x\EHR-Transmittal

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. 245X), the Port Arthur Industrial Lead in Jefferson County, Texas was served by first class mail on the 13th day of November, 2007 on the following:

State Clearinghouse (or alternate):

Tom Adams
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, TX 78711

State Environmental Protection Agency:

Texas Natural Resource Conservation
Commission
Ken Patterson, Deputy Director
P.O. Box 13087, m145
Austin, TX 78711-3087

State Coastal Zone Management Agency
(if applicable):

Not applicable.

Head of County (Planning):

Jefferson County Commissioners
1149 Pearl Street
County Courthouse
Beaumont, TX 77701-3638

Environmental Protection Agency
(regional office):

U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

U.S. Fish and Wildlife:

U.S. Fish & Wildlife Service
Southwest Region 2
U.S. Fish & Wildlife Service
500 Gold Avenue SW - Room 4000
Albuquerque, NM 87102

U.S. Army Corps of Engineers:

U.S. Army Engineer District Galveston
P. O. Box 1229
Galveston, TX 77553-1229

National Park Service:

National Park Service
12795 Alameda Parkway
Denver, CO 80228

U.S. Natural Resources Conservation Service:

USDA, Natural Resources Conservation Service
Soil Survey Section
W R Poage Federal Bldg.
101 South Main Street
Temple, TX 76501-7682

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

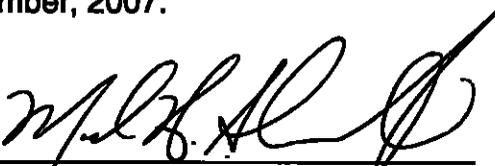
State Historic Preservation Office:

Texas Historical Commission
James W. Steely
History Program Division
P. O. Box 12276
Austin, TX 78711-2276

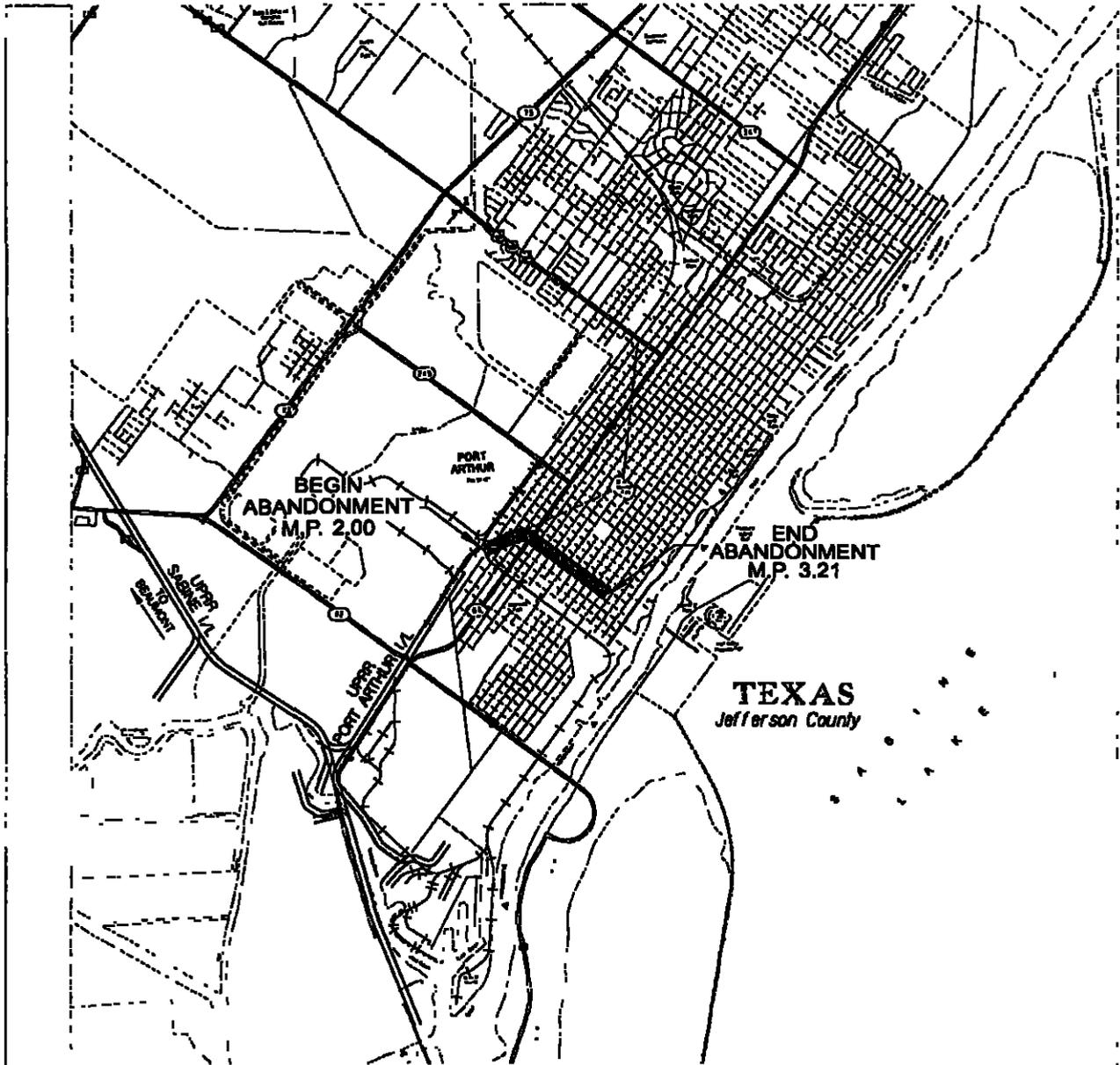
Other Agencies Consulted:

Texas Parks & Wildlife
Andrew Swanson
4200 Smith School Road
Austin, TX 78744-3291

Dated this 13th day of November, 2007.

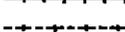
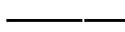


Mack. H. Shumate, Jr.



NOTE THERE ARE NO 50+ YEAR OLD STRUCTURES

LEGEND

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

PORT ARTHUR INDUSTRIAL LEAD

MP 2.00 TO MP 3.21
TOTAL OF 1.21 MILES
IN JEFFERSON COUNTY

**UNION PACIFIC RAILROAD CO.
PORT ARTHUR INDUSTRIAL LEAD
TEXAS**

INCLUDING 50+ YEAR OLD STRUCTURES

SCALE  MILES

FILE: 0:\abandonments\ab0245_por1_arthurv8.dgn MODEL: abandonment DATE: 17-Mar-06 14:17

AB-33 (Sub-No. 245X)



(402) 501-0127 (FAX)

October 2, 2006

State Clearinghouse (or alternate):

Tom Adams
 Governor's Office of Budget and Planning
 P O. Box 12428
 Austin, TX 78711

State Environmental Protection Agency:

Texas Natural Resource Conservation
 Commission
 Ken Patterson, Deputy Director
 P O Box 13087, m145
 Austin, TX 78711-3087

**State Coastal Zone Management Agency
 (if applicable):**

Not applicable.

Head of County (Planning):

Jefferson County Commissioners
 1149 Pearl Street
 County Courthouse
 Beaumont, TX 77701-3638

**Environmental Protection Agency
 (regional office):**

U S Environmental Protection Agency
 Region 6
 1445 Ross Avenue
 Dallas, TX 75202-2733

U.S. Fish and Wildlife:

U S Fish & Wildlife Service
 Southwest Region 2
 U S Fish & Wildlife Service
 500 Gold Avenue SW - Room 4000
 Albuquerque, NM 87102

U.S. Army Corps of Engineers:

U.S Army Engineer District Galveston
 P O. Box 1229
 Galveston, TX 77553-1229

National Park Service:

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

U.S. Natural Resources Conservation Service:

USDA, Natural Resources Conservation Service
 Soil Survey Section
 W R Poage Federal Bldg
 101 South Main Street
 Temple, TX 76501-7682

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:

Texas Historical Commission
 James W. Steely
 History Program Division
 P O Box 12276
 Austin, TX 78711-2276

Other Agencies Consulted:

Texas Parks & Wildlife
 Andrew Swanson
 4200 Smith School Road
 Austin, TX 78744-3291

Re. Proposed Abandonment of the Port Arthur Industrial Lead from M. P. 1.70 to M. P. 3 21 near Port Arthur, Jefferson County, Texas; STB Docket No. AB-33 (Sub-No. 245X)

Law Department

UNION PACIFIC RAILROAD
 1400 Douglas St., Stop 1580, Omaha, NE 68179-1580
 fx (402) 501-0127

Dear Sirs:

Union Pacific Railroad Company plans to request authority from the Surface Transportation Board (STB) to abandon and discontinue service on the Port Arthur Industrial Lead from M. P. 1.70 to M. P. 3.21 near Port Arthur, a distance of 1.51 miles in Jefferson County, Texas. 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.

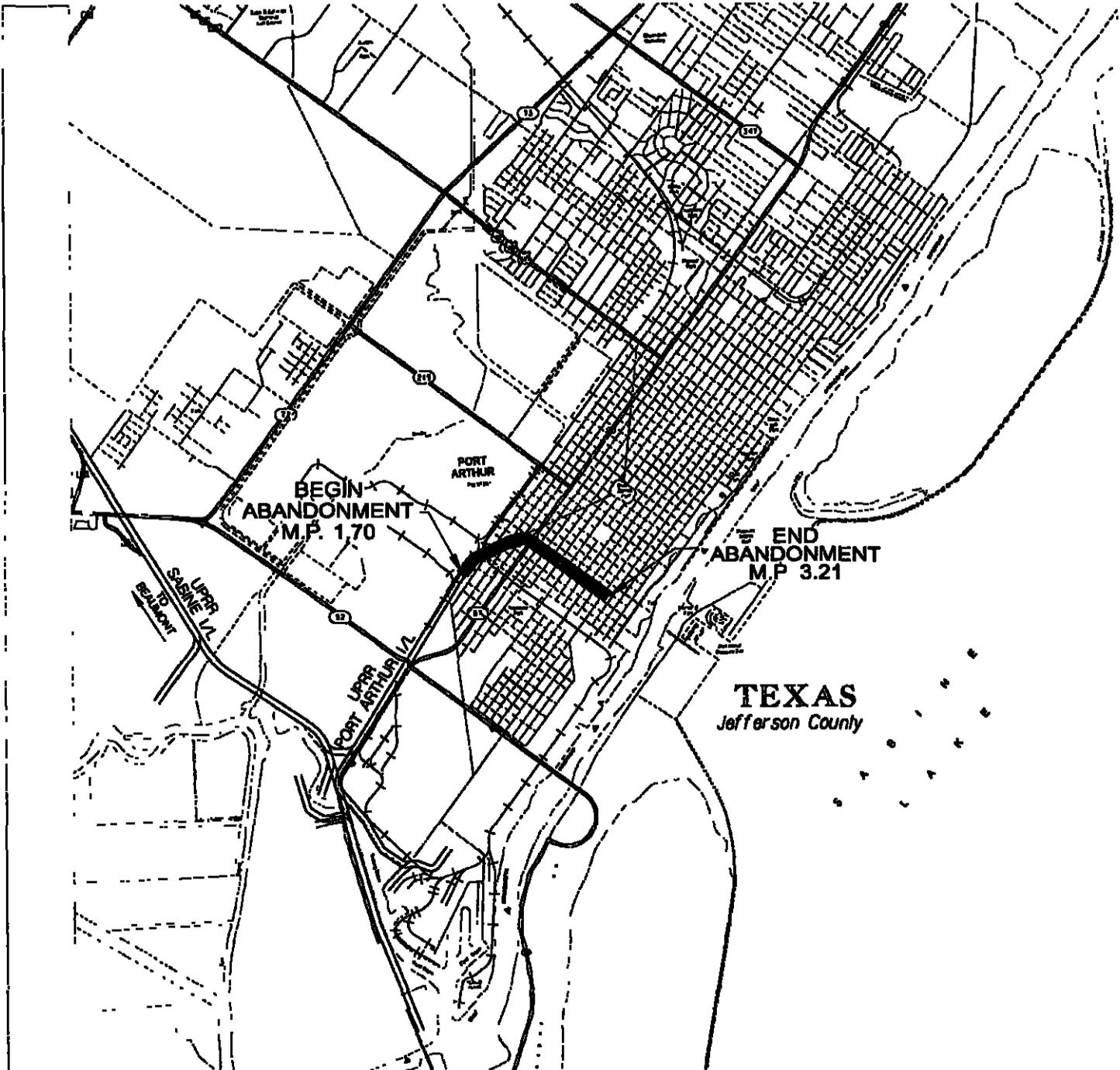
U. S. ENVIRONMENTAL PROTECTION AGENCY AND STATE ENVIRONMENTAL PROTECTION (OR EQUIVALENT AGENCY). (1) Identify any potential effects on the surrounding area, (2) identify the location of hazardous waste sites and known hazardous material spills on the right-of-way and list the types of hazardous materials 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.

Thank you for your assistance. Please send your reply to Union Pacific Railroad, Mr Chuck Saylor, 1400 Douglas Street, Mail Stop 1580, Omaha, NE, 68179 If you need further information, please contact me at (402) 544-4861.

Yours truly,


Charles W. Saylor

Attachment



NOTE: THERE ARE NO 50+ YEAR OLD STRUCTURES

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

PORT ARTHUR INDUSTRIAL LEAD

MP 1.70 TO MP 3.21
TOTAL OF 1.51 MILES
IN JEFFERSON COUNTY

**UNION PACIFIC RAILROAD CO.
PORT ARTHUR INDUSTRIAL LEAD
TEXAS**

INCLUDING 50+ YEAR OLD STRUCTURES



United States Department of Agriculture



Natural Resources Conservation Service
101 South Main Street
Temple, TX 76701-7602

October 12, 2006

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

Attention: Mr. Charles W. Saylor, Law Department

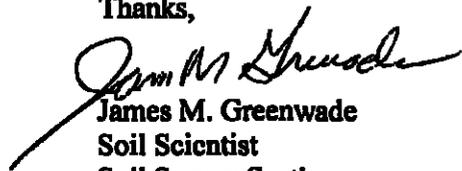
**Subject: LNU-Farmland Protection- Port Arthur Industrial Lead
Abandonment of 1.51 miles Union Pacific RR
Jefferson County, Texas**

We have reviewed the information provided concerning the proposed Abandonment of 1.51 miles of the Port Arthur Industrial Lead Railroad in Jefferson County, Texas as outlined in your letter of October 2, 2006. This is part of NEPA evaluation for the Surface Transportation Board. We have evaluated the proposed site as required by the Farmland Protection Policy Act (FPPA).

The proposed project does not contain Important Farmland Soils and is exempt from the FPPA law because the area is considered as already converted to urban land. The FPPA law excludes from the definition of "farmland" areas that contain more than 30 structures per 40 acres. These areas would be considered as previously converted to urban land. We have completed an AD-1006 form indicating the exemption.

I have attached the completed AD-1006 (Farmland Conversion Impact Rating) form for this project. Thanks for the resource materials you submitted to evaluate this project. If you have any questions please call James Greenwade at (254)-742-9960, Fax (254)-742-9859.

Thanks,


James M. Greenwade
Soil Scientist
Soil Survey Section
USDA-NRCS, Temple, Texas

U.S. Department of Agriculture
FARMLAND CONVERSION IMPACT RATING

PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request 10-2-2006			
Name of Project Abandonment of Port Arthur Industrial Lead RR		Federal Agency Involved Surface Transportation Board			
Proposed Land Use Abandon RR		County and State Jefferson County, Texas			
PART II (To be completed by NRCS)		Date Request Received By NRCS 10-8-2006		Person Completing Form: James Greenwade	
Does the site contain Prime, Unique, Statewide or Local Important Farmland? <i>(If no, the FPPA does not apply - do not complete additional parts of this form)</i>		YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	Acres Irrigated	Average Farm Size
Major Crop(s)	Farmable Land in Govt. Jurisdiction Acres: %	Amount of Farmland As Defined in FPPA Acres: %			
Name of Land Evaluation System Used	Name of State or Local Site Assessment System	Date Land Evaluation Returned by NRCS			
PART III (To be completed by Federal Agency)		Alternative Site Rating			
		Site A	Site B	Site C	Site D
A Total Acres To Be Converted Directly					
B Total Acres To Be Converted Indirectly					
C Total Acres In Site					
PART IV (To be completed by NRCS) Land Evaluation Information					
A Total Acres Prime And Unique Farmland					
B Total Acres Statewide Important or Local Important Farmland					
C Percentage Of Farmland In County Or Local Govt. Unit To Be Converted					
D Percentage Of Farmland In Govt. Jurisdiction With Same Or Higher Relative Value					
PART V (To be completed by NRCS) Land Evaluation Criterion Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)					
PART VI (To be completed by Federal Agency) Site Assessment Criteria <i>(Criteria are explained in 7 CFR 658.5 b. For Corridor project use form NRCS-CPA-106)</i>		Maximum Points	Site A	Site B	Site C
1. Area In Non-urban Use		(15)			
2. Perimeter In Non-urban Use		(10)			
3. Percent Of Site Being Farmed		(20)			
4. Protection Provided By State and Local Government		(20)			
5. Distance From Urban Built-up Area		(15)			
6. Distance To Urban Support Services		(15)			
7. Size Of Present Farm Unit Compared To Average		(10)			
8. Creation Of Non-farmable Farmland		(10)			
9. Availability Of Farm Support Services		(5)			
10. On-Farm Investments		(20)			
11. Effects Of Conversion On Farm Support Services		(10)			
12. Compatibility With Existing Agricultural Use		(10)			
TOTAL SITE ASSESSMENT POINTS		160			
PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)		100			
Total Site Assessment (From Part VI above or local site assessment)		160			
TOTAL POINTS (Total of above 2 lines)		260			
Site Selected	Date Of Selection	Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>			
Reason For Selection:					
Name of Federal agency representative completing this form:					Date:



**DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229**

November 1, 2006

Compliance Section

SUBJECT: D-19120; Jurisdictional Determination, Union Pacific Railroad, Port Arthur Industrial Lead Abandonment, Mile 1.70 to Mile 3.21, Jefferson County, Texas

Union Pacific Railroad Company
c/o Charles W. Saylor
1400 Douglas Street – Mail Stop 1580
Omaha, Nebraska 68179

Dear Mr. Saylor

This letter is in response to your request, dated October 2, 2006, for a jurisdictional determination on the proposed abandonment of the Port Arthur Industrial Lead. The 1.51-mile project site is along the existing rail line from 7th and Austin Avenues to the existing mainline located north of State Highway 87 in the City of Port Arthur, Jefferson County, Texas.

The Corps of Engineers has determined that the proposed project, as depicted in the submitted request, does not contain waters of the United States, including adjacent wetlands. As such, this property is not subject to U.S. Army Corps of Engineers jurisdiction under Section 404 of the Clean Water Act and a Department of the Army permit is not required to discharge dredged or fill material in conjunction with the abandonment and/or removal of the aforementioned rail spur.

This determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

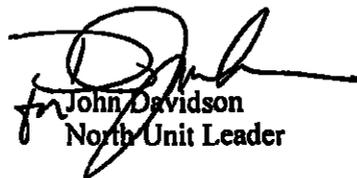
This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a combined Notification of Administrative Appeal Options and Process (NAP) and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the Southwestern Division Office at the following address:

James E. Gilmore, Appeal Review Officer
Southwestern Division, CESWD-CMO-E
1100 Commerce Street, Room 8E9
Dallas, Texas 75242-0216
Telephone: 469-487-7061; FAX: 469-487-7190

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by the date of January 4, 2006. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

This approved jurisdictional determination is valid for 5 years from the date of this letter, unless new information warrants a revision of the determination prior to the expiration date. This determination is based on our review of recent maps, aerial photography, and the information provided with the request. Please reference the file number D-19120 in future correspondence pertaining to this subject. If you have any questions concerning this determination, please contact Mr. Glenn Weitknecht at the letterhead address or by telephone at 409-766-3198.

Sincerely,


for John Davidson
North Unit Leader

Enclosure

**NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE APPEAL OF TERMS AND CONDITIONS AND
REQUEST FOR APPEAL**

Applicant: Union Pacific Railroad Company	File Number: D-19120	Date: 11-1-06
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION II: The following identifies your rights and options regarding an administrative appeal on the above decision. Additional information may be found at <http://www.usace.army.mil/inf/functional/cw/ecowo/rsg/> or Corps regulations at 33 CFR Part 39.

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 jurisdictional determination (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.

SECTION HERE REQUESTS APPEAL OR OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION

If you have questions regarding this decision and/or the appeal process you may contact

Glenn Weitknecht
Project Manager, Compliance Section
CESWG-PE-RC
U.S Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3198; FAX. 409-766-3931

If you only have questions regarding the appeal process you may also contact:

Mr. James Gilmore
Appeal Review Officer, CESWD-ETO-R
U.S. Army Corps of Engineers
1100 Commerce Street, Room 8E9
Dallas, Texas 75242-0216
Telephone: 469-487-7061; FAX: 469-487-7190

RIGHT OF ENTRY. Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or authorized agent.

Date:

Telephone number:

RECEIVED

OCT - 6 2006

Texas Historical Commission

NOT ELIGIBLE for listing in the National Register of Historic Places PROJECT MAY PROCEED
by <u>[Signature]</u> for F. Lawrence Oaks State Historic Preservation Officer Date <u>10/26/06</u>



October 2, 2006

State Clearinghouse (or alternate):

Tom Adams
 Governor's Office of Budget and Planning
 P O. Box 12428
 Austin, TX 78711

State Environmental Protection Agency:

Texas Natural Resource Conservation
 Commission
 Ken Patterson, Deputy Director
 P O Box 13087, m145
 Austin, TX 78711-3087

State Coastal Zone Management Agency

(If applicable):
 Not applicable

Head of County (Planning):

Jefferson County Commissioners
 1149 Pearl Street
 County Courthouse
 Beaumont, TX 77701-3638

Environmental Protection Agency**(regional office):**

U S Environmental Protection Agency
 Region 6
 1445 Ross Avenue
 Dallas, TX 75202-2733

U.S. Fish and Wildlife:

U S Fish & Wildlife Service
 Southwest Region 2
 U S Fish & Wildlife Service
 500 Gold Avenue SW - Room 4000
 Albuquerque, NM 87102

U.S. Army Corps of Engineers:

U S Army Engineer District Galveston
 P O. Box 1229
 Galveston, TX 77553-1229

National Park Service:

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

U.S. Natural Resources Conservation Service:

USDA, Natural Resources Conservation Service
 Soil Survey Section
 W R Poage Federal Bldg
 101 South Main Street
 Temple, TX 76501-7682

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:

Texas Historical Commission
 James W Steely
 History Program Division
 P. O. Box 12276
 Austin, TX 78711-2276

Other Agencies Consulted:

Texas Parks & Wildlife
 Andrew Swanson
 4200 Smith School Road
 Austin, TX 78744-3291

Re: Proposed Abandonment of the Port Arthur Industrial Lead from M. P. 1.70 to M. P. 3.21 near Port Arthur, Jefferson County, Texas; STB Docket No. AB-33 (Sub-No. 245X)

Law Department

UNION PACIFIC RAILROAD
 1400 Douglas St., Stop 1580, Omaha, NE 68179-1580
 fx (402) 501-0127

Dear Sirs:

Union Pacific Railroad Company plans to request authority from the Surface Transportation Board (STB) to abandon and discontinue service on the Port Arthur Industrial Lead from M. P. 1.70 to M. P. 3.21 near Port Arthur, a distance of 1.51 miles in Jefferson County, Texas. 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.

Thank you for your assistance. Please send your reply to Union Pacific Railroad, Mr. Chuck Saylor, 1400 Douglas Street, Mail Stop 1580, Omaha, NE, 68179. If you need further information, please contact me at (402) 544-4861.

Yours truly,


Charles W. Saylor

Attachment