

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

DOCKET NO. AB 33 (Sub-No. 342X)

**Union Pacific Railroad Company and Jackson County, Mo. - Abandonment Exemption - in
Jackson, Mo.**

BACKGROUND

In this proceeding, Union Pacific Railroad Company (UP) and Jackson County, Missouri (the County) (collectively, Petitioners), jointly filed a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon a line of railroad in Jackson County. The rail line proposed for abandonment is a 17.7-mile segment extending between Mileposts 288.3 and 270.6 (the Line). A map depicting the Line in relationship to the area served is appended to this draft environmental assessment (Draft EA). If the petition becomes effective, Petitioners would be able to dispose of the Line and right-of-way.

DESCRIPTION OF THE LINE

The Line is in northwest Missouri and crosses hilly terrain containing rural, residential and commercial land uses. The right-of-way is generally 100 feet wide. In addition to rails, ties and other track material, Petitioners state that there are more than 50 structures on the Line that are 50 years of age or older. These structures include bridges, tunnels and culverts.

According to Petitioners, the Line was built in approximately 1903-1904 and was originally part of the St. Louis Subdivision of the Chicago, Rock Island and Pacific Railroad Company (Rock Island). The Line was sold to the St. Louis Southwestern Railway Company (SSW) during Rock Island's bankruptcy proceeding in 1980. As part of its merger with Southern Pacific Transportation Company, UP received authority from the Board to acquire SSW in 1996. In 2016, the County acquired the Line from UP, but that acquisition and operating exemption was revoked by the Board in July 2019. Freight traffic last moved on the Line in 1980.

Petitioners state that they do not intend to consummate the proposed abandonment if the abandonment exemption becomes effective. Instead, the County intends to pursue a trail use/rail banking agreement with UP and to use the Line's right-of-way for the County's proposed Rock Island Corridor Shared Use Path.

ENVIRONMENTAL REVIEW

Petitioners submitted a combined environmental and historic report (Report) that concludes the quality of the human environment would not be affected significantly because of the abandonment. Petitioners served the Report on appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

Because rail traffic has not moved on the Line since 1980, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

Under a potential trail use/rail banking agreement, the County anticipates salvaging track and track material, but most bridges, tunnels and culverts would remain unchanged according to the County's 2017 Phase I Cultural Resources Report (an attachment to Petitioners' Report). However, at least one culvert would be replaced, one culvert would be extended, and one bridge could be altered.

Petitioners believe that the proposed abandonment would not be inconsistent with local or regional land use plans. The Natural Resources Conservation Service (NRCS) had not responded to the Petitioners' Report at the time this Draft EA was prepared. Therefore, OEA is providing a copy of this Draft EA to the NRCS for review and comment.

Petitioners sent a copy of its Report to U.S. Fish and Wildlife Service (USFWS) and requested that USFWS provide comments related to the proposed abandonment's potential to affect wildlife, including federally listed threatened and endangered species. To date, USFWS has not provided comments. To identify federally listed threatened and endangered species that could be present in the project area, OEA conducted a search of the USFWS Information,

¹ Petitioners' Report is available for viewing on the Board's web site at <https://prod.stb.gov/>; by clicking "**Search STB Records**;" selecting "Filings" in the "Search for:" dropdown menu; entering "AB" "33" "342" "X" sequentially in the four boxes for "Docket Number;" then selecting "Search." The Report was filed on September 13, 2019.

Planning, and Conservation (IPaC) system.² The federally listed endangered and threatened species known or thought to occur in the vicinity of the Line, as identified by OEA's search include:

- Gray bat (*Myotis grisescens*) – endangered;
- Indiana bat (*Myotis sodalis*) – endangered; and
- Northern long-eared bat (*Myotis septentrionalis*) – threatened.

According to the IPaC search results, the project area does not contain critical habitat for any of the identified species.

Because the culvert and bridge construction proposed by the Petitioners could require tree removal, and OEA has determined that the proposed abandonment could adversely affect the three bat species identified above. Accordingly, OEA recommends a condition requiring that the Petitioners consult with OEA and USFWS to develop and implement appropriate conservation measures. OEA is also providing a copy of this Draft EA to the U.S. Fish and Wildlife Service - Missouri Ecological Services Field Office in Columbia, Missouri for review and comment.

Because of potential construction within waters of the U.S. related to bridge and culvert construction, permitting could be required through the U.S. Army Corps of Engineers, Kansas City District (Corps) under Section 404 of the Clean Water Act (33 U.S.C. § 1344) and Section 10 of the Rivers and Harbor Act of 1899 (33 U.S.C. § 403). To date, the Corps has not responded to the Petitioners' Report. Therefore, OEA recommends a consultation condition and has provided the Corps with a copy of this Draft EA for review and comment.

The U.S. Environmental Protection Agency, Region 7 (USEPA) had not responded to the Petitioners' Report at the time this Draft EA was prepared. Therefore, OEA is providing a copy of this Draft EA to the USEPA for review and comment.

On September 20, 2019, the National Geodetic Survey (NGS) commented that no geodetic station markers have been identified on the Line.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts.

HISTORIC REVIEW

Petitioners submitted a historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served it on the Missouri State Historic Preservation Office (SHPO),

² U.S. Fish and Wildlife Service, Information, Planning, and Conservation System, <https://ecos.fws.gov/ipac/> (last accessed December 5, 2019).

pursuant to 49 C.F.R. § 1105.8(c).^{3,4} As part of their public outreach, the Petitioners also placed a notice of the proposed abandonment in the Kansas City Star on September 13, 2019 and notified local governments of the proposed abandonment. In its August 27, 2019 response (MO SHPO Reference Number: 003-MLT-15), the SHPO states that its cultural resources concerns had been fully addressed by the County. The SHPO refers to mitigation that was completed by the County pursuant to stipulations in a 2014 Memorandum of Agreement between the County and the SHPO, associated with the County's proposed Rock Island Corridor Shared Use Path. The SHPO requested additional consultation in the event of any unanticipated discovery of cultural resources during salvage activities.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the Petitioners' Report, all relevant correspondence, and this Draft EA, which has been provided to the SHPO and made available to the public through posting on the Board's website at <https://prod.stb.gov>. To address the SHPO's concern about unanticipated discoveries, however, OEA is recommending a consultation condition.

OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool at <https://egis.hud.gov/tdat/> to identify federally recognized tribes that may have ancestral connections to the project area. As of November 26, 2019, the database identified the following three tribes for Jackson County:

- Apache Tribe of Oklahoma;
- Miami Tribe of Oklahoma; and
- Osage Nation.

OEA is providing each of these tribes with a copy of this Draft EA for review and comment.

³ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act (NHPA). Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found on the Board's website at <https://prod.stb.gov/wp-content/uploads/files/docs/historicPreservation/Delegation%20of%20106%20in%20Rail%20Abandonments.pdf>.

⁴ Guidance and frequently asked questions regarding the Board's historic preservation review process is available on the Board's at <https://prod.stb.gov/resources/environmental/historic-preservation-overview/> and <https://prod.stb.gov/resources/environmental/faqs/>.

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority:

1. In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, Union Pacific Railroad Company and Jackson County, Missouri (collectively, Petitioners) shall immediately cease all work and notify the Office of Environmental Analysis (OEA), interested federally recognized tribes, and the Missouri State Historic Preservation Office (SHPO) pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, interested federally recognized tribes, Petitioners, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.
2. Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. § 1535), Union Pacific Railroad Company and Jackson County, Missouri (collectively, Petitioners) shall consult with the Board's Office of Environmental Analysis and the U.S. Fish and Wildlife Service - Missouri Ecological Services Field Office in Columbia, Missouri to develop appropriate mitigation measures, if necessary. Petitioners may not file a consummation notice or initiate any salvage or construction activities related to abandonment (including removal of tracks and ties) until the Section 7 consultation process is complete and the Board has removed this condition.
3. Prior to commencement of any salvage activities, Union Pacific Railroad Company and Jackson County, Missouri, shall consult with the U.S. Army Corps of Engineers, Kansas City District (Corps) and, if applicable, comply with the Corps' reasonable requirements.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations and no salvage activities), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public

use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within the time specified in the Federal Register notice. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at 202-245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

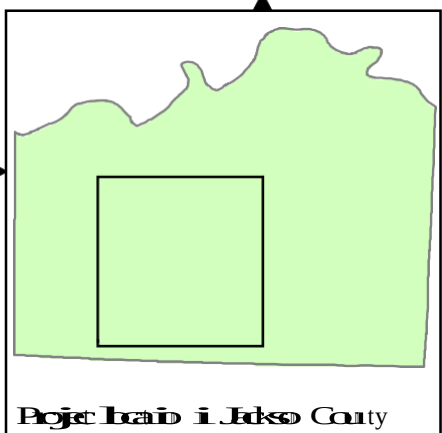
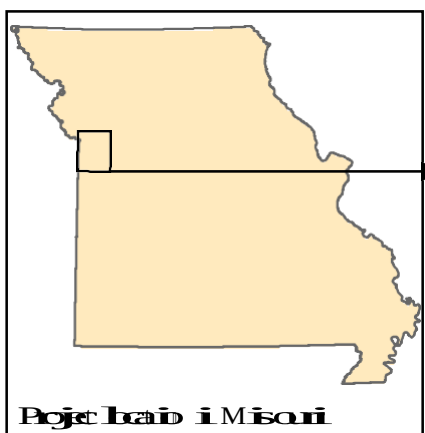
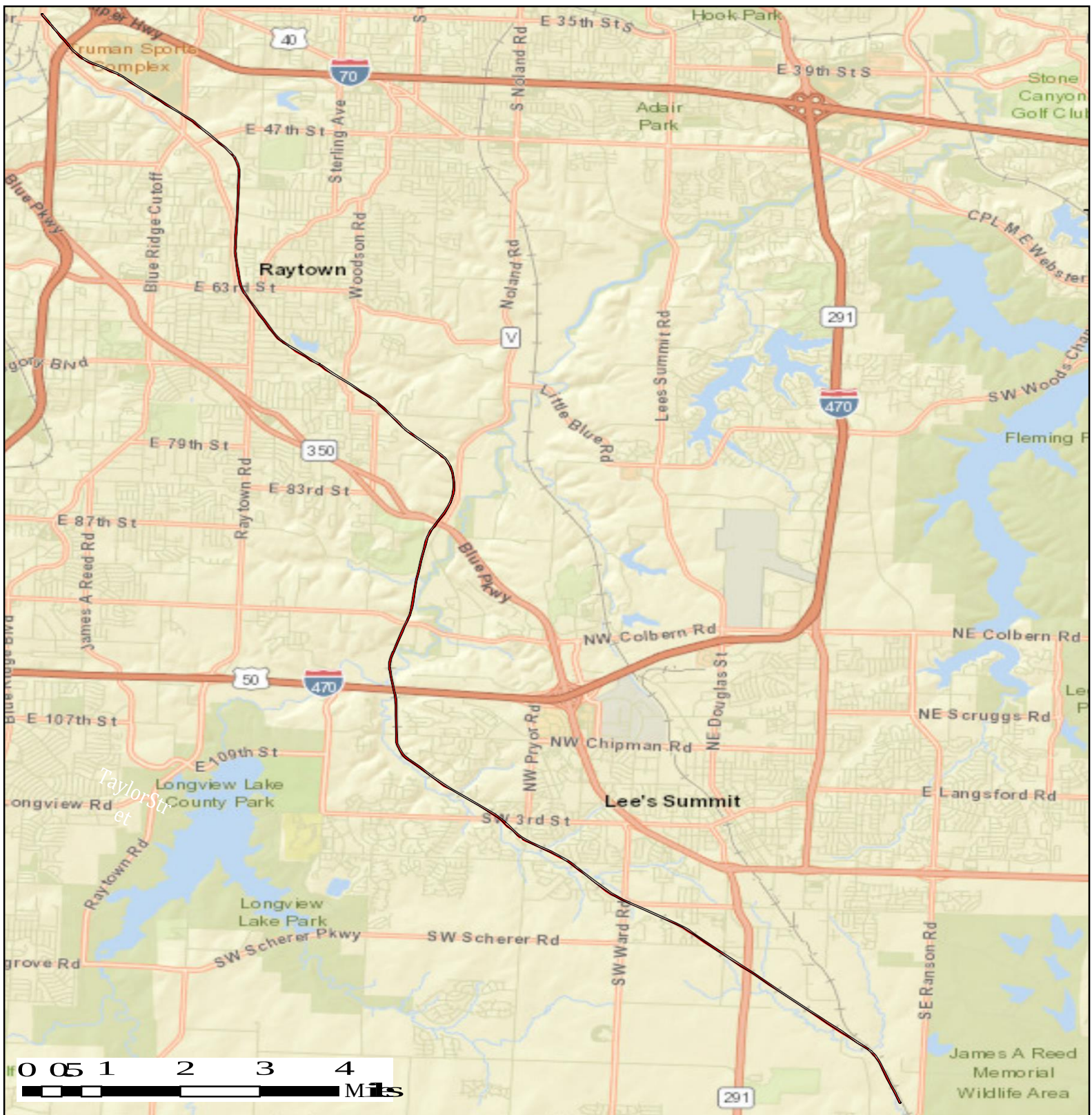
If you wish to file comments regarding this Draft EA, please send your comment letter to Surface Transportation Board, 395 E Street SW, Washington, DC 20423, to the attention of Dave Navecky, who prepared this document. Environmental comments may also be filed electronically on the Board's web site, <https://prod.stb.gov/> clicking on the "E-FILING" link. **Please refer to Docket No. AB 33 (Sub-No. 342X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Draft EA, please contact Dave Navecky, the environmental contact for this case, by phone at 202-245-0294, or e-mail at david.navecky@stb.gov.

Date made available to the public: December 6, 2019.

Comment due date: January 3, 2020.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment





Docket No. AB 33 (Sub-No. 342X)

Union Pacific Railroad Company and

Jackson County, Missouri

- Abandonment Exemption - in

Jackson County, Missouri

The Line

No map provided by the Surface Transportation Board's Office of Environmental Analysis and Planning. This map is for informational purposes only. It is not intended to be used for legal or engineering purposes.