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**SURFACE
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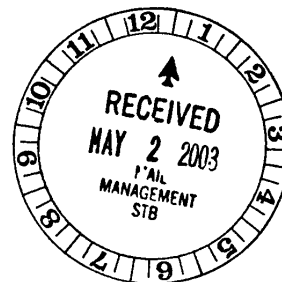
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May 2, 2003

BY HAND DELIVERY

ENTERED
Office of Proceedings

The Honorable Vernon Williams
Surface Transportation Board
1925 K Street, N.W., Suite 715
Washington, DC 20423-0001

MAY - 2 2003

Part of
Public Record

Re: *STB Docket No. AB-603 (Sub-No. 1X), V and S Railway, Inc.-
Abandonment Exemption—In Barber County, Kansas*

Dear Secretary Williams:

Attached for filing are the original and ten copies of a Petition for Exemption under 49 U.S.C. § 10502. Also attached is a check for \$4,700 to cover the filing fee.

Please time and date stamp the extra copy of the Petition for Exemption and return it with our messenger.

If you have any questions, please call me.

Sincerely,

A handwritten signature in cursive script that reads "Karl Morell".

Karl Morell

FILED

MAY - 2 2003

Enclosures

**SURFACE
TRANSPORTATION BOARD**

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-603 (SUB-NO. 1X)

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V AND S RAILWAY, INC.
--ABANDONMENT EXEMPTION--
IN BARBER COUNTY, KANSAS



PETITION FOR EXEMPTION

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TRANSPORTATION BOARD

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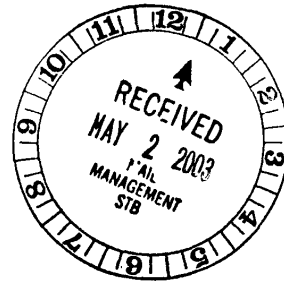
Dated: May 2, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-603 (SUB-NO. 1X)

V AND S RAILWAY, INC.
--ABANDONMENT EXEMPTION--
IN BARBER COUNTY, KANSAS

PETITION FOR EXEMPTION



V and S Railway, Inc. ("VSR"), petitions the Surface Transportation Board ("STB" or "Board") to exempt, under 49 U.S.C. § 10502, from the prior approval requirements of 49 U.S.C. § 10903, VSR's abandonment of its 20-mile rail line located between Medicine Lodge and Sun City, Kansas.

PROPOSED TRANSACTION

VSR proposes to abandon the 20-mile rail line located between milepost 21.0, at Medicine Lodge, and the end of the line at milepost 41.0, at Sun City, in Barber County, Kansas (the "Line"). The Line traverses through U.S. Postal Service Zip Codes 67104, 67071 and 67143. A map of the Line is attached as Exhibit A.

Based on information in VSR's possession, the Line does not contain any federally granted right-of-way. Any documentation in VSR's possession will be made available to those requesting it.

VSR seeks to abandon the Line because no traffic has been handled on the Line in a year and there is no reasonable prospect that traffic will return to the Line in the foreseeable future.

Operations on the Line have been unprofitable since it was acquired by VSR even though all but absolutely essential maintenance has been deferred for a number of years. The condition of the Line has reached the point where significant maintenance expenditures are necessary to keep the Line operational. Recently, one of the larger bridges on the Line washed out and would have to be rebuilt at significant expense in order to restart service on the Line. Given the historic traffic levels on the Line, VSR cannot economically justify rebuilding the bridge and the significant maintenance costs that are now necessary along the Line. At the prior traffic levels, freight revenues from the Line were insufficient to cover the costs of operation much less also cover the cost of normalized maintenance.

SHIPPER AND TRAFFIC INFORMATION

In 2000, VSR acquired from Central Kansas Railway, L.L.C. ("CKR"), the 41-mile rail line located between Attica and Sun City, Kansas.¹

Since its acquisition by VSR, the Line was used exclusively for the local movement of gypsum rock from a mine near Sun City to a processing plant in Medicine Lodge. All local traffic stopped moving by rail on April 30, 2002. The Line has been stub-ended at Sun City since 1993 and, therefore, no longer capable of handling overhead traffic.

To the best of VSR's knowledge, the following two companies are the only potential rail shippers on the Line:

National Gypsum Company
1218 SW Mill Road
Medicine Lodge, KS 67104

Farmers Coop Equity Company
1447 NW River Road
Medicine Lodge, KS 67104

¹ See STB Finance Docket No. 33964, *V and S Railway, Inc. – Acquisition and Operation Exemption – Central Kansas Railway, L.L.C.* (not printed), served December 7, 2000.

National Gypsum ("NG") owns and operates a gypsum mine near Sun City and a processing plant in Medicine Lodge. NG currently ships by rail outbound movements of plaster board over VSR's rail line located between Attica and Medicine Lodge. These shipments are interchanged with The Burlington Northern and Santa Fe Railway Company at Attica. Until April 2002, NG also shipped by rail gypsum rock over the Line from its mine near Sun City to its processing plant in Medicine Lodge.

Farmers Coop Equity Company ("Farmers Coop") maintains grain elevators in Medicine Lodge and Lake City, KS. Rail service to the elevators at Medicine Lodge will not be affected by the abandonment of the Line. VSR originally planned to also abandon the segment of its rail line between mileposts 20.66 and 21.0, which would have precluded future rail service to Farmers Coop's Medicine Lodge elevators. VSR has decided to retain this short segment of track even though Farmers Coop has tendered very little traffic to VSR.² Farmers Coop also owns or leases elevators along the Line in Lake City. That facility, however, has not shipped any traffic by rail since at least December 2000.

The number of carloads moving on the Line since 1998 were as follows:³

1998.....	640
1999.....	654
2000.....	622
2001.....	636
2002.....	217 ⁴
2003 (through April 30 th).....	0

² Since December 2000, Farmers Coop has tendered VSR 17 carloads from its Medicine Lodge elevators.

³ The indicated carloads for 1998, 1999 and first 11 months of 2002 are estimates based on information provided by CKR to VSR at the time of the acquisition of the Line.

⁴ All traffic stopped moving over the Line on April 30, 2002.

As the foregoing table illustrates, the Line handled an average of about 53 carloads a month or about 636 carloads a year between 1998 and 2001. The traffic moving over the Line remained stable in 2002 until April 30th when all of the former rail traffic was diverted to trucks. There is no prospect that the former gypsum rock or any other traffic will return to the Line in the foreseeable future. Consequently, VSR has no option other than to seek authority to abandon this unutilized and unneeded segment of rail line.

As explained in the attached Verified Statement of Steven J. Van Wagenen, the Assistant Vice President of VSR, prior to May 2002, NG shipped only about 10 percent of its rock traffic from Sun City to Medicine Lodge by rail. The remainder moved by motor carriers. Although VSR actively solicited the remainder of NG's rock traffic in an attempt to render operations on the Line profitable, NG opted instead to forgo the rail option and move all of its rock by truck. VSR was informed that, because of a shift in the location of the mining operations, NG had entered into a contract with a local trucking company to haul all of its rock traffic. Since that time, NG has replaced the tracks under the mine loadout with a road to facilitate the all-truck movements.

As is demonstrated by the actions of the shippers on the Line, adequate alternative services are available to the shippers on the Line. All of the former rail traffic moving on the Line has already shifted to trucks. The Union Pacific Railroad Company and The Burlington Northern And Santa Fe Railway Company operate over rail lines located near the Line. There is also an adequate highway network in the area. River Road essentially parallels the Line between Medicine Lodge and Sun City. U.S. Highway 281 runs north-south through Medicine Lodge where it connects with U.S. Highway 160 which runs west to the south of the Line. In addition,

U.S. Highways 183 and 54 are nearby. There are also several additional State roads located near the Line.

Transportation service is available from numerous general commodity, heavy hauling and bulk carriers that serve the area. The local Yellow Pages list about 100 motor carriers that offer service in the area of the Line, including:

Arensdorf Trucking	Fisher Trucking
Magill Truck Lines Inc.	Frank Page Trucking
Touchstone Trucking	Knott Trucking
D&R Trucking	Jim Sanko Trucking
Six-L Trucking	Kent Trucking
D&A Trucking	Clary & Sons Trucking
Nicholas Trucking	Egh Trucking
Bennett Truck Transport	Rainbow Trucking Inc.
Ozark Commodity	Sterling Trucking
ML&C Trucking	Rawhide Trucking Inc.
Berry Trucking	Dahlsten Truck Line Inc.
Gerald Dean Inman Transportation	Tiona Truck Line Inc.
Big Valley Transport	Patton Trucking

Accordingly, the shippers on the Line will continue to have access to rail service nearby and all of the shippers have competitive and effective motor carrier service readily available. Alternative transportation may be considered adequate even if it involves higher costs and some inconvenience. *See, e.g., Alabama Public Service Commission v. ICC*, 765 F.2d 1516, 1523 (11th Cir. 1985); *Mississippi Public Service Commission v. ICC*, 650 F.2d 551, 555 (5th Cir. 1981). Here, however, alternative service is obviously more efficient and/or less expense since the former rail shippers on the Line have already switched to other modes.

REVENUE AND COST DATA

Since December 2000, when the Line was acquired by VSR, VSR generated the following revenues from operations on the Line:

<u>Revenue</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Freight Originating and/or Terminating On-Branch	\$5,280	\$139,920	\$47,740
Bridge Traffic	0	0	0
Other Income ⁵	0	7,950	7,950

Total Attributable Revenue: \$5,280 \$147,870 \$55,690

When VSR acquired the Attica-Sun City rail line from CKR it hired a contractor to operate the line in the name and for the account of VSR. The contractor was paid an agreed upon fee to both operate and maintain the entire line. The contractor provided an average of two-day a week service on the west end of the VSR system hauling the rock traffic from Sun City to Medicine Lodge. The agreement specifically required the contractor to perform all maintenance on the Line. The combination of financial losses incurred by the contractor from the operations on the Line and the low density of traffic being handled caused the contractor to defer virtually all maintenance on the Line. The contractor was replaced about six months after all traffic on the Line ceased. Because the Line is now dormant, the new contractor does not have a contractual obligation to operate or maintain the Line.

Since no traffic has moved on the Line for a year and since there is no prospect that traffic will move over the Line in the foreseeable future, providing base year or forecast year data pursuant to the Board's regulations governing abandonment applications would be misleading. In order to better demonstrate the operating losses on the Line at past traffic levels, VSR submits the following pro forma revenues and expenses for the forecast year. Revenues are projected on the basis of the historic 53 cars per month traffic levels and the gross revenues per car VSR

⁵ Other Income is based on actual lease income earned by VSR in 2002 from leases associated with the Line.

received since December 2000. Costs are a combination of actual and estimated costs incurred in operating the line at historic traffic levels.

VSR's estimated pro forma annual costs for operating the Line at the 53 cars per month traffic levels the Line averaged until the end of April 2002 are as follows:

<u>Pro Forma Costs</u>	
<u>On-Branch Costs:</u> ⁶	
Maintenance-of-Way and Structures	\$100,000
Maintenance-of-Equipment	22,500
Transportation	41,296
General & Administrative	13,729
Deadheading, Taxi and Hotel	0
Overhead Movement	0
Freight Car Costs-Car Hire	42,000
Property Taxes	10,388
Total On-Branch Costs	\$229,913
Avoidable (Loss) or Profit from Operations	(\$82,043)

In 2001, VSR generated \$139,920 in gross revenues for hauling traffic that originates and/or terminates on the Line. The 2001 monthly carloads are consistent with historical averages and the 2001 gross freight revenues are virtually the same as the freight revenues generated by VSR in 2000 and 2002 if VSR's operations in those two years are annualized. In 2002, VSR also generated \$7,950 in lease and other rental income along the Line. The lease and rental income has been a relatively fixed amount over recent years. Consequently, VSR's total pro forma forecast year revenues are \$147,870.

⁶ Off-branch costs associated with the Line are *de minimus*, since the rock traffic is terminated less than one-half mile from the east end of the Line.

AVOIDABLE COSTS

The pro-forma On-Branch Costs represent the estimated on-branch avoidable costs that VSR would incur if it operated the Line at the average 53-cars per month traffic levels experienced on the Line during the five year period ending April 2002, when all traffic ceased moving on the Line.

Maintenance-of-way and structure costs of \$100,000 are based on normalized maintenance levels necessary to maintain the Line at Class 1 operating conditions.⁷ The normalized maintenance costs of \$5,000 per mile are based on per mile maintenance costs accepted by the Board and its predecessor in other abandonment proceedings. For example, the Board and its predecessor found reasonable per mile normalized maintenance costs of \$10,943 in STB Docket No. AB-33 (Sub-No. 156), *Union Pacific Railroad Company – Abandonment – In Harris, Fort Bend, Austin, Wharton and Colorado Counties, TX* (not printed), served November 8, 2000; \$6,957 in STB Docket No. AB-564 *Camas Prairie Railnet, Inc. – Abandonment – In Lewis, Nez Perce, and Idaho Counties, ID* (not printed) served September 13, 2000;⁸ \$5,355 in STB Docket No. AB-497 (Sub-No. 1X) *Minnesota Northern Railroad, Inc. – Abandonment Exemption in Red Lake and Polk Counties, MN* (not printed) served November 14, 1997; \$6,029

⁷ VSR estimates that the former contractor expended at most \$10,000 annually, or \$500 per mile on maintaining the Line. The Board and its predecessor have long recognized the appropriateness of considering normalized maintenance cost in instances of deferred maintenance. See *Chicago and North Western Transp. Co. – Abandonment*, 366 I.C.C. 373, 377 (1982) (“Normalized maintenance is the amount needed for economic and efficient operation over the long term. *** We have, in the past, applied normalized maintenance calculations to actual maintenance figures and found that costs for normalized maintenance when compared to actual maintenance expenditures are indicative of deferred maintenance and are to be given consideration in determining whether or not the public convenience and necessity permit abandonment of a line.”).

in STB Docket No. AB-441 (Sub-No. 2X), *SWKR Operating Co. – Abandonment Exemption in Cochise County, AZ* (not printed), served February 14, 1997, slip op. at 5 (“We know from extensive experience that \$6,000 per mile/per year is a reasonable figure for maintenance by a Class III railroad.”); \$5,000 in STB Docket No. AB-55 (Sub-No. 618), *CSX Transportation, Inc. – Discontinuance – At Memphis, In Shelby County, TN* (not printed), served October 28, 2002, slip op. at 5 (the \$5,000 per-mile cost “fall[s] within the range we would expect to see for a line maintained at Federal Railroad Administration Class 1 safety standards”). The pro forma maintenance-of-way costs do not include the one-time cost of rebuilding the washed-out bridge. Moreover, these costs are conservative given the years of deferred maintenance and the fact that the Line has 35 bridges several of which are in need of rehabilitation.

Maintenance of equipment costs include locomotive lease costs and the costs of parts and maintaining two leased locomotives. Up until April 2002, when all traffic on the Line ceased, two locomotives were utilized to provide service over the entire VSR system between Attica and Sun City. Of the average 270 weekly miles traveled by the two locomotives, about 80 miles, or 30 percent, were traveled between Medicine Lodge and Sun City hauling the rock traffic for NG. The overall maintenance of equipment costs were approximately \$75,000 in 2001, of which about 30 percent, or \$22,500 is attributable to the operations over the Line on a mileage basis.

Transportation costs include crew costs and locomotive fuel costs. Based on two-day a week service, or about 80 miles a week, fuel costs are estimated to be about \$18,000 annually.⁹

⁸ The per mile maintenance costs calculated by the Board in *Camus Prairie* exceeds those being used by VSR in this proceeding even though the Line has nearly three times as many bridges per mile as the line being abandoned in *Camus Prairie*.

⁹ Fuel costs are calculated using the former Southern Pacific Transportation Company’s Fuel Consumption Table for GP-7 – GP-9 equivalents with the cost of diesel at \$1.50 per gallon.

Crew costs are charged to the Line based on an estimation of about ten on-branch locomotive hours a week. The estimated annual crew wages of \$16,640 were calculated based on a 2 person crews, and an average hourly crew wage of \$16 per hour.¹⁰ Fringe benefit costs of \$6,656, consisting of payroll taxes, pension plan contributions, and health and dental insurance costs, are attributable to the Line.¹¹ Consequently, the total estimated crew costs attributable to the Line are \$23,296.

General and administrative costs include the liability insurance for the Line. The liability insurance for VSR's entire line equals about \$25,000 a year. Forty-nine percent, or \$12,250, is being attributed to the Line. The attributable administrative costs of \$1,479 are computed by taking 1 percent of the total amount of annual revenue in 2001 the last full year of operations on the Line, as provided for by the provisions of 49 CFR 1152.32(k) in calculating subsidy payments.

Freight car costs - other than return represents the \$250 per car average monthly lease cost with a fleet of 14 cars. Because all of the traffic on the Line is local, VSR does not incur any car hire costs.

In 2002, the property taxes for VSR's entire system were \$21,200, forty-nine percent of which is attributable to the Line.

As the above pro forma revenue and cost figures demonstrate, VSR would incur a total avoidable loss of \$82,043, if operations were conducted at historic traffic and service levels and

¹⁰ The hourly crew costs are based on prevailing hourly wages for engineers and conductors at short line railroads.

¹¹ Fringe benefit costs were estimated as constituting 40 percent of crew wage costs. Among short line railroads, fringe benefit costs generally constitute 40 to 50 percent of crew wage costs.

normalized maintenance were performed on the Line. VSR's losses would be significantly higher when the cost of rebuilding the washed-out bridge is taken into account.

OPPORTUNITY COSTS

The net liquidation value ("NLV") of the track components of the Line is set forth in the following Table.

Net Liquidation Value Of The Line¹² **20 Track Miles of Mainline and 2.65 Track Miles of Sidings**

<u>Weight</u>	<u>Quality</u>	<u>Net Tonnage</u>	<u>Value/Ton¹³</u>	<u>Total \$ Value</u>
<u>RAIL</u>				
60 lb.	Scrap	49	\$70.00	\$3,430.00
90 lb.	#1 Relay	43	\$220.00	\$9,460.00
	Reroll	201	\$137.00	\$27,537.00
	Scrap	242	\$70.00	\$16,940.00
110 lb.	#1 Relay	1,922	\$300.00	\$576,600.00
	#2 Relay	325	\$270.00	\$87,750.00
	Reroll	110	\$137.00	\$15,070.00
	Scrap	49	\$70.00	\$3,430.00
112 lb.	#1 Relay	1,104	\$360.00	\$397,440.00
	#2 Relay	13	\$320.00	\$4,160.00
	Reroll	44	\$137.00	\$6,028.00
	Scrap	90	\$70.00	\$6,300.00
<u>BARS</u>				
60 lb.	Scrap	3	\$85.00	\$255.00
90 lb.	Relay	17	\$250.00	\$4,250.00
	Scrap	18	\$85.00	\$1,530.00

¹² The quantities and quality of the track components are estimates based on a detailed inspection of the Line conducted in the fall of 2000.

¹³ The unit values were derived from the publication American Metal Market.

110 lb.	Relay	105	\$300.00	\$31,500.00
	Scrap	14	\$85.00	\$1,190.00
112 lb.	Relay	58	\$300.00	\$17,400.00
	Scrap	9	\$85.00	\$765.00

PLATES

Single Shoulder				
7-1/2 x 9	Scrap	72	\$85.00	\$6,120.00
8 x 10-1/2	Relay	298	\$200.00	\$59,600.00
	Scrap	128	\$85.00	\$10,880.00
Double Shoulder				
7-3/4 x 11	Relay	221	\$400.00	\$88,400.00
	Scrap	49	\$85.00	\$4,165.00

ANCHORS

110 lb.	Relay	47	\$200.00	\$9,400.00
112 lb.	Relay	36	\$85.00	\$3,060.00

SPIKES AND BOLTS

117	\$85.00	\$9,945.00
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TURNOUTS

90 lb. #10	Scrap	5 Turnouts	Price for Each \$50.00	\$250.00
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TIES

Quality	Number	Value/Tie	Total Value
Relay	2,141	\$14.00	\$29,974.00
Landscape Relay	2,141	\$12.00	\$25,692.00
#1	9,992	\$7.00	\$69,944.00
#2	14,274	\$5.00	\$71,370.00
Scrap	42,820	\$ 0	\$0

Total Salvage Value:	\$1,599,835.00
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REMOVAL COSTS

<u>Miles</u>	<u>Cost/Mile</u>	<u>Total Removal Costs¹⁴</u>
22.65	\$12,000	\$271,800.00

NET LIQUIDATION VALUE \$1,328,035.00

The Line consists of 20 miles of main line track and 2.65 miles of side track, for a total of 22.65 miles of track that can be salvaged. The track components consist of 4,192 net tons of track, 1,192 net tons of OTM, and 5 turnouts. The Line also contains 71,368 ties. The total value of the track components is \$1,599,835, and the total removal costs are estimated as \$271,800. Consequently, the NLV of the track structures on the Line is \$1,328,035. The underlying right-of-way is reversionary and, consequently, has no value.

The nominal rate of return of 14.5 percent applied to the valuation of the Line produces a return on value of \$192,565.¹⁵

EXEMPTION REQUESTED

VSR seeks an exemption under 49 U.S.C. § 10502 from the applicable requirements of 49 U.S.C. § 10903 in order for VSR to abandon this unused 20-mile rail line.

Under 49 U.S.C. § 10502, the STB must exempt a transaction from regulation when it finds that:

(1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101; and

¹⁴ The estimated per mile removal costs include the costs for resurfacing all public crossings and grading the roadbed and the applicable transportation costs of the salvaged items from the Line.

¹⁵ The opportunity cost is an approximation and somewhat overstated in that the calculations do not include any provisions for holding gains, working capital or income tax consequences.

(2) either:

- (a) the transaction is of limited scope, or
- (b) regulation is not necessary to protect shippers from the abuse of market

power.

The legislative history of Section 10502 reveals a clear Congressional intent that the STB should liberally use its exemption authority to free certain transactions from the administrative and financial costs associated with continued regulation. In enacting the Staggers Act of 1980, Pub. L. No. 96-448, 94 Stat. 1895, Congress encouraged the STB's predecessor to liberally use the expanded exemption authority under former Section 10505:

The policy underlying this provision is that while Congress has been able to identify broad areas of commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemption from remaining regulation.

H.R. Rep. No. 1430, 96th Cong. 2d Sess. 105 (1980). See also Exemption From Regulation -- Boxcar Traffic, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, Brae Corp. v. United States, 740 F. 2d 1023 (D.C. Cir. 1984). Congress reaffirmed this policy in the conference report accompanying the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which re-enacted the rail exemption provisions as Section 10502. H.R. Rep. No. 422, 104th Cong., 1st Sess. 168-69 (1995).

VSR's proposed abandonment is precisely the type of transaction Congress expected the Board to exempt from the Board's prior review. Because operations at historic levels were unprofitable, and because no traffic has moved on the Line in a year: (i) regulation of the

abandonment pursuant to the requirements of Section 10903 is unnecessary to carry out the rail transportation policy of Section 10101; (ii) the abandonment of the 20-mile Line is of limited scope; and (iii) the abandonment will not subject any shippers to an abuse of market power.

A. The Application of 49 U.S.C. § 10903 Is Not Necessary To Carry Out The Rail Transportation Policy

Detailed scrutiny of this transaction is not necessary to carry out the rail transportation policy. An exemption would minimize the unnecessary expenses associated with the filing of a formal abandonment application, expedite regulatory decisions and reduce regulatory barriers to exit [49 U.S.C. § 10101(2) and (7)]. *See, e.g., Norfolk & W. Ry. Co. – Abandonment Exem. – Cinn., Hamilton County, OH*, 3 S.T.B. 110 (1998); STB Docket No. AB-367 (Sub-No. 2X), *Georgia Central Railroad, L.P. – Abandonment Exemption – In Chatham County, GA* (not printed), served September 17, 1997 (“*Georgia Central*”). By abandoning the Line, VSR will be able to avoid the \$82,043 in annual losses associated with properly maintaining and operating the Line. In addition, VSR will be able to avoid the significant annual opportunity costs of nearly \$200,000 associated with retaining a line that has been dormant for a year. Granting the exemption will thus promote a safe and efficient rail system by improving VSR’s ability to earn adequate revenues on the remainder of its rail line, foster sound economic conditions and encourage efficient management. 49 U.S.C. § 10101(3),(5) and (9). *See, e.g.,* STB Docket No. AB-318 (Sub-No. 4X), *Louisiana & Delta Railroad, Inc. – Abandonment Exemption – In Lafourche and Assumption Parishes, LA* (not printed), served August 26, 1997; STB Docket No. AB-497 (Sub-No. 1X), *Minnesota Northern Railroad, Inc. – Abandonment Exemption – In Red Lake and Polk Counties, MN* (not printed), served November 14, 1997. VSR will be able to rid itself of a financially draining operation which, if not corrected, further threatens economically to

jeopardize the remaining operations between Medicine Lodge and Attica. Those operations are currently marginal at best. Other aspects of the rail transportation policy are not affected adversely. For example, competition and the continuation of a sound rail transportation system are not affected since there is no longer any need for rail service on the Line. The former shippers on the Line can continue to receive rail service at nearby locations and have adequate alternative truck services available.

B. This Transaction Is Of Limited Scope

In determining whether a proposed transaction is of limited scope, the Board considers a variety of factors, such as the length of the rail line, the number of shippers on the line and the traffic volume. *See, e.g.,* Docket No. AB-347 (Sub-No. 1X), *Florida West Coast Railroad Company – Abandonment Exemption – Gilchrist and Levy Counties, FL* (not printed), served January 16, 1992; Docket No. AB-6 (Sub No. 349X), *Burlington Northern Railroad Company – Abandonment Exemption – In Greene and Polk Counties, MO* (not printed), served August 27, 1993.

The proposed transaction is of limited scope. VSR is seeking to abandon a 20-mile line that traverses a predominantly rural area where there has been no demand for rail service in a year and very limited demand in recent years. The shortness of the Line, the limited geographic area involved, and the limited use all demonstrate the limited scope of the proposed abandonment. *See, e.g.,* Docket No. AB-397 (Sub-No. 3X), *Tulare Valley Railroad Company – Abandonment Exemption – In Tulare And Fresno Counties, CA* (not printed), served February 9, 1995.

C. This Transaction Will Not Result In An Abuse of Market Power

There has been no freight traffic on the Line for a year and very little freight traffic in recent years. Traffic that formerly moved by rail has been shifted to trucks or has ceased to move entirely. All of the former rail shippers on the Line are apparently satisfied with their motor carrier service and are no longer interested in rail service. The area surrounding the Line has an adequate network of roadways and federal and state highways capable of handling truck traffic for the limited shipments that originate or terminate on the Line. Therefore, regulation is not necessary to protect shippers from an abuse of market power. *See, e.g.,* STB Docket No. AB-55 (Sub-No. 576) *CSX Transportation, Inc. – Abandonment Exemption – In Guernsey County, OH* (not printed), served November 22, 1999; STB Docket No. AB-55 (Sub-No. 563X), *CSX Transportation, Inc. – Abandonment Exemption – In Harrison County, WV* (not printed), served September 25, 1998; *Georgia Central*.

ENVIRONMENTAL REPORT

The Environmental Report containing the information required by 49 C.F.R. § 1105.7 is attached hereto as Exhibit B.

HISTORIC REPORT

The Historic Report containing the information required by 49 C.F. R. § 1105.8 is attached hereto as Exhibit C.

FEDERAL REGISTER NOTICE

A draft Federal Register notice is attached hereto as Exhibit D.

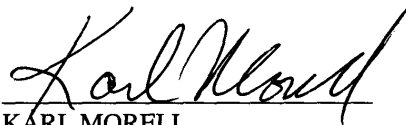
LABOR PROTECTION

The interests of railroad employees who may be adversely affected by the proposed abandonment and discontinuance will be adequately protected by the labor protective conditions in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

CONCLUSION

Application of the regulatory requirements and procedures of 49 U.S.C. § 10903 is not required to carry out the rail transportation policy set forth in 49 U.S.C. § 10101, as previously described. Nor is STB regulation required to protect shippers from the abuse of market power. Moreover, this abandonment is of limited scope. Accordingly, VSR respectfully urges the Board to grant the abandonment.

Respectfully submitted,



KARL MORELL
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

Attorney for:
V AND S RAILWAY, INC.

Dated: May 2, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

Docket No. AB-603 (Sub-No. 1X)

V&S RAILWAY, INC.
--ABANDONMENT EXEMPTION--
IN BARBER COUNTY, KANSAS

VERIFIED STATEMENT
OF
STEVEN J. VAN WAGENEN

My name is Steven J. Van Wagenen, and I am Assistant Vice President of V&S Railway, Inc. ("VSR"). The corporate office of VSR is located at 1505 South Redwood Road, Salt Lake City, UT 84104. VSR owns the railroad line between MP 0.0 at Attica, KS and MP 41.0 near Sun City, KS.

VSR has filed an abandonment exemption for the portion of the rail line between MP 21.0 near Medicine Lodge, KS and MP 41.0 near the National Gypsum ("NG") mine, located Southwest of Sun City, KS. ("Rail Line") This Rail Line has provided rail service to NG for transporting gypsum rock from the mine to the NG processing plant in Medicine Lodge, KS. VSR began operations in December 2000.

Between December 2000 and April 2002, National Gypsum Co.

("NG") shipped an average of 53 cars per month from the mine. This constituted approximately 10% of the rock tonnage moving from the mine to Medicine Lodge. The other 90% moved by local trucking companies under contract.

VSR approached National Gypsum on several occasions to pursue the opportunity of moving a larger percentage of the rock to the processing plant. In the first quarter of 2002, VSR submitted a formal proposal to NG to move all of the rock from the mine. Due to a shift in the location of the ore body and the additional costs for infrastructure, NG decided to move all rock from the mine by truck.

NG determined to purchase a portable crusher and move away from the railway loadout. The rock hauling contract was renewed and expanded to 100% of the rock, with a local trucking company. NG terminated all rail traffic from the mine. No cars have moved on the Rail Line since April 2002.

In October 2002, I was assigned direct responsibility over the operations of the VSR. During my visit to Medicine Lodge between October 16-18, 2002, I met with the Plant Manager, Mr. Greg Whelan. Mr. Whelan indicated that NG had no intention of utilizing the Rail Line in the future. He described the investment NG had made in new mine equipment, the cost savings they were achieving, and the fact that NG did not expect to require rail service from the mine in the future.

On December 18, 2002, I again met with Greg Whelan, Plant Manager, Mr. Patrick Hunter, NG Logistics Group Director, and

Mrs. Sally Holden, NG Logistic Services Manager. We reviewed the plant's transportation needs and again discussed the Rail Line. During that visit, I learned that the NG-owned track under the mine loadout had been removed. A road has been constructed in its place, allowing trucks to utilize the loadout. The NG representatives again confirmed that rail service from the mine was no longer needed. They voiced no objection to our planned abandonment of the Rail Line.

VSR has determined to proceed with the abandonment of the Rail Line based on the following factors: (1) There is currently no rail access to the NG mine loadout; (2) NG has not utilized the line during the past eleven months and has indicated that future use is unlikely; (3) The cost to maintain and return the line to service exceeds potential revenue; and (4) NG has a contract with a trucking company to move the rock from the mine to the Medicine Lodge processing plant.

VERIFICATION

I, Steven J. Van Wagenen, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing Verified Statement and that its assertions are true and correct to the best of my knowledge, information and belief.

I further declare that I am qualified and authorized to submit this verification on my behalf. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

Dated at Salt Lake City, UT, this 20th day of March 2003.

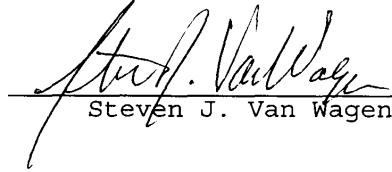

Steven J. Van Wagenen

Exhibit A

V and S Railway

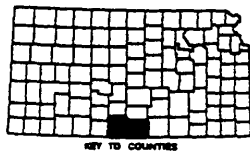
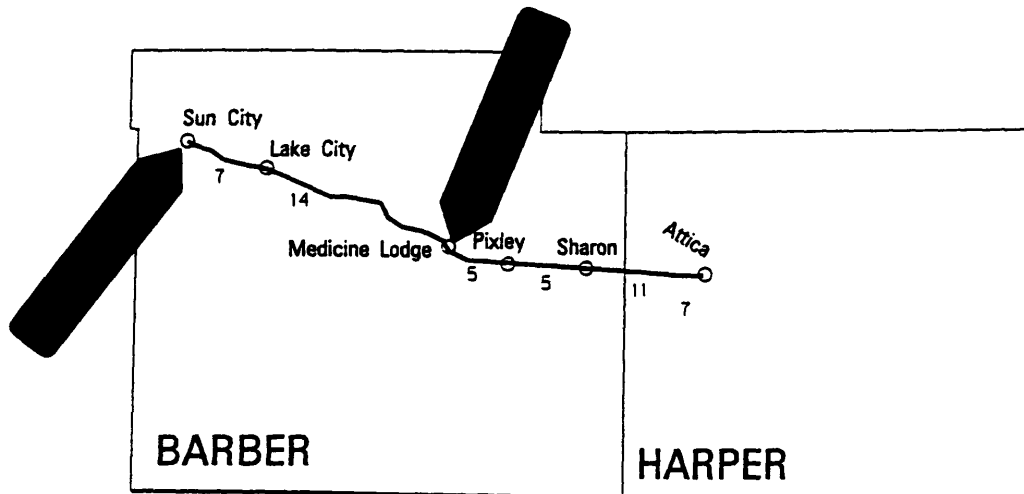


EXHIBIT B

ENVIRONMENTAL REPORT

(49 C.F.R. 1105.7)

Docket No. AB-603 (Sub-No. 1X)

V AND S RAILWAY, INC.
--ABANDONMENT EXEMPTION--
IN BARBER COUNTY, KANSAS

(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.

V and S Railway, Inc. ("VSR"), proposes to abandon the 20-mile section of its rail line located between milepost 21.0,¹ at Medicine Lodge, and milepost 41.0, at Sun City, in Barber County, Kansas (the "Line"). Upon receipt of abandonment authority, VSR intends to remove the rail, track material, and cross-ties. There are currently no plans to remove any of the bridge structures along the Line.

VSR acquired the Line in 2000 from Central Kansas Railway, L.L.C.² The only traffic that has moved over the Line since it was acquired by VSR is gypsum rock. In December of 2000, VSR handled 24 carloads; during 2001, it handled 636 carloads; and between January 1st

¹ At the time VSR sent out its consultation letters, it had planned on abandoning its rail from milepost 20.66. Since that time, VSR has changed its mind and now intends on keeping active the segment between milepost 20.66 and milepost 21.0 in order to preserve the option of serving a potential customer located on that segment.

² See STB Docket No. 33964, *V and S Railway, Inc. – Acquisition and Operation Exemption – Central Kansas Railway, L.L.C.* (not printed), served December 7, 2000.

and April 30, 2002, it handled 217 carloads. Since April 30, 2002, no local traffic has moved over the Line. Since the Line is stub-ended, no overhead traffic moves over the Line.

The Line has had limited traffic in recent years and no traffic in almost a year. In addition, very little maintenance has been performed. Therefore, the proposed abandonment will have limited impact on rail freight operations and maintenance practices on the Line. Because of the low traffic volume on the Line in recent years, VSR was incurring substantial operating losses on the Line. The Line is in poor condition. Significant rehabilitation and maintenance costs will be necessary in the near future in order to continue rail operations over the Line. Given that no traffic has moved in nearly a year and given the low volume of traffic in previous years, there is no possibility that these expenditures can be recovered.

The only alternative to abandonment would be not to abandon the Line and forcing VSR to pass the opportunity costs of retaining the Line to other VSR customers. This would not be a prudent use of carrier resources.

A map of the proposed abandonment is attached hereto as Exhibit 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.

No passenger traffic will be diverted to other modes as a result of the proposed abandonment. No local traffic has been handled on the Line in nearly a year and the Line is not capable of handling overhead traffic. Consequently, the proposed abandonment will have no adverse effects on regional or local transportation systems and patterns.

(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 affects land or water uses within a designated coastal zone, include the coastal zone information required by 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.

(i) VSR is confident that the proposed abandonment is consistent with existing land use plans. VSR contacted the Barber County Board of Commissioners. See Exhibit 2. To date, no response to this inquiry has been received. A copy of this Report has been mailed to the appropriate local and state agencies for their information and comment.

(ii) The proposed abandonment will not have any detrimental effect on any prime agricultural land. VSR notified the U.S. Soil Conservation Service of the proposed abandonment and requested assistance in identifying any potential effects on prime agricultural land. See Exhibit 3. According to the Soil Conservation Service, the proposed abandonment will have “no negative impacts to important farmland” or “adverse environmental effects....” See Exhibit 3. A copy of this Report is being supplied to the USDA Soil Conservation Service for its information and further comment.

(iii) The Line does not pass through a designated coastal zone.

(iv) The right-of-way involved does not appear to be suitable for alternative public use other than a recreational trail since it is located in a rural, sparsely populated area. To date, no state or local entity has expressed an interest in the right-of-way.

(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.

(i) The proposed abandonment will have no effect on the transportation of energy resources.

(ii) The proposed abandonment will have no effect on the transportation of recyclable commodities.

(iii) The proposed abandonment will have no effect on overall energy efficiency as no local traffic has been handled on the Line in nearly a year and the Line is not capable of handling overhead traffic.

(iv) The proposed abandonment will not cause diversions of rail traffic to motor carriage, since no local traffic has been handled in nearly a year and the Line is not capable of handling overhead traffic.

(5) Air. (i) If the proposed action will result in either: (A) An increase in rail traffic of at least 100 percent (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 percent (measured by carload activity), or (C) an average increase in truck traffic of more than 10 percent 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 sub-section (5)(i)(A) will apply. (ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either: (A) an increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line; (B) an increase in rail yard activity of at least 20 percent (measured by carload activity); or (C) an average increase in truck traffic of more than 10 percent 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 reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply. (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.

(i) The proposed abandonment will not result in meeting or exceeding the specified thresholds.

(ii) The proposed abandonment will not result in meeting or exceeding the specified thresholds.

(iii) The proposed abandonment 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.

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.

(i) The proposed abandonment will have no detrimental effects on public health and safety. The removal of grade crossings and the associated signs and structures will enhance public safety by eliminating distractions to vehicular traffic crossing the Line.

(ii) The proposed abandonment 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 rail corridor of the Line.

(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.

(i) The proposed abandonment will not have an adverse affect on endangered or threatened species or areas designated as a critical habitat. VSR notified the U.S. Fish and Wildlife Service of the proposed abandonment and requested assistance in determining whether endangered or threatened species or areas designated as a critical habitat are likely to be

adversely affected. See Exhibit 4. The Service concluded that "there should be no adverse impacts to fish and wildlife resources, including threatened and endangered species" as a result of the proposed abandonment. See Exhibit 4. A copy of this Report is being supplied to the U.S. Fish and Wildlife Service for its information and further comment.

(ii) VSR does not believe that any wildlife sanctuaries or refuges, National or State parks or forests would be adversely affected by the proposed abandonment. VSR notified the National Parks Service of the proposed abandonment and requested assistance in identifying any potential effects on wildlife sanctuaries or refuges, National or State parks or forests. See Exhibit 5. To date, no response to this request has been received. A copy of this Report is being supplied to the National Park Service for its information and comment.

(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.

(i) VSR is confident that the proposed abandonment will be consistent with applicable water quality standards. VSR contacted the Kansas Department of Health and Environment and the U.S. Environmental Protection Agency concerning this matter requesting assistance in determining whether the proposed abandonment is consistent with applicable Federal, State, or local water quality standards. See Exhibit 6. To date, no response to these requests has been received. A copy of this Report is being supplied to the U.S. Environmental Protection Agency and the Kansas Department of Health and Environment for their information and comment.

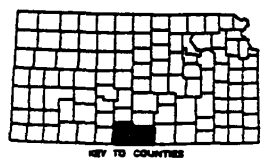
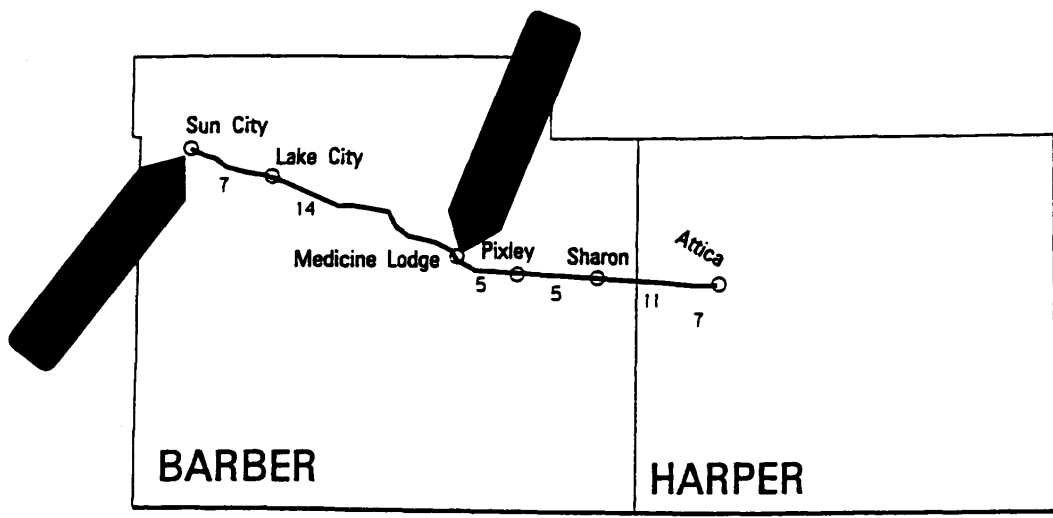
(ii) No designated wetlands or 100-year flood plains will be adversely affected by the proposed abandonment. VSR contacted the Corps of Engineers concerning these matters. See Exhibit 7. The Corps of Engineers has determined that the proposed abandonment is not subject to regulation pursuant to Section 404 and no Department of Army permit will be required. See Exhibit 7. Consistent with the Corps' suggestion, VSR will verify whether any other Federal, state and/or local permits may be required. A copy of this Report is being supplied to the U.S. Army Corps of Engineers for its information and further comment.

(iii) VSR believes the proposed abandonment will not require the issuance of any permits under Section 402 of the Clean Water Act. VSR contacted the U.S. Environmental Protection Agency concerning this matter and requested assistance in identifying any potential effects on applicable water quality standards and determining whether the proposed abandonment is consistent with applicable Federal, State, or local water quality standards. See Exhibit 6. To date, no response to this request has been received. A copy of this Report is being supplied to the U.S. Environmental Protection Agency for its information and comment.

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

VSR does not expect any adverse environmental impact from the proposed abandonment and, therefore, sees no need for any mitigating actions. VSR will, of course, adhere to any remedial actions suggested by the recipients of this Report and required by the Board.

V and S Railway



V and S Railway, Inc.
P.O. Box 26421
Salt Lake City, UT 84126
(801) 974-0110 • (801) 972-2041 FAX

April 10, 2002

Board of County Commissioners
Barber County
205 West Central, 4th Floor
El Dorado, KS 67042

**RE: Docket No. AB-603 (Sub-No. 1X), V and S Railway, Inc.--
Abandonment Exemption—In Barber County, Kansas**

Dear Sir/Madam:

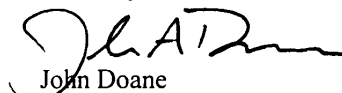
V and S Railway, Inc., ("VSR") is planning to file a Petition for Exemption with the Surface Transportation Board ("STB"), on or about June 10, 2002, for VSR to abandon approximately 20.34 miles of rail line located between milepost 20.66, at Medicine Lodge, and milepost 41.0, at Sun City, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on existing land use plans. We must determine whether the proposed abandonment is inconsistent with existing land use plans.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane
Assistant Vice President
V and S Railway, Inc.

V and S Railway, Inc.

P.O. Box 26421
Salt Lake City, UT 84126
(801) 974-0110 • (801) 972-2041 FAX

April 10, 2002

State Conservationist
USDA Soil Conservation Service
760 South Broadway
Salina, KS 67401

**RE: Docket No. AB-603 (Sub-No. 1X), V and S Railway, Inc.--
Abandonment Exemption—In Barber County, Kansas**

Dear Sir/Madam:

V and S Railway, Inc., ("VSR") is planning to file a Petition for Exemption with the Surface Transportation Board ("STB"), on or about June 10, 2002, for VSR to abandon approximately 20.34 miles of rail line located between milepost 20.66, at Medicine Lodge, and milepost 41.0, at Sun City, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on prime agricultural land.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane
Assistant Vice President
V and S Railway, Inc.



**United States Department of Agriculture
Natural Resources Conservation Service**

9 West 28th
Hutchinson, KS 67502-3453

Phone: 620-663-3501
FAX: 620-663-3866
www.ks.nrcs.usda.gov

May 13, 2002

Mr. John Doane
V and S Railway, Inc
P.O. Box 26421
Salt Lake City, Utah 84126

Dear Mr. Doane:

Thank you for the opportunity to review the abandonment of 20.34 miles of rail line located between milepost 20.66, at Medicine Lodge and milepost 41.0, at Sun City, in Barber County, Kansas.

Because the project is the abandoning of a project, there are no negative impacts to important farmland as defined by the Farmland Protection Policy Act. I see no adverse environmental effects for which the Natural Resources Conservation Service is responsible for evaluating.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jess F. Crockford".

JESS F. CROCKFORD
Assistant State Conservationist

cc:

Harold L. Klaege, State Conservationist, NRCS, Salina, Kansas
Rodney D. Egbarts, Soil Conservationist, NRCS, Salina, Kansas
Harold E. Kline, District Conservationist, NRCS, Medicine Lodge, Kansas

V and S Railway, Inc.

P.O. Box 26421
Salt Lake City, UT 84126
(801) 974-0110 • (801) 972-2041 FAX

April 10, 2002

U.S. Fish and Wildlife Service
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

**RE: Docket No. AB-603 (Sub-No. 1X), V and S Railway, Inc.--
Abandonment Exemption—In Barber County, Kansas**

Dear Sir/Madam:

V and S Railway, Inc., ("VSR") is planning to file a Petition for Exemption with the Surface Transportation Board ("STB"), on or about June 10, 2002, for VSR to abandon approximately 20.34 miles of rail line located between milepost 20.66, at Medicine Lodge, and milepost 41.0, at Sun City, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in determining whether it is likely to adversely affect endangered or threatened species or areas designated as a critical habitat.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane
Assistant Vice President
V and S Railway, Inc.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Kansas Field Office
315 Houston Street, Suite E
Manhattan, Kansas 66502-6172

May 7, 2002

John Doane
Assistant Vice President
V and S Railway, Inc.
P.O. Box 26421
Salt Lake City, Utah 84126

RE: Docket No. AB-603 (Sub-No. 1X)

Dear Mr. Doane:

I was forwarded your letter of April 10, 2002, which was sent to our Denver Regional Office, describing a proposed abandonment of over 20 miles of existing railway line between Medicine Lodge and Sun City, in Barber County, Kansas. We have reviewed this proposal and conclude that there should be no adverse impacts to fish and wildlife resources, including threatened and endangered species. Therefore, the U.S. Fish and Wildlife Service has no objection to your proposals as planned.

The Service encourages V and S Railway, Inc. to keep the right-of-way in a natural condition for the benefit of native wildlife, plants, and the public. You may wish to contact the National Park Service, Omaha, Nebraska, 402-221-3350, for more information on the "Rails to Trails" Program. You may also wish to contact the Kansas Department of Wildlife and Parks in Pratt, Kansas (316-672-5911) to determine their interest in acquiring a nature trail.

In the future, please direct all inquiries regarding Kansas projects to this office, rather than going through our Denver office. This should help eliminate unnecessary delays in our response. Thank you for this opportunity to comment on your proposal.

Sincerely,

William H. Gill
Field Supervisor

cc: KDWP, Pratt, KS (Environmental Services)

WHG/dwm

V and S Railway, Inc.

Exhibit 5

P.O. Box 26421
Salt Lake City, UT 84126
(801) 974-0110 • (801) 972-2041 FAX

April 10, 2002

National Park Service
Recreational Resources Assistance Division
P.O. Box 37127
Washington, D.C. 20013-7127

**RE: Docket No. AB-603 (Sub-No. 1X), V and S Railway, Inc.--
Abandonment Exemption—In Barber County, Kansas**

Dear Sir/Madam:

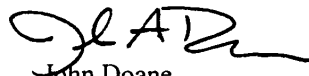
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Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on wildlife sanctuaries or refuges, National or State parks or forests.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane
Assistant Vice President
V and S Railway, Inc.

V and S Railway, Inc.

Exhibit 6

P.O. Box 26421
Salt Lake City, UT 84126
(801) 974-0110 • (801) 972-2041 FAX

April 10, 2002

Department of Health and Environment
Division of Environment
Landon State Office Building
901 S.W. Jackson Street
Topeka, KS 66612

**RE: Docket No. AB-603 (Sub-No. 1X), V and S Railway, Inc.--
Abandonment Exemption—In Barber County, Kansas**

Dear Sir/Madam:

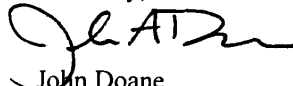
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Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on applicable water quality standards. We also seek your assistance in determining whether the proposed abandonment is consistent with applicable Federal, State or local water quality standards. VSR does not believe any permits under Section 402 of the Clean Water Act will be required.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane
Assistant Vice President
V and S Railway, Inc.

V and S Railway, Inc.

P.O. Box 26421
Salt Lake City, UT 84126
(801) 974-0110 • (801) 972-2041 FAX

April 10, 2002

U.S. Environmental Protection Agency
726 Minnesota Avenue
Kansas City, KS 66101

**RE: Docket No. AB-603 (Sub-No. 1X), V and S Railway, Inc.--
Abandonment Exemption—In Barber County, Kansas**

Dear Sir/Madam:

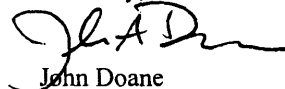
V and S Railway, Inc., ("VSR") is planning to file a Petition for Exemption with the Surface Transportation Board ("STB"), on or about June 10, 2002, for VSR to abandon approximately 20.34 miles of rail line located between milepost 20.66, at Medicine Lodge, and milepost 41.0, at Sun City, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on applicable water quality standards. We also seek your assistance in determining whether the proposed abandonment is consistent with applicable Federal, State or local water quality standards. VSR does not believe any permits under Section 402 of the Clean Water Act will be required.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane
Assistant Vice President
V and S Railway, Inc.

V and S Railway, Inc.

Exhibit 7

P.O. Box 26421
Salt Lake City, UT 84126
(801) 974-0110 • (801) 972-2041 FAX

April 10, 2002

U.S. Army Engineer District, Kansas City
2710 N.E. Shady Creek Access Road
El Dorado, Kansas 67042

**RE: Docket No. AB-603 (Sub-No. 1X), V and S Railway, Inc.--
Abandonment Exemption—In Barber County, Kansas**

Dear Sir/Madam:

V and S Railway, Inc., ("VSR") is planning to file a Petition for Exemption with the Surface Transportation Board ("STB"), on or about June 10, 2002, for VSR to abandon approximately 20.34 miles of rail line located between milepost 20.66, at Medicine Lodge and milepost 41.0, at Sun City, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on designated wetlands or 100-year flood plains. VSR does not believe any permits under Section 404 of the Clean Water Act will be required.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane
Assistant Vice President
V and S Railway, Inc.



DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
STATE REGULATORY PROGRAM OFFICE - KANSAS
2710 N.E. SHADY CREEK ACCESS ROAD
EL DORADO, KANSAS 67042

REPLY TO
ATTENTION OF:

April 16, 2002

Kansas State Regulatory Office
(200201233)
(Barber, KS, NPR)

Mr. John Doane
V and S Railway, Inc.
P. O. Box 26421
Salt Lake City, Utah 84126

Dear Mr. Doane:

This is in response to your letter received on April 15, 2002, requesting a Department of the Army (DA) permit determination concerning abandonment of approximately 20.34 miles of rail line from Sun City, KS to Medicine Lodge, KS. The project is located adjacent to the Medicine Lodge River. The project originates in Section 2, Township 31 south, Range 15 west, and terminates in Section 12, Township 32 south, Range 12 west, all in Barber County, Kansas.

The Corps of Engineers has jurisdiction over all waters of the United States. Discharges of dredged or fill material in waters of the United States, including wetlands, require prior authorization from the Corps under Section 404 of the Clean Water Act (33 USC 1344). The implementing regulation for this Act is found at 33 CFR 320-330.

The enclosed Jurisdictional Determination (JD) form describes the extent of waters of the United States on the project site. Also, the enclosed Notification of Administrative Appeal Options and Process and Request for Appeal form (FORM) describes your options in Section E of the FORM.

We have reviewed the information furnished and have determined that the proposed activity will not involve the discharge of dredged or fill material in waters of the United States. Therefore, Department of the Army permit authorization is not required. Other Federal, state and/or local permits may be required, however, and you should verify this yourself.

Ms. Shannon J. Warner, Regulatory Specialist, reviewed the information furnished and made this determination. If you have any questions concerning this matter, please feel free to contact Ms. Warner at 316-322-8247 (FAX 316-322-8259).

2 Enclosures

Copies Furnished:

Environmental Protection Agency,
Water Resources Protection Branch wo/enclosure

Kansas Department of Wildlife
and Parks wo/enclosure

Kansas Department of Agriculture wo/enclosure

Kansas Department of Health and Environment
wo/enclosure

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Kansas City District

APPLICANT: V And S Railway, Inc. NUMBER: 200201233

LOCATION/WATERWAY: Barber Co., KS / Adjacent to Medicine Lodge River

PROJECT REVIEW COMPLETED: ☒ Office ☐ Field

JURISDICTIONAL DETERMINATION (JD):

- ☒ Preliminary JD – Based on available information, there appear to be no waters of the U.S. on the project site. A preliminary JD is not appealable.
- ☐ Approved JD – There are waters of the United States on the project site. An approved JD is an appealable action (unless prepared by the U.S. Environmental Protection Agency (USEPA) or the Natural Resources Conservation Service (NRCS)).

BASIS FOR JURISDICTIONAL DETERMINATION:

- ☒ There are no jurisdictional waters of the U.S. present on the project site.
- ☐ The presence of waters which are currently used, or were used in the past, or may be susceptible for use to transport interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide (i.e., navigable waters of the U.S.).
- ☐ The presence of interstate waters (including interstate wetlands¹).
- ☐ The presence of a tributary to an interstate water or other water of the U.S.
- ☐ Impoundments of interstate or other waters of the U.S. or their tributaries.
- ☐ The presence of territorial seas.
- ☐ The presence of wetlands adjacent² to interstate or other waters of the U.S., except for those wetlands adjacent to other wetlands.
- ☐ The presence of an isolated water (i.e., intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds).
- ☐ The site is used by interstate or foreign travelers for recreational purposes.
- ☐ The site has fish or shellfish that are taken and sold in interstate or foreign commerce.
- ☐ The site is used for industrial purposes by industries in interstate commerce.
- ☐ Other: _____

Rationale for Basis (applies to any boxes checked above): Project will not impact any waters of the U.S.

Lateral Extent of Jurisdiction (33 CFR 328 and 329):

- | | |
|--|--|
| <p>☐ Ordinary High Water Mark indicated by:</p> <ul style="list-style-type: none">☐ clear, natural line impressed on the bank☐ the presence of litter and debris☐ changes in the character of soil☐ destruction of terrestrial vegetation☐ shelving☐ other (hydrologic study, etc.): _____ | <p>☐ High Tide Line indicated by:</p> <ul style="list-style-type: none">☐ oil or scum line along shore objects☐ fine shell or debris deposits (foreshore)☐ physical markings/characteristics☐ tide gages☐ other: _____ |
|--|--|
- ☐ Mean High Water Mark indicated by:
- ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types
- ☐ In ocean or coastal area, site is in a zone three geographic (nautical) miles seaward of the baseline³
- ☐ Wetland, as shown on the attached wetland delineation map, and/or in a jurisdictional report prepared by _____, and dated _____.
- ☐ Additional supporting information attached and/or multiple JD forms completed for sites with multiple water categories.

Preparer: Environmental Protection Specialist, Shannon Warner Date: 16 April 2002

¹ Wetlands are identified and delineated using the methods and criteria established in the 1987 Corps of Engineers Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology). Processes for determining wetlands on agricultural lands may vary from methods described in the 87 Manual.

² The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

³ Baseline is the line on the shore reached by the ordinary low tides from which the distance of three miles is measured.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: <i>Vand S Railway, Inc.</i>	File Number: <i>210201233</i>	Date: <i>4/16/02</i>
Attached is:		See Section below
INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
PROFFERED PERMIT (Standard Permit or Letter of permission)		B
PERMIT DENIAL		C
APPROVED JURISDICTIONAL DETERMINATION		D
☒ PRELIMINARY JURISDICTIONAL DETERMINATION		☒ E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

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 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.

EXHIBIT C

HISTORIC REPORT

(49 C.F.R. 1105.8)

Docket No. AB-603 (Sub-No. 1X)

**V AND S RAILWAY, INC.
--ABANDONMENT EXEMPTION--
IN BARBER COUNTY, KANSAS**

The Historic Report should contain the information required by 1105.7(e)(1) of the Environmental Report. The following is excerpted from the Environmental Report prepared for the proposed abandonment:

(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.

V and S Railway, Inc. ("VSR"), proposes to abandon the 20-mile section of its rail line located between milepost 21.0,¹ at Medicine Lodge, and milepost 41.0, at Sun City, in Barber County, Kansas (the "Line"). Upon receipt of abandonment authority, VSR intends to remove the rail, track material, and cross-ties. There are currently no plans to remove any of the bridge structures along the Line.

VSR acquired the Line in 2000 from Central Kansas Railway, L.L.C.² The only traffic that has moved over the Line since it was acquired by VSR is gypsum rock. In December of 2000, VSR handled 24 carloads; during 2001, it handled 636 carloads; and between January 1st

¹ At the time VSR sent out its consultation letters, it had planned on abandoning its rail line from milepost 20.66. Since that time, VSR has changed its mind and now intends on keeping active the segment between milepost 20.66 and milepost 21.0 in order to preserve the option of serving a potential customer located on that segment.

and April 30, 2002, it handled 217 carloads. Since April 30, 2002, no local traffic has moved over the Line. Since the Line is stub-ended, no overhead traffic moves over the Line.

The Line has had limited traffic in recent years and no traffic in almost a year. In addition, very little maintenance has been performed. Therefore, the proposed abandonment will have limited impact on rail freight operations and maintenance practices on the Line. Because of the low traffic volume on the Line in recent years, VSR was incurring substantial operating losses on the Line. The Line is in poor condition. Significant rehabilitation and maintenance costs will be necessary in the near future in order to continue rail operations over the Line. Given that no traffic has moved in nearly a year and given the low volume of traffic in previous years, there is no possibility that these expenditures can be recovered.

The only alternative to abandonment would be not to abandon the Line and forcing VSR to pass the opportunity costs of retaining the Line to other VSR customers. This would not be a prudent use of carrier resources.

A map of the proposed abandonment is attached hereto as Exhibit 1.

HISTORIC REPORT

1. *A U.S.G.S. topographic map (or 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;*

² See STB Docket No. 33964, *V and S Railway, Inc. – Acquisition and Operation Exemption – Central Kansas Railway, L.L.C.* (not printed), served December 7, 2000.

A map and the identification of all structures on the Line that are 50 years old or older have been supplied to the Kansas State Historical Society ("KSHS"). See Exhibit 2.³

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;*

The right-of-way is predominately 100 feet in width. The 20-mile rail line is located between Medicine Lodge and Sun City, and traverses a predominately flat, rural area in Barber County, Kansas, beginning at milepost 21, at Medicine Lodge, and running generally in a northwesterly direction through Lake City to milepost 41.0, at Sun City.

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 immediate surrounding area;*

The only structures on the Line associated with the proposed abandonment that are, or potentially are, 50 years old or older are 35 bridges. Two of the bridges are of unknown age. Photographs of the bridges have been supplied to the KSHS. See Exhibit 2.

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;*

There are 35 bridges located on the Line which may be fifty years old or older. Two of the bridges are of unknown age and the other 33 bridges were constructed between 1913 and 1950. See Exhibit 3. VSR is not in possession of any engineering documents regarding the maintenance or repairs of these bridges.

³ Since VSR has decided not to abandon the line segment between milepost 20.66 and milepost 21.0, two of the bridges identified to KSHS as being within the project area are no longer, namely the bridges at mileposts 20.8 and 20.9. A revised bridge list is attached as Exhibit 3.

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;*

The 20-mile line between Medicine Lodge and Sun City was originally graded by the Harper and Western Railroad Company around 1886. The Denver, Kansas and Gulf Railway Company laid the track in 1906. Since the Line was acquired by VSR in 2000, it has been used to haul gypsum rock from a mine in Sun City to National Gypsum's plant in Medicine Lodge.

The Line is in poor condition and has seen only limited freight operations in recent years. In order to continue freight operations, significant rehabilitation would be required. Given the limited volume of traffic that has moved over the Line in recent years, rehabilitation cannot be economically justified. Because no traffic has moved on the Line in nearly a year, no changes to current transportation patterns are anticipated upon the abandonment of the Line.

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;*

There are no available individual drawings for the 35 bridges on the Line. Each of the bridges is quite common in design and construction and is of no historical significance. They are typical of many bridges found throughout North America.

7. *An opinion (based on readily available information in the railroad'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);*

The 35 bridges are quite common in design and construction. None has any historical significance as to the history of railroad construction or operation. These are common structures

found on numerous railroads throughout North America. There are also no known archeological resources in the project area. Attached as Exhibit 4 is the response VSR received from the KSHS. According to the KSHS, the abandonment of the Line will not affect any property listed on or eligible for listing on the National Register of Historic Places.

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 waste), and the surrounding terrain.*

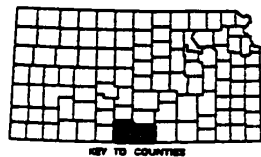
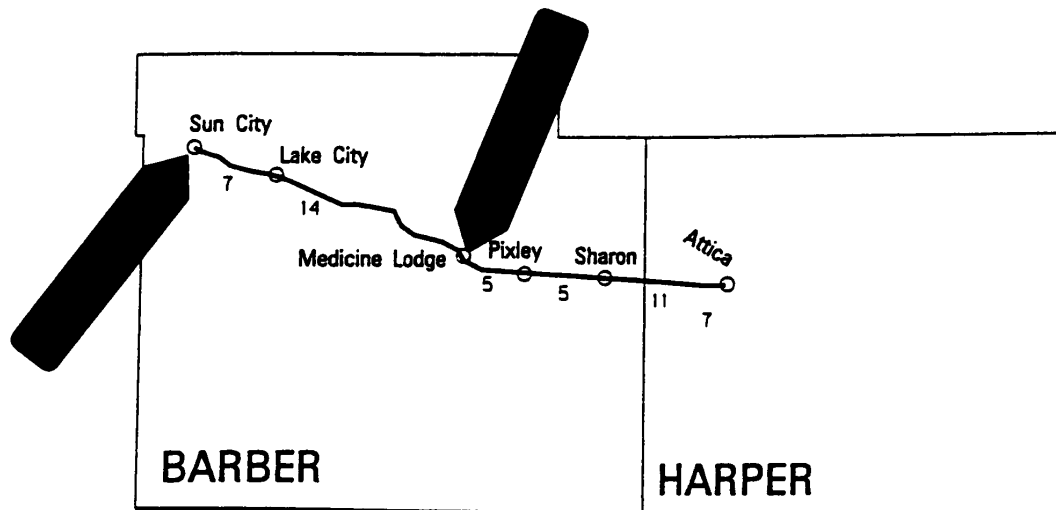
There are no existing records as to the nature of any known subsurface ground disturbance or fill, or environmental condition that might affect the archeological recovery of any potential resources.

9. *Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specific non railroad 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 location and type of the site (i.e. prehistoric or native American).*

VSR does not foresee the likelihood that any additional information will need to be supplied in association with the proposed line abandonment other than that information previously submitted. But, if any additional information is requested, VSR will promptly supply the necessary information.

EXHIBIT 1

V and S Railway



V and S Railway, Inc.

P.O. Box 26421
Salt Lake City, UT 84126
(801) 974-0110 • (801) 972-2041 FAX

April 10, 2002

Kansas State Historical Society
6425 S.W. 6th Avenue
Topeka, KS 66615-1099

**RE: Docket No. AB-603 (Sub-No. 1X), V and S Railway, Inc.--
Abandonment Exemption—In Barber County, Kansas**

Dear Sir/Madam:

V and S Railway, Inc., ("VSR") is planning to file a Petition for Exemption with the Surface Transportation Board ("STB"), on or about June 10, 2002, for VSR to abandon approximately 20.34 miles of rail line located between milepost 20.66, at Medicine Lodge, and milepost 41.0, at Sun City, in Barber County, Kansas. United States Geological Survey maps of the proposed abandonment are attached.

Enclosed is a map depicting the area where the rail line is located. The proposed abandonment will involve the removal of the rail, track material, and crossties; however, there are currently no plans to remove any existing structures along the track.

The rail line segment VSR seeks to abandon is located in the State of Kansas. The 20.34 mile line lies in Barber County. That line begins at milepost 20.66, at Medicine Lodge, and extends generally in a westerly direction to milepost 41.0, at Sun City. The line crosses through predominately flat, rural areas.

There are thirty-seven bridges, two of which are unknown in age, on the rail line between Medicine Lodge and Sun City. Descriptions of the bridges and their milepost locations are attached. Photographs of each structure will also be sent to your Department within the next ten days. These bridges are quite common in design and construction and in VSR's view have no historical significance.

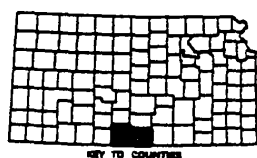
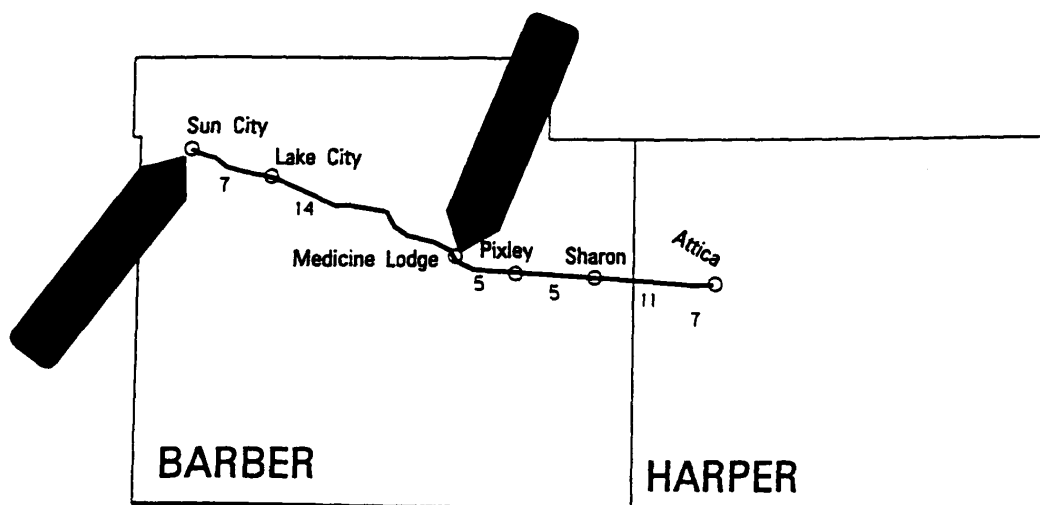
We will send you a copy of the Historic Report as soon as it is completed. If I can of further assistance regarding this matter, please call me at (801) 977-6343.

Sincerely,



John Doane
Assistant Vice President
V and S Railway, Inc.

V and S Railway



V and S Railway Bridge List

<i>Milepost</i>	<i>Length (ft.)</i>	<i>Type</i>	<i>Date Constructed</i>
20.8	42	Open Deck Pile Trestle	1916
20.9	70	Open Deck Pile Trestle	1950
21.1	42	Open Deck Pile Trestle	1919
21.6	110	Open Deck Pile Trestle	1918
22.4	14	Open Deck Pile Trestle	1919
22.7	195	Open Deck Pile Trestle	1915
23.7	42	Open Deck Pile Trestle	1907
24.9	81	Open Deck Pile Trestle	1913
25.5	305	Open Deck Pile Trestle	1920
26.1	28	Open Deck Pile Trestle	1919
26.7	83	Open Deck Pile Trestle	1918
27.4	28	Open Deck Pile Trestle	1918
27.9	42	Open Deck Pile Trestle	1920
28.6	70	Open Deck Pile Trestle	1919
28.9	84	Open Deck Pile Trestle	1942
29.6	28	Open Deck Pile Trestle	1919
30.1	223	Open Deck Pile Trestle	1918
30.7	42	Open Deck Pile Trestle	1919
31	70	Open Deck Pile Trestle	1919
31.4	28	Open Deck Pile Trestle	1915
32	56	Open Deck Pile Trestle	1915
32.3	112	Open Deck Pile Trestle	1918
32.9	42	Open Deck Pile Trestle	1915
33.3	265	Open Deck Pile Trestle	1918
33.8	42	Open Deck Pile Trestle	1919
34.3	14	Ballast Deck Pile Trestle	1926
34.8	42	Open Deck Pile Trestle	1919
35.1	138	Open Deck Pile Trestle	1915
35.3	56	Open Deck Pile Trestle	
35.7	112	Open Deck Pile Trestle	1933
36.7	98	Open Deck Pile Trestle	
37.8	166	Open Deck Pile Trestle	1918
38.3	56	Open Deck Pile Trestle	1919
38.8	56	Open Deck Pile Trestle	1918
39.44	19	Open Deck Pile Trestle	1917
40	249	Open Deck Pile Trestle	1950
40.9	42	Open Deck Pile Trestle	1930

EXHIBIT 3**V and S Railway Bridge List**

<i>Milepost</i>	<i>Length (ft.)</i>	<i>Type</i>	<i>Date Constructed</i>
21.1	42	Open Deck Pile Trestle	1919
21.6	110	Open Deck Pile Trestle	1918
22.4	14	Open Deck Pile Trestle	1919
22.7	195	Open Deck Pile Trestle	1915
23.7	42	Open Deck Pile Trestle	1907
24.9	81	Open Deck Pile Trestle	1913
25.5	305	Open Deck Pile Trestle	1920
26.1	28	Open Deck Pile Trestle	1919
26.7	83	Open Deck Pile Trestle	1918
27.4	28	Open Deck Pile Trestle	1918
27.9	42	Open Deck Pile Trestle	1920
28.6	70	Open Deck Pile Trestle	1919
28.9	84	Open Deck Pile Trestle	1942
29.6	28	Open Deck Pile Trestle	1919
30.1	223	Open Deck Pile Trestle	1918
30.7	42	Open Deck Pile Trestle	1919
31	70	Open Deck Pile Trestle	1919
31.4	28	Open Deck Pile Trestle	1915
32	56	Open Deck Pile Trestle	1915
32.3	112	Open Deck Pile Trestle	1918
32.9	42	Open Deck Pile Trestle	1915
33.3	265	Open Deck Pile Trestle	1918
33.8	42	Open Deck Pile Trestle	1919
34.3	14	Ballast Deck Pile Trestle	1926
34.8	42	Open Deck Pile Trestle	1919
35.1	138	Open Deck Pile Trestle	1915
35.3	56	Open Deck Pile Trestle	
35.7	112	Open Deck Pile Trestle	1933
36.7	98	Open Deck Pile Trestle	
37.8	166	Open Deck Pile Trestle	1918
38.3	56	Open Deck Pile Trestle	1919
38.8	56	Open Deck Pile Trestle	1918
39.44	19	Open Deck Pile Trestle	1917
40	249	Open Deck Pile Trestle	1950
40.9	42	Open Deck Pile Trestle	1930



*KANSAS
STATE
HISTORICAL
SOCIETY*



Richard Pankratz
Director
Cultural Resources
Division
tel. ext. 217



6425 S.W. 6th Avenue
Topeka, Kansas
66615-1099
PHONE# (913) 272-8681
FAX# (913) 272-8682
TTY# (913) 272-8683



KANSAS HISTORY CENTER

Administration
Center for Historical Research
Cultural Resources
Education / Outreach
Historic Sites
Kansas Museum of History
Library & Archives

HISTORIC SITES

Adair Cabin
Constitution Hall
Cottonwood Ranch
First Territorial Capitol
Fort Hays
Goodnow House
Grinter Place
Hollenberg Station
Kaw Mission
Marais des Cygnes Massacre
Mine Creek Battlefield

EXHIBIT 4

April 30, 2002

Surface Transportation Board
Section of Environmental Analysis (SEA)
1925 K Street, N.W., Room 504
Washington, D.C. 20423-0001

RE: Docket No. AB-603 (Sub-No. 1X), V and S Railway, Inc.—
Abandonment Exemption—In Barber County, Kansas

Dear Sir/Madam:

We have reviewed the proposal by V and S Railway, Inc., to abandon 20.34 miles of rail line located between milepost 20.66 at Medicine Lodge and milepost 41.0 at Sun City, all in Barber County, Kansas. The proposed abandonment will not affect any property presently listed on the National Register of Historic Places nor any property that is eligible for such listing.

Sincerely yours,

Jennie A. Chinn
State Historic Preservation Officer

Richard Pankratz
Director, Cultural Resources Division

cc: V and S Railway, Inc.

EXHIBIT D

SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-603 (SUB-NO. 1X)

V AND S RAILWAY, INC.
--ABANDONMENT EXEMPTION--
IN BARBER COUNTY, KANSAS

On May 2, 2003, V and S Railway, Inc. (VSR) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provision of 49 U.S.C. 10903 for VSR to abandon a line of railroad extending from railroad milepost 21.0, at Medicine Lodge, KS, to railroad milepost 41.0, at Sun City, KS, which traverses U.S. Postal Service Zip Codes 67104, 67071, and 67143, a distance of 20 miles in Barber County, Kansas. There are no stations on the line for which abandonment exemption was filed.

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 interests of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued within 90 days (by June __, 2003).

Any offer of financial assistance under 49 C.F.R. 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1,100. *See* 49 C.F.R. 1002.2(f)(25).

All interested person 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 under 49 C.F.R. 1152.28 and any request for trail use/rail banking under 49 C.F.R. 1152.29 will be due no later than 20 days after notice of the filing of the petition for exemption is published in the *Federal Register*. Each trail use request must be accompanied by a \$150 filing fee. See 49 C.F.R. 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-603 (Sub-No. 1X) and must be sent to: (1) Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001, (2) Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 C.F.R. Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis at (202) 565-1545 [TDD for the hearing impaired is available at (202) 565-1695.]

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 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.

Decided: _____ 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings,
Vernon A. Williams

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.60(d), the undersigned hereby certifies that the Petition for Exemption in Docket No. AB-603 (Sub-No. 1X) was mailed via first class mail on May 2, 2003, to the following parties:

State Public Service Commission

Dept. of Transportation
Room 800 N
Docking State Office Bldg.
Topeka, KS 66612

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

Military Traffic Management Command

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

National Park Service

Mr. Tom Ross
Chief of National Recreation and Trails
U.S. Dept. of Interior - Nat'l. Park Service
Recreation Resources Assistance Division
1849 C Street, NW
Washington, DC 20240-0001

National Park Service

U.S. Department of Interior
National Park Service
Land Resources Division
800 N. Capitol Street, N.E.
Washington, DC 20002

U.S. Department of Agriculture

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Auditors' Building
14th St. and Independence Ave., S.W.
Washington, DC 20250

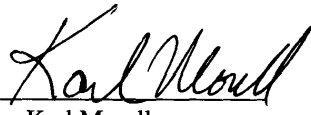
Dated: May 2, 2003


Karl Morell

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-603 (Sub-No. 1X) was published on March 20, 2003, in the Kiowa News, a newspaper of general circulation in Barber County, Kansas as required by 49 C.F.R. § 1105.12.

Dated: May 2, 2003


Karl Morell

**ENVIRONMENTAL REPORT
CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. § 1105.7, the undersigned hereby certifies that a copy of the Environmental Report in Docket No. AB-603 (Sub-No. 1X) was mailed via first class mail on February 28, 2003, to the following parties:

Department of Transportation
Room 800 N
Docking State Office Bldg.
Topeka, KS 66612

Department of Health and Environment
Division of Environment
901 S.W. Jackson Street
Topeka, KS 66612

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

U.S. Environmental Protection Agency
Region 7
901 N. 5th Street
Kansas City, KS 66101-2907

Board of County Commissioners¹⁶
Barber County
118 E. Washington
Medicine Lodge, KS 67104

U.S. Army Engineer District, Kansas City
2710 N.E. Shady Creek Access Road
El Dorado, Kansas 67042

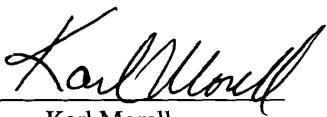
State Conservationist
9 West 28th
Hutchinson, KS 67502-3453

The National Geodetic Survey
Department of Commerce/NOAA
SSMC3
Station 9356
1315 East West Highway
Silver Spring, MD 20910

U.S. Fish and Wildlife Service
315 Houston Street, Suite E
Manhattan, KS 66502-6172

National Park Service
Recreational Resources Assistance Division
1849 C Street, NW
Washington, D.C. 20240-0001

Dated: May 2, 2003


Karl Morell

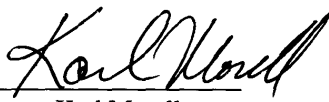
¹⁶ A copy of the Environmental Report was mailed to the wrong address on February 28, 2003. The Report was mailed to the correct address on March 4, 2003.

**HISTORIC REPORT
CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Historic Report in Docket No. AB-603 (Sub-No. 1X) was mailed via first class mail on February 28, 2003, to the following party:

Kansas State Historical Society
6425 S.W. 6th Avenue
Topeka, KS 66615-1099

Dated: May 2, 2003


Karl Morell