

District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether these conditions adequately protect affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on December 16, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 28, 2005. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 6, 2005, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemptions' effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

³ Each OFA must be accompanied by the filing fee, which currently is set at \$1,200. See 49 CFR 1002.2(f)(25).



A copy of any petition filed with the Board should be sent to applicants' representatives: Mack H. Shumate, Jr., 101 North Wacker Drive, Room 1920, Chicago, IL 60606; and William L. Rentfro, The Rentfro Faulk Law Firm, LLP, 185 E. Ruben M. Torres, Sr. Blvd., Brownsville, TX 78520.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

UP and B&RG have filed environmental and historic reports which address the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 21, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by November 16, 2006, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at
"WWW.STB.DOT.GOV."

Decided: November 4, 2005.

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

Vernon A. Williams

Secretary

Your letter indicates you have determined that the proposed action would have no effect on federally listed species. Therefore, the Service believes your agency has complied with section 7(a)(2) of the Endangered Species Act by making that determination. No further action is required from this office.

Date: 12-16-05

Consultation #: 21410-2006-I-0064

Approved By: Ernesto Reyes, Jr.

Ernesto Reyes, Jr.

U.S. Fish and Wildlife Service, Corpus Christi Ecological Services Office