



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

February 12, 2010

VIA E-FILING

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W., Room #100
Washington, DC 20423-0001

Re: Abandonment Exemption of a portion of the Yakima Industrial Lead from M.P. 62.7 to M.P. 63.55, a distance of .80 miles near Midvale in Yakima County, Washington; STB Docket No. AB-33 (Sub-No. 286X)

Dear Ms. Brown:

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

Union Pacific anticipates filing a Notice of Exemption in this matter on or after March 4, 2010.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mack H. Shumate, Jr.", with a stylized flourish at the end.

Attachment

cc: Kristy Clark, BNSF <via e-mail>
All Concerned Parties <via U.S. Mail>

o:\abandonments\33-286X\STB-EHR.doc

bcc: w/ Enclosures

Ray Allamong
Ingrid Schultze
Scott Moore
Brock Nelson
Lynda Prucha
Colleen Graham
Mark Jensen
Michael Drelicharz
Jason Hormann
Darin Bair
Marcia Bovenzo

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 286X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN YAKIMA COUNTY, WA
(PORTION OF YAKIMA INDUSTRIAL LEAD)**

Combined Environmental and Historic Report

UNION PACIFIC RAILROAD COMPANY

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

**Dated: February 12, 2010
Filed: February 12, 2010**

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 286X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN YAKIMA COUNTY, WA
(PORTION OF YAKIMA INDUSTRIAL LEAD)

Combined Environmental and Historic Report

Union Pacific Railroad Company ("UP") submits this Combined Environmental and Historic Report ("EHR") pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, for an exempt abandonment of a portion of the Yakima Industrial Lead, from Milepost 62.7 to Milepost 63.55, a distance of .80 miles near Midvale in Yakima County, Washington (the "Line"). The Line traverses U.S. Postal Service Zip Code 98930. UP anticipates that it will file a Notice of Exemption to abandon the Line on or after March 4, 2010.

A map of the Line, **Attachment No. 1**, and UP's letter to federal, state and local government agencies, **Attachment No. 2**, are attached to this EHR. Responses received thus far to UP's letters are also attached.

ENVIRONMENTAL REPORT
49 C.F.R. § 1105.7(e)

(1) Proposed action and alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or

maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Response: The proposed action involves an exempt abandonment of a portion of UP's Yakima Industrial Lead. The Line proposed for abandonment extends from Milepost 62.7 to Milepost 63.55, a total distance of .80 miles near Midvale in Yakima County, Washington. A map of the Line is attached as **Attachment No. 1**.

The Line was originally constructed in 1909 to 1911 by the North Coast Railroad Company and the Oregon Washington Railroad and Navigation Company. The Line is currently constructed primarily with 90 pound jointed rail placed in service in 1951.

Except for the possible exception for a bridge on the Line, the right-of-way proposed for abandonment would not be suitable for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. The Line does not appear to contain any reversionary property.

Based upon information in UP's possession, the Line does not contain any federally granted right-of-way. No local traffic has moved on the Line for at least two years, and there is no overhead traffic on the Line. No complaint regarding cessation of service has been filed, is pending, or has been ruled upon in favor of complainant in the past two years. Any documentation in UP's possession will be made available to those requesting it.

After the proposed abandonment, the area would continue to be served over the remaining portion of the Yakima Industrial Lead at Midvale, which is accessed by UP's Sunnyside line. Additionally, the Line lies within a couple miles of Interstate 82 via local roads.

UP has not been requested to provide service on the Line since 1992, when, under Finance Docket 32070, UP engaged in a joint relocation project with the Washington Central Railroad Company ("WC") to eliminate certain segments of the Yakima Industrial Lead while granting WC local trackage rights over the Line and over UP's Sunnyside line so that WC could act as UP's agent in serving the UP customers on the Line and on the Sunnyside line. In turn, WC granted trackage rights to UP on WC's line, sufficient for UP to access, if needed, the Line and the Sunnyside line. Subsequently, WC, with UP's concurrence, sold its WC line and any trackage rights WC had over the Line and Sunnyside line to BNSF Railway Company ("BNSF"). BNSF currently interchanges with the Central Washington Railroad Company ("CWRR") under a Lease and Operation Exemption filed with the Board in Finance Docket 34640 which covers the operations on the former WC line and exercise of the local trackage rights WC transferred to BNSF on the Sunnyside line and the Line. In that there are no customers on the Line, it is expected that BNSF and CWRR will make a separate filing with the Board to discontinue applicable trackage rights over the Line.

(2) Transportation System. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

Response: Given that no rail traffic has moved on the Line in over two years, the proposed abandonment will have no impact on area 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 49 C.F.R. § 1105.9.

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

Response:

(i) UP is unaware of any adverse effects on local and existing land use plans. The Yakima County Board of Supervisors Offices has been contacted. To date, UP has received no response.

(ii) The Natural Resources Conservation Service ("NRCS") has been contacted. To date, UP has received no response.

(iii) Not Applicable.

(iv) Except for bridges on the Line, the right-of-way proposed for abandonment is not be suitable for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. UP believes the highest and best use of the right-of-way would be to dispose of UP's interests through sales to adjacent property owners.

(4) Energy.

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

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

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

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

- (A) 1,000 rail carloads a year, or
- (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

Response: (i) There are no effects on the transportation of energy resources.
(ii) There are no recyclable commodities moved over the Line.
(iii) There will be no change in energy consumption from the proposed action.

(iv)(A)(B) UP does not anticipate that there will be any rail-to-motor diversion.

- (5) Air.** (i) If the proposed action will result in either:
- (A) an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or
 - (B) an increase in rail yard activity of at least 100% (measured by carload activity), or
 - (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. §10901 (or §10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

Response: UP does not anticipate any such effects.

(5) Air. (ii) If the proposed action affects a Class 1 or nonattainment area under the Clean Air Act, and will result in either:

- (A) an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or
- (B) an increase in rail yard activity of at least 20% (measured by carload activity), or
- (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. §10901 (or 49 U.S.C. §10505), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

Response: There will be no increase in rail traffic, rail yard activity, or truck traffic as a result of the proposed action.

(5) Air. (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

Response: The proposed action will not affect the transportation of ozone depleting materials.

(6) Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

- (i) an incremental increase in noise levels of three decibels Ldn or more or
- (ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

Response: Not applicable.

(7) Safety.

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

Response: (i) The proposed action will have no detrimental effects on public health and safety.

(ii) The proposed action will not affect the transportation of hazardous materials.

(iii) There are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the subject right-of-way.

(8) Biological resources.

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

Response: (i) The U.S. Fish and Wildlife Service has been contacted. To date, UP has received no response.

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

(9) Water.

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

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

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

Response: (i) The U. S. Environmental Protection Agency Regional Office, Region 10 and Washington Department of Ecology have been contacted. To date, UP has received no response.

(ii) The U. S. Army Corps of Engineers has been contacted, and upon review determined the proposed abandonment may potentially require a Section 404 permit. Additional information requested by the U.S. Army Corps of Engineers is being supplied by UP's Engineering Department. If it is determined that any permits from the U.S. Army Corps of Engineers will be required in order to salvage the bridge on the Line, UP will direct its salvage contractor to prepare, apply for and salvage such bridge in accordance with applicable legal requirements. The U. S. Army Corps of Engineers response is attached hereto as **Attachment No. 3** and hereby made a part hereof.

(iii) UP does not anticipate that there will be any requirements for Section 402 permits.

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

Response: There are no known adverse environmental impacts.

HISTORIC REPORT
49 C.F.R. § 1105.8(d)

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

Response: See **Attachment No. 1.**

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

Response: The topography is flat with a right-of-way width of 100'.

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

Response: The Washington Historic Preservation Agency has been provided with photographs of the structure on the property that is 50 years old or older. A copy of the letter to the State Historic Preservation Officer and photographs are attached hereto as **Attachment No. 4** and is hereby made a part hereof. The Washington Historical Preservation Agency's letter stating their request for cultural resources survey efforts and survey report is attached hereto as **Attachment No. 5** and is hereby made a part hereof.

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

Response: See **Attachment No. 1.**

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

Response: See UP's response to question (1) in the Environmental Report for a brief history and description.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic:

Response: UP does not have any relevant documentation.

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

Response: At this time, UP knows of no historic sites or structures or archeological resources on the Line except potentially the bridge on the Line which is over 50 years old. UP is of the opinion that there is nothing in the scope of the proposed abandonment or discontinuance of service that merits historical comment and that any archeological sites within the scope of the right-of-way would have previously been repeatedly disturbed during the construction of the Line between 1909 and 1911, rehabilitation activities in 1951 and on-going maintenance of the Line.

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

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

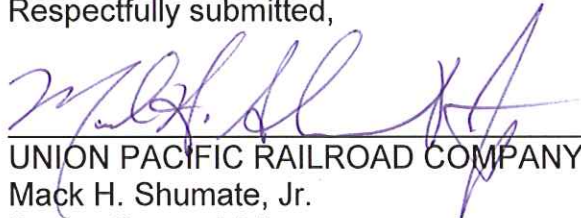
(9) Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified non-railroad

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 locations and type of the site (i.e., prehistoric or native American):

Response: Not applicable.

Dated this 12th day of February, 2010.

Respectfully submitted,

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

UNION PACIFIC RAILROAD COMPANY
Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive, #1920
Chicago, Illinois 60606
(312) 777-2055 (Tel.)
(312) 777-2065 (FAX)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Combined Environmental and Historic Report in Docket No. AB-33 (Sub-No. 286X), a portion of the Yakima Industrial Lead in Yakima County, Washington was served by First Class U.S. Mail, postage prepaid, on the 12th day of February, 2010, on the following parties:

State Clearinghouse (or alternate):

American Planning Association
Washington Chapter
603 Stewart Street Suite 610
Seattle, WA 98101

State Environmental Protection Agency:

Department of Ecology, Headquarters
PO Box 47600
Olympia, WA 98504-7600

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

Washington Department of Ecology
Central Region
15 West Yakima Ave -- Suite 200
Yakima, WA 98902-3452

Head of each County:

Yakima County Supervisor
128 North 2nd Street
Yakima, Washington 98901

**Environmental Protection Agency
(Regional Office):**

U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, WA 98101

State Historic Preservation Office:

Washington Office of Historic Preservation
1063 South Capitol Way, Suite 106
Olympia, WA 98501

U.S. Fish and Wildlife:

U.S. Fish & Wildlife Service
Western Washington Office
510 Desmond Dr. SE Suite 102
Lacey, Washington 98503-1273

U.S. Army Corps of Engineers:

U. S. Army Corps of Engineers
Portland District
P.O. Box 2946
Portland, OR 97208-2946

National Park Service:

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

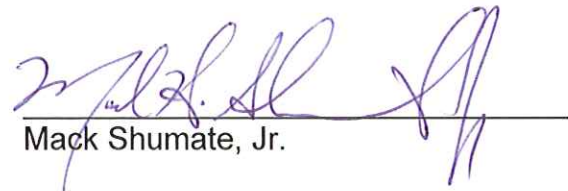
U.S. Natural Resources Conservation Service:

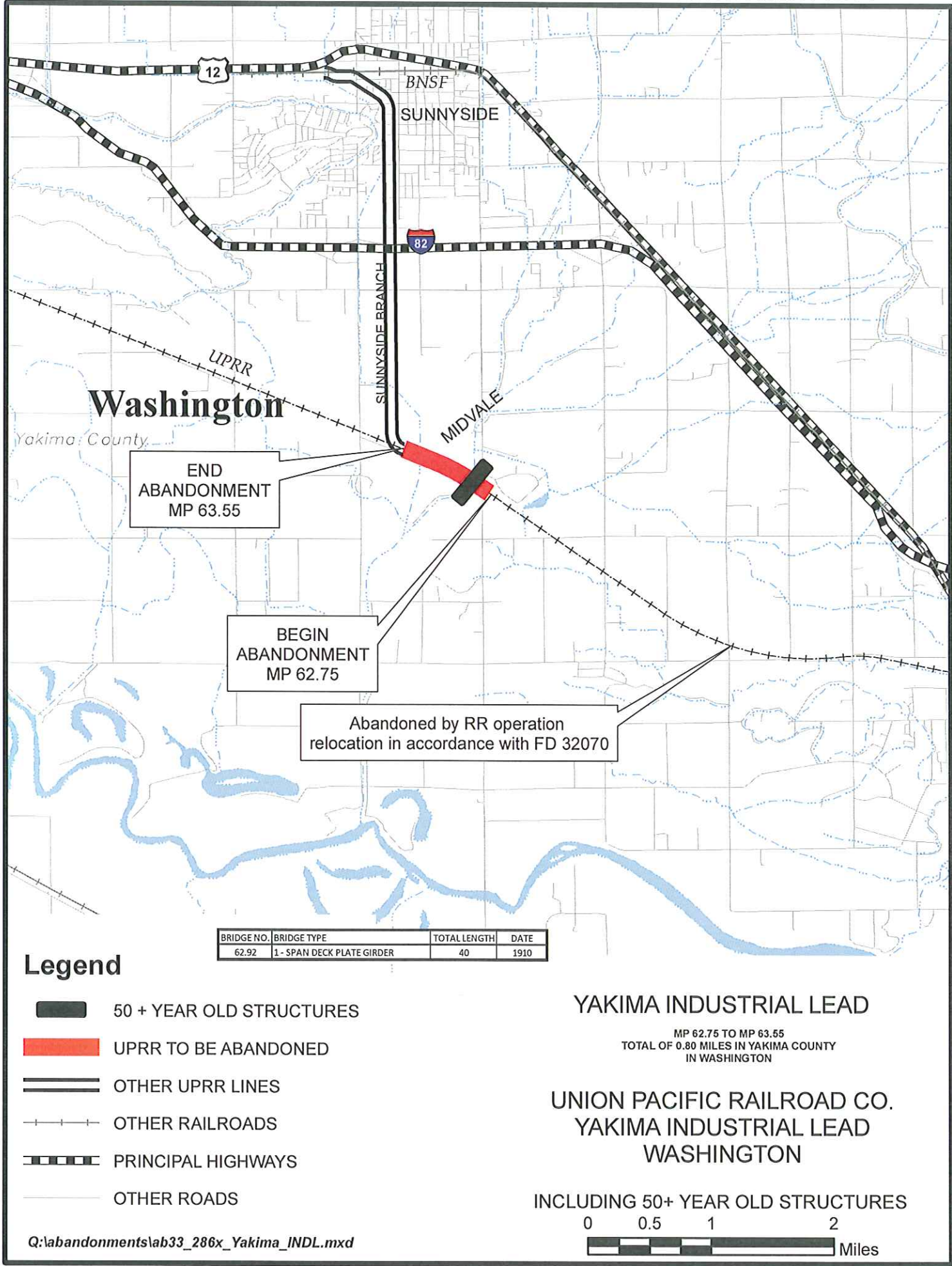
Washington State Conservationist
PO Box 47000
1111 Washington Street SE
Olympia, WA 98504-7000

National Geodetic Survey:

National Geodetic Survey
Geodetic Services Division
NOAA/NGS2
1315 E-W Highway
Silver Spring, MD 20910-3282

Dated this 12th day of February, 2010.


Mack Shumate, Jr.





Law Department

August 27, 2009

State Clearinghouse (or alternate):

American Planning Association
Washington Chapter
603 Stewart Street Suite 610
Seattle, WA 98101

State Environmental Protection Agency:

Department of Ecology, Headquarters
PO Box 47600
Olympia, WA 98504-7600

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

Washington Department of Ecology
Central Region
15 West Yakima Ave -- Suite 200
Yakima, WA 98902-3452

Head of each County:

Yakima County Supervisor
128 North 2nd Street
Yakima, Washington 98901

**Environmental Protection Agency
(Regional Office):**

U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, WA 98101

State Historic Preservation Office:

Washington Office of Historic Preservation
1063 South Capitol Way, Suite 106
Olympia, WA 98501

U.S. Fish and Wildlife:

U.S. Fish & Wildlife Service
Western Washington Office
510 Desmond Dr. SE Suite 102
Lacey, Washington 98503-1273

U.S. Army Corps of Engineers:

U. S. Army Corps of Engineers
Portland District
P.O. Box 2946
Portland, OR 97208-2946

National Park Service:

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

U.S. Natural Resources Conservation Service:

Washington State Conservationist
PO Box 47000
1111 Washington Street SE
Olympia, WA 98504-7000

National Geodetic Survey:

National Geodetic Survey
SSMC-3 #9209
NOAA N/NGS2
1315 E-W Highway
Silver Spring, MD 20910-3282

Re: Proposed Abandonment of the Yakima Industrial Lead from Milepost 62.75 to Milepost 63.55, a total distance of .8 miles near Midvale, in Yakima County, Washington; STB Docket No. AB-33 (Sub-No. 286X).

Dear Sirs:

Union Pacific Railroad Company plans to request authority from the Surface Transportation Board (STB) to abandon and discontinue service on the Yakima Industrial Lead from Milepost 62.75 to Milepost 63.55 a total distance of .8 miles near Midvale, in Yakima County, Washington. A map of the proposed track abandonment shown in black is attached. Union Pacific is planning to concurrently request



authority to abandon and discontinue service on the same lead from Milepost 57.3 to Milepost 58.75, a total distance of 1.45 miles near Grandview in the same county, as referred to in a separate notice.

Pursuant to the STB's regulations at 49 C.F.R. Part 1152, and the environmental regulations at 40 C.F. R. Part 1105.7, this is to request your assistance in identifying any potential effects of this action as indicated in the paragraphs below. We do not anticipate any adverse environmental impacts. However, if you identify any adverse environmental impacts, describe any actions that are proposed in order to mitigate the environmental impacts. Please provide us with a written response that can be included in an Environmental Report, which will be sent to the STB.

LOCAL AND/OR REGIONAL PLANNING AGENCIES. State whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

U. S. SOIL CONSERVATION SERVICE. State the effect of the proposed action on any prime agricultural land.

U. S. FISH AND WILDLIFE SERVICE (And State Game And Parks Commission, If Addressed). State (1) whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects, and, (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

STATE WATER QUALITY OFFICIALS. State whether the proposed action is consistent with applicable Federal, State or Local water quality standards. Describe any inconsistencies.

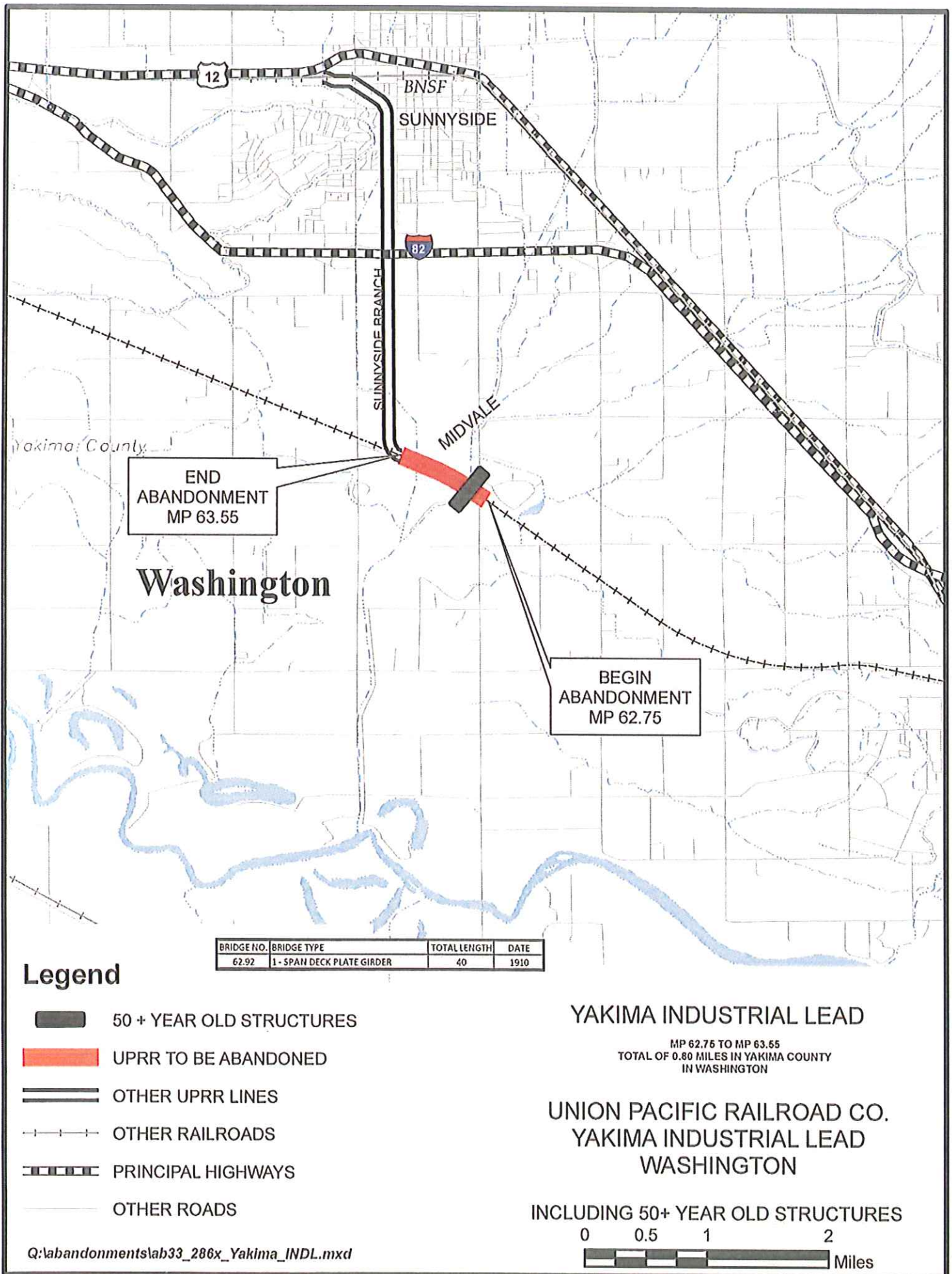
U. S. ARMY CORPS OF ENGINEERS. State (1) whether permits under Section 404 of the Clean Water Act (33 U.S. C. § 1344) are required for the proposed action and (2) whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

U. S. ENVIRONMENTAL PROTECTION AGENCY AND STATE ENVIRONMENTAL PROTECTION (OR EQUIVALENT AGENCY). (1) Identify any potential effects on the surrounding area, (2) identify the location of hazardous waste sites and known hazardous material spills on the right-of-way and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

Thank you for your assistance. Please send your reply to the undersigned.

Sincerely,

Colleen K. Graham
Paralegal
Union Pacific Railroad
Law Department
1400 Douglas St., Stop 1580
Omaha, NE 68179
(w) 402-544-1643
cgraham@up.com





DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

REPLY TO
ATTENTION OF

Regulatory Branch

September 28, 2009

Ms. Colleen K. Graham
Union Pacific Railroad
Law Department 1400 Douglas Street, Stop 1580
Omaha, Nebraska 68179

Reference: NWS-2009-1078
Union Pacific Abandonment

Dear Ms. Graham:

We received your letters dated August 27, 2009, regarding the proposed abandonment and discontinuation of service of two sections of the Yakima Industrial Lead for a distance of 1.45 miles near Grandview and 0.8 miles near Midvale, Yakima County, Washington (STB Docket No. AB-33, Sub-No. 285X and 286X). In a telephone conversation I had with Mack Shumate and Ray Allamong on September 16, 2009, I was informed that the abandonment would involve removal of tracks and associated bridges. You requested that the U.S. Army Corps of Engineers (Corps) state 1) whether permits under Section 404 of the Clean Water Act are required for the proposed actions and 2) whether any designated wetlands or 100-year flood plains will be affected.

Your project may require authorization from the Corps under Section 404 of the Clean Water Act if you are removing tracks or bridges in a water of the U.S. Under Section 404, a permit is normally required for the discharge of dredged or fill material (e.g., fill, excavation, or mechanized land clearing) into waters of the U.S., including wetlands and navigable waters of the U.S. The line of Department of the Army jurisdiction in streams, wetlands, and irrigation canals is the ordinary high water mark (OHWM). Please read the enclosure entitled *Clean Water Act and Rivers and Harbors Act Extracts and Definitions* which describes the laws that may apply to the proposed work. It is possible that the proposed project may not require a permit under Section 404 if it does not involve a discharge of dredged or fill material within the OHWM. However, we do not have specific information regarding the proposed actions to make that determination.

If you will be doing work within the OHWM, the second step in determining whether a 404 permit would be necessary is to identify if the body of water is jurisdictional. The vicinity map provided with the documents you mailed is not detailed enough to determine if the project will impact any jurisdictional waters. In order for us to provide specific information regarding your proposed project, we need additional information regarding the locations of the railroad crossings, including the geographic coordinates for each crossing. Please provide the distance of the proposed work to nearby streams, rivers, and other waterbodies and their names. During our

telephone conversation, Ray Allamong indicated that the waters in the project area were likely irrigation ditches. The Corps regulates irrigation ditches if the water is eventually returned to a water of the U.S. The Yakima River, a water of the U.S., is located south of both sites. From the maps provided, it appears that waters in the vicinity of the proposed actions are tributaries to the Yakima River. Therefore, it is likely that irrigation ditches in the project area are jurisdictional.

Our regulatory program utilizes a series of Nationwide Permits (NWP) to authorize specific categories of work that have minimal impact on the aquatic environment when conducted in accordance with the permit conditions (*Federal Register*, March 12, 2007, Vol. 72, No. 47). If your project is not exempt, but has minor impacts, a NWP may authorize your proposal. We encourage you to fill out a Joint Aquatic Resources Permit Application (JARPA) if you will impact a jurisdictional water. The JARPA can be accessed at the following website: http://www.eppermitting.org/site/alias__resourcecenter/welcome/9978/welcome.aspx.

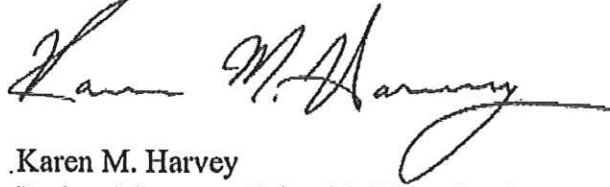
If you are going to submit a JARPA, we ask that you also provide a set of project drawings in black and white, on 8 ½- by 11-inch sheets showing the current and proposed features, current and proposed elevations, wetland boundaries, adjacent property ownership, location of adjacent structures, etc. Drawings should be originals and not reduced copies of large-scale plans. If you must reduce large drawings, make sure that the text and labels are legible at the smaller size and that the scale is adjusted to the reduction. We recommend the use of a graphic scale on all drawings. The ultimate objective is a set of drawings that allows someone who is unfamiliar with the project to get a clear and accurate understanding of the project in general and the details of how waters of the U.S. will be affected.

Sheet 1 should be a site/vicinity map, which clearly shows the project in relation to nearby roads, waterways, other landmarks, and any mitigation sites. Include the boundaries of your property and the longitude and latitude of the project site on this sheet. Sheet 2 should be a plan view that shows the location and dimensions of the proposed work. Sheet 3 should show a cross sectional or elevation view of the proposed work. This sheet should include the dimensions of the proposed work. Additional sheets should be used if needed to clarify information. The OHWM must be clearly and accurately drawn on all plan and section view drawings. Please specify the datum used. All of your drawings should include a title block listing the applicant, Corps reference number, location, project purpose, project description, date, and sheet number. Please refer to our *Drawing Checklist* for examples of title blocks you may use on your drawings.

If there are wetlands in the project area, we strongly encourage you to take measures that will avoid impacts to them. If this is not possible, you must submit a delineation of wetlands on the project area. The wetland delineation must be prepared in accordance with the U.S. Army Corps of Engineers *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)*. The wetland delineation report must include a map of the delineated wetlands, data sheets, description of vegetation, hydrology, and soils in wetland and upland areas, and a rationale on how the wetland boundary was determined. Enclosed is a checklist and sample outline for the contents of a wetland delineation report. The wetland boundaries must also be illustrated on the project drawings.

We recommend you contact our office to discuss specific permit requirements or if you have any questions determining if you should submit a JARPA. If you have any questions, please contact me at (206) 764-3482 or at karen.m.harvey@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen M. Harvey", with a long horizontal flourish extending to the right.

Karen M. Harvey
Project Manager, Columbia River Section

Enclosures



US Army Corps
of Engineers
Seattle District

CLEAN WATER ACT and RIVERS and HARBORS ACT

Extracts and Definitions



EXTRACTS from the Clean Water Act:

1. SECTION 404

(a) The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites.

(b) Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary of the Army (1) through the application of guidelines developed by the Administrator of the Environmental Protection Agency (Administrator), in conjunction with the Secretary of the Army, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 403(c), and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impacts of the site on navigation and anchorage.

(c) The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

2. SECTION 301

This section prohibits the discharge of any pollutant including fill or dredged material except as in compliance with various sections of the Clean Water Act, including Section 404.

3. SECTION 307

The Administrator shall publish a list of toxic pollutants. Each toxic pollutant shall be subject to effluent standards (which may include a prohibition). Under this section it is unlawful to violate any such effluent standards or prohibition.

4. SECTION 309

This section provides that any person who willfully or negligently violates the provisions of this Act may be punished by a fine of not less than \$2,500 or more than \$25,000 per day of violation or by imprisonment for not more than one year or by both. In addition, any person violating this Act may be subject to a civil penalty of not more than \$25,000 per day of violation.

DEFINITIONS regarding the Clean Water Act:

The term "**wetlands**" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The Corps of Engineers has the responsibility for determining whether a specific wetland area is within Section 404 jurisdiction.

The term "**adjacent**" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by manmade dikes or barriers, natural river berms, beach dunes, and the like are "adjacent wetlands."

The term "**discharge of dredged material**" means the addition, including redeposition, of dredged material, runoff from a contained land or water disposal area, and any addition, including redeposition, of excavated material. These activities include mechanized landclearing, grading, filling in low areas, sidecasting of excavated material from new ditching work, and other placement of excavated material into waters of the United States, including wetlands.

The term "**discharge of fill material**" means the addition of fill material used for the primary effect of replacing any portion of a water of the U.S. with dry land or of changing the bottom elevation of a water of the U.S., including wetlands. The placement of pilings constitutes a discharge of fill material when such placement has or would have the effect of a discharge of fill material.

The term "**ordinary high water mark**" means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding area.

EXTRACTS from the Rivers and Harbors Act of March 3, 1899:

1. SECTION 10

The creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is hereby prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines, or where no harbor lines have been established, except on plans recommended by the chief of Engineers and authorized by the Secretary of War; and it shall not be lawful to excavate fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port roadstead, haven, harbor, canal, lake, harbor of refuge, or inclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of War prior to beginning the same. (30 Stat. 1151; 33 U.S.C. 403)

2. SECTION 12

This section states that every person and every corporation that shall violate any of the provisions of sections nine, ten, and eleven of this Act, or any rule or regulations made by the Secretary of War in pursuance of the provisions of the said section eleven, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding twenty-five hundred dollars nor less than five hundred dollars, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court. And further, the removal of any structures or parts of structures erected in violation of the provisions of the said sections may be enforced by the injunction of any circuit court exercising jurisdiction in any district in which such structures may exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States. (30 Stat. 1151; 33 U.S.C. 406)

A 1984 amendment to Federal criminal law established a fine increase up to \$100,000 for all criminal misdemeanors.



US Army Corps
of Engineers ®
Seattle District

Drawing Checklist

Version: May 5, 2003



1. GENERAL

- ☐ Use clear black lettering and fewest number of sheets possible; use 8 1/2- by 11-inch sheets
- ☐ State the purpose of the proposed or existing work
- ☐ List property owners and indicate number by number on plan view drawing
- ☐ Show datum used in plan and elevation drawings
- ☐ Use a graphic scale on all drawings
- ☐ Use a north arrow; prepare drawing with north being directed to the top of the page
- ☐ Label all proposed and existing work as such (e.g., Proposed Pier, Proposed Fill...)

2. TITLE BLOCK

- ☐ A completed title block (first example) must be on every sheet; for subsequent sheets you can use the abbreviated form (second example). All sheets will include the date and/or revision date.

PURPOSE:	APPLICANT 2002-	PROPOSED:
DATUM:	LOCATION ADDRESS	IN:
ADJACENT PROPERTY OWNERS:		NEAR/AT:
1.		COUNTY: STATE: WA
2.		SHEET * OF *
		DATE:

Reference: 2002-
Applicant:

Proposed:
At Washington

Sheet * of * Date

3. VICINITY MAP

- ☐ Clearly show location of project (e.g., arrow, circle, etc.)
- ☐ List latitude, longitude, section, township, and range
- ☐ Name waterways
- ☐ Show roads, streets, and/or mileage to nearest town or city limits

4. PLAN VIEW

- ☐ Show shorelines:
 - Tidal: Show mean high water (MHW) line, mean higher high water (MHHW) line
 - Lakes or streams: Show the ordinary high water (OHW) line
- ☐ Show dimensions of proposed structures/fills; distance to property lines; encroachment beyond applicable shoreline; show wetland boundaries and specific impacts to wetlands
- ☐ Indicate location, quantity, and type of fill, if any
- ☐ Show all existing structures or fills on subject and adjacent properties
- ☐ Show direction of currents such as tidal ebb and flood
- ☐ Indicate adjacent property ownership

5. ELEVATION AND/OR SECTION VIEW

- ☐ Show shorelines, MHW line, MHHW line, OHW line, wetland boundary
- ☐ Show original and proposed elevations, water depths, dimensions of proposed structures or fills, and pertinent vertical dimensions to top and base of structure/fill; use the same vertical and horizontal scale, if possible
- ☐ Use equal horizontal and vertical scales on Section View. Do not skew vertical scale.

For Examples Drawings:

http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitenam=REG&pagenam=Drawing_Samples



September 24, 2009

Washington Office of Historic Preservation
1063 South Capitol Way, Suite 106
Olympia, WA 98501

Re: Proposed Discontinuance and Abandonment of the Yakima Industrial Lead from Milepost 62.75 to Milepost 63.55, a total distance of .8 miles near Midvale, in Yakima County, Washington; STB Docket No. AB-33 (Sub-No. 286X).

To whom it may concern:

On August 27, 2009, UP sent you a letter concerning plans to request from the STB to abandon (UP) and discontinue lease operations on the Yakima Industrial Lead from Milepost 62.75 to Milepost 63.55, a total distance of .8 miles near Midvale, in Yakima County, Washington.

Enclosed for your review are photographs of below listed bridge. Also enclosed are maps of the proposed abandonments. The bridge is as follows:

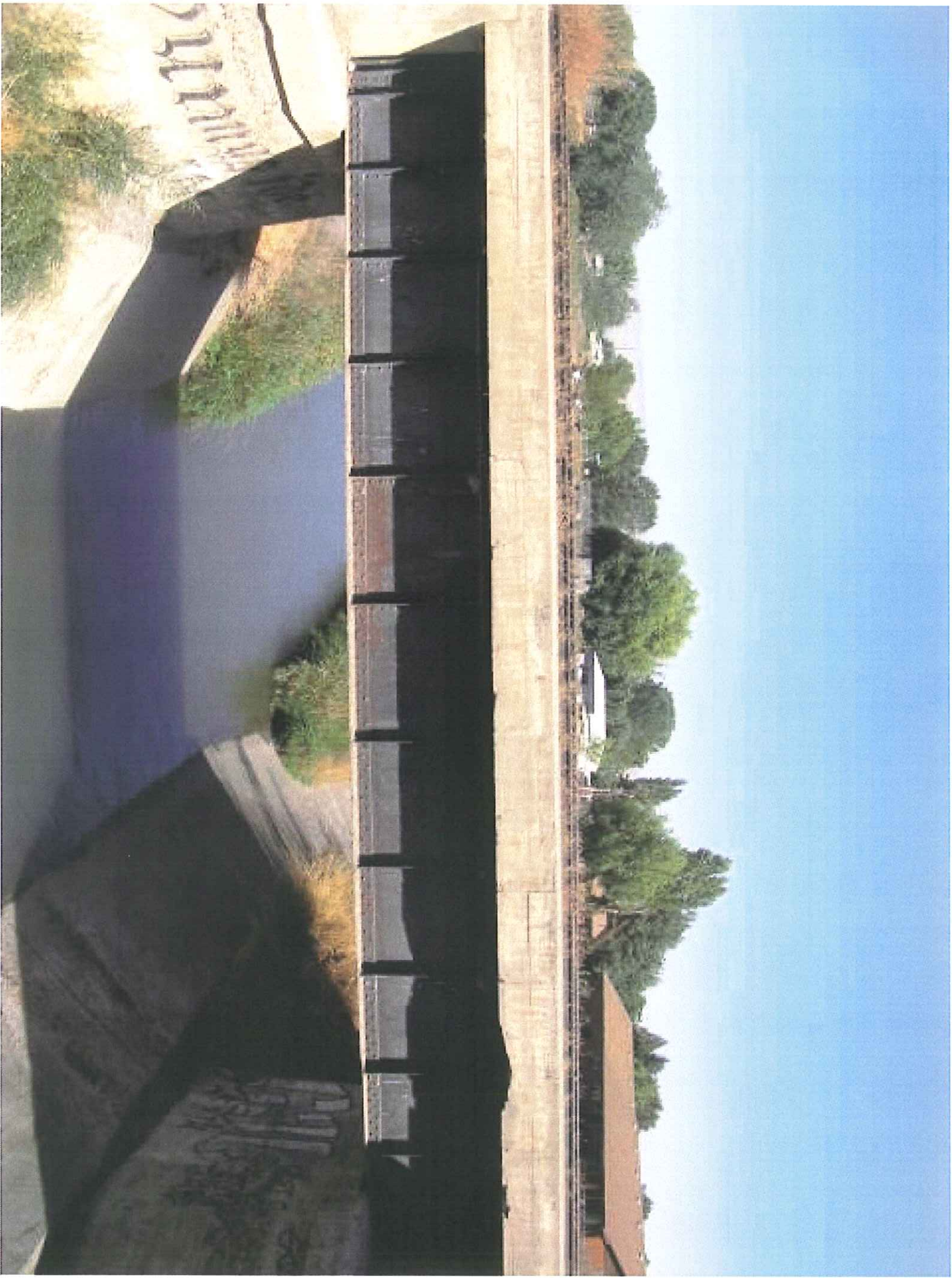
<u>Milepost</u>	<u>Description</u>	<u>Length</u>	<u>Year Constructed</u>
62.92	Span Deck Plate Girder	40'	1910

Please advise if there is any historical significance to this bridge.

Sincerely,

Colleen K. Graham
Paralegal
Union Pacific Railroad
Law Department
1400 Douglas St., Stop 1580
Omaha, NE 68179
(w) 402-544-1643
(f) 402-501-0132
cgraham@up.com
Enclosure(s)









STATE OF WASHINGTON

DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

1063 S. Capitol Way, Suite 106 • Olympia, Washington 98501
Mailing address: PO Box 48343 • Olympia, Washington 98504-8343
(360) 586-3065 • Fax Number (360) 586-3067 • Website: www.dahp.wa.gov

October 29, 2009

Ms. Victoria Rutson
Environmental Section Chief
Surface Transportation Board
395 E Street S.W. Room 1110
Washington DC 20423-0001

In future correspondence please refer to:

Log: 102909-01-STB

Property: Union Pacific Abandonment (AB-33 Sub 286X)

Re: APE Concur

Dear Ms. Rutson:

We have reviewed the materials forwarded to our office by the Union Pacific (UP) Law Office for the above referenced project. We concur with the definition of the area of potential effect (APE) for the project. The UP Midvale Bridge is a significant resource spanning an irrigation system which the Bureau of Reclamation considers eligible for listing to the National Register. These resources should be surveyed and inventoried by a professional consultant meeting the Secretary of the Interior's Standards. We look forward to the results of the UP's cultural resources survey efforts, consultation with the concerned tribes, and receiving the survey report. We would appreciate receiving any correspondence or comments from concerned tribes or other parties that you receive as you consult under the requirements of 36CFR800.4(a)(4) and the survey report when it is available.

These comments are based on the information available at the time of this review and on behalf of the State Historic Preservation Officer in conformance with Section 106 of the National Historic Preservation Act and its implementing regulations 36CFR800. Should additional information become available, our assessment may be revised.

To assist the UP in conducting their survey, DAHP has developed a set of cultural resource reporting guidelines. A copy of these guidelines can be obtained from our website. DAHP requires that all cultural resource reports be submitted in PDF format on a labeled CD along with an unbound paper copy. For further information please go to http://www.dahp.wa.gov/documents/CR_ReportPDF_Requirement.pdf. Thank you for the opportunity to review and comment. If you have any questions, please contact me.

Sincerely,

Russell Holter
Project Compliance Reviewer
russell.holter@dahp.wa.gov

Cc: UP Law Office

**DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION**

Protect the Past, Shape the Future