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JUN 12 2006
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THOMAS F. MCFARLAND

June 6, 2006

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Public Record

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

216743

Re: STB Docket No. AB-33 (Sub-No. 242X), *Union Pacific Railroad Company --
Abandonment Exemption -- in Montgomery County, KS*

216744

STB Docket No. AB-471 (Sub-No. 7X), *South Kansas & Oklahoma Railroad,
Inc. -- Discontinuance of Service Exemption -- in Montgomery County, KS*

Dear Mr. Williams:

On May 16, 2006, Union Pacific Railroad Company (UP) and South Kansas & Oklahoma Railroad, Inc. (SKOL) filed a Draft Environmental and Historic Report in the above proceeding. UP and SKOL will file Notices of Exemption for abandonment and discontinuance of service under 49 C.F.R. § 1152.50 on or about June 9, 2006.

Hereby transmitted are two additional environmental comments in the above matter: (1) Department of the Army, U.S. Corps of Engineers - no Department of the Army permit is required; and (2) Kansas Department of Agriculture. The Draft Environmental and Historic Report is being sent to the Kansas Department of Health and Environment, as suggested by the Kansas Department of Agriculture.

Very truly yours,

Tom McFarland

Thomas F. McFarland
*Attorney for South Kansas
& Oklahoma Railroad, Inc.*

TMCF:kl:enc:1163\trstb3

cc: Mack H. Shumate, Jr., Esq.
Craig Richey, Esq.
Edmund S. Gross, Esq.
Ms. Victoria Rutson



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

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REPLY TO
ATTENTION OF:

May 31, 2006

JUN 05 2006

Kansas State Regulatory Office
(200601467)
(Montgomery, KS, NPR)

McFarland, P.C.

Mr. Charles Saylor
Union Pacific Railroad
1400 Douglas Street
Mail Stop 1580
Omaha, Nebraska 68179

Dear Mr. Saylor:

This is in response to your letter received on May 4, 2006 requesting a Department of the Army (DA) permit determination concerning the Union Pacific Railroad Company's proposed abandonment and discontinuance of the Old Coffeyville Subdivision from Milepost 166.8 to Milepost 166.0. The project is located near Coffeyville in Sections 30 and 31, Township 34 south, Range 17 east, and in Section 36, Township 34 south, Range 16 east, all in Montgomery 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.

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

Mores V. Bergman, Appeals Review Officer
U.S. Army Corps of Engineers
Northwestern Division (ATTN: CENWD-CM-OR)
12565 West Center Road
Omaha, NE 68144-3869
Voice: 402-697-2533 - FAX: 402-697-2538

In order for an RFA to be accepted by the Corps, the Corps must determine that it is completed, that it meets the criteria for appeal under 33 C.F.R. Part 331.5 , and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by July 30, 2006.

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

In the event that you disagree with an approved jurisdictional determination and you have new information not considered in the original determination, you may request reconsideration of that determination by the Corps District prior to initiating an appeal. To request this reconsideration based upon new information, you must submit the completed RFA form and the new information to the District Office so that it is received within 60 days of the date of the NAP. Send approved jurisdictional determination reconsideration requests to:

District Commander
ATTN: Joseph S. Hughes
Chief, Regulatory Branch
U.S. Army Engineer District, Kansas City
601 East 12th Street, Room 706
Kansas City, MO 64106-2896
Voice: 816-389-3990 – FAX: 816-389-2032

We have reviewed the information furnished and have determined that the proposed activity does not appear to involve the discharge of dredged or fill material in waters of the United States. Therefore, Department of the Army permit authorization is not required. However, should any of the proposed activities require work within the Verdigris River, you should contact this office. Other Federal, state and/or local permits may be required, however, and you should verify this yourself.

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

Enclosures

Copies Furnished (w/out enclosures):

Environmental Protection Agency, Watershed Planning and Implementation Branch

Kansas Department of Wildlife and Parks

Kansas Department of Agriculture

Mr. Thomas McFarland
Thomas McFarland, P.C.
208 South LaSalle Street – Suite 1890
Chicago, IL 60604-1112

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KANSAS

McFarland, P.C.

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

May 31, 2006

THOMAS F MCFARLAND PC
208 S LASALLE ST STE 1890
CHICAGO IL 60604-1112

RE: DWR A-95 2006.167

Dear Mr. McFarland:

This will acknowledge receipt of your letter and attachments dated May 16, 2006 and the Draft Environmental and Historic Report pertaining to the Abandonment and Discontinuance in Montgomery County, Kansas, Docket Nos. AB-33 and AB-471. The following is brought to your attention:

On page 10, my letter of May 9, 2006 is cited as Appendix 3. It is noted that the Kansas Department of Health and Environment is the State Agency responsible for water quality standards. It is recommended to identify that the KDH&E has not responded to your Appendix 2 letter if such is the case. My letter may be better used to address (9) (ii) dealing with floodplains, stream obstructions and water use permits.

Sincerely,



Bob Lytle
Environmental Scientist
Technical Services Section

RFL:ssc
pc: Topeka Field Office