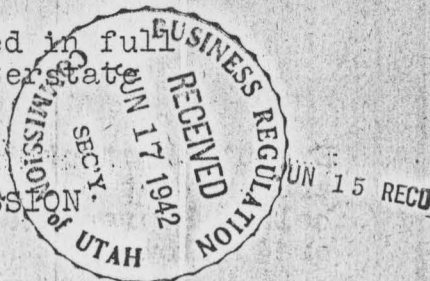


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INTERSTATE COMMERCE COMMISSION



Finance Docket No. 13655

CENTRAL PACIFIC RAILWAY COMPANY ET AL. ABANDONMENT

Submitted May 11, 1942.

Decided June 11, 1942.

Certificate issued permitting (1) abandonment by the Central Pacific Railway Company of the part of its Promontory branch between Lucin and Corinne; and (2) abandonment of operation by the Southern Pacific Company (a) over the Promontory branch between Lucin and Corinne Junction, and (b) over the Oregon Short Line Railroad between Corinne Junction and Ogden, in Box Elder and Weber Counties, Utah. Condition prescribed.

E. J. Foulds and R. S. Myers for applicants.
George M. Mason, H. W. Ansell, H. W. Prickett, Charles A. Root, William J. Lowe, J. B. Costello, Robert R. Bowen, M. J. Thorne, John P. Holmgren, and Osey Jensen for protestants.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS PORTER, MAHAFFIE, AND MILLER
BY DIVISION 4:

The Central Pacific Railway Company and the Southern Pacific Company applied on March 9, 1942, for permission (1) for the Central Pacific to abandon the part of its Promontory branch between milepost 680.288, near Lucin, to a point at or near Corinne, about 120.78 miles, and (2) for the Southern Pacific to abandon (a) operation over that part of the Promontory branch, and the parts extending from the connection of the branch with the Southern Pacific's main line, at or near Lucin, to milepost 680.288, about 1.15 miles, and from Corinne to Corinne Junction, about 1.83 miles, and (b) operation over the Oregon Short Line Railroad between Corinne Junction and Ogden, about 23.10 miles, all in Box Elder and Weber Counties, Utah.

1

To be retained temporarily for the dismantling of a company rock quarry; no service to the public involved.

2

Used also by the Union Pacific Railroad Company, lessee of the Oregon Short Line.

3

Total, bracket (2), about 146.86 miles.

Except as otherwise indicated, all points mentioned herein are in that State. Protests were filed, and a hearing was held. Representations by State authorities will be considered below.

The Promontory branch was built in 1869 as part of the first transcontinental railroad. It extends north of the Great Salt Lake from Corinne Junction to Kelton, and then southwest to Lucin. Title thereto passed in 1899 to the Central Pacific, a subsidiary of the Southern Pacific, which operates the branch under lease. See Control of Central Pacific by Southern Pacific, 76 I.C.C. 508. In 1904 the Southern Pacific built a more direct line between Lucin and Ogden, across the lake; and, because of its more favorable location and superior physical characteristics, this line became part of the main system route to Ogden, and the railroad around the north end of the lake was relegated to the status and function of a branch. The branch's only intermediate connections are with the Oregon Short Line at Corinne and Corinne Junction.

Abandonment of the Promontory branch is proposed at this time upon the grounds that it has been operated at a loss for many years, that the volume of traffic offered for movement over the line is so meager that losses are incurred even with the limited service now furnished thereon, and that removal of the line will enable recovery of large quantities of metal for application to much more vital and necessary purposes.

The state of the branch as to maintenance is poor, and the rail is too light for heavy traffic. Eastward from the station called Lake, again mentioned in greater detail below, the track is laid with 75-and 76-pound rail, and westward from Lake to Lucin, with 60-and 62-pound rail. The line has been maintained with second-hand material, and maintenance would be much more expensive in the future, because the available supply of such material is about exhausted and because the cost of labor has increased. Only light locomotives now can be used. The speed of trains, ordinarily restricted to 20 miles an hour west of Kelton and 25 miles an hour east of that point, now is restricted by bulletin to 15 miles an hour. It would be impossible to detour main-line traffic to the branch.

Possible value of the branch as a detour was given consideration in Southern Pac. Co. Abandonment, 199 I.C.C. 731 and 212 I.C.C. 398, in connection with a previous proposal to abandon operation between Lucin and Kelton. The present record indicates that there has been no change in available alternative routes, that the hazards of damage or interruption of service on the main line are no more serious than before, and that adequate provision has been made for protection against other casualty that reasonably might be anticipated. In the absence of representations by proper authorities to the contrary, we think further consideration of the physical relationship of the branch to the main line is unnecessary.

The territory served by the Promontory branch is taken to be the part of Box Elder County lying north of the line. Population figures are not available because the country is very sparsely settled. There are a few farms, but most of the territory is barren desert. West of Kelton livestock raising is the only industry. In this section sheep graze near the railroad at certain seasons of the year; but they move to other grazing grounds in summer, and by shipping time have moved to territory nearer points on other railroads. They are shipped over the branch only in emergencies, and in recent years very little livestock has been shipped over the line, as shown by statistics which follow. It is not trucked to any great extent. Most of the roads are merely trails.

Lucin would continue to be served by the Southern Pacific, and Corinne and Corinne Junction are served also by the Union Pacific. Exclusively-served stations on the branch, with their populations, milepost distances from Corinne Junction, and highway distances from the nearest available stations on another railroad are, from west to east, Watercress, 0, 103.1 and 22.7 miles, Matlin, 0, 90.1 miles, no highway, Ombey, 0, 80.3 miles, no highway, Peplin, 0, 75.6 miles, no highway, Kelton, 50, 68.8 and 66.2 miles, Nella, 0, 59 and 55.5 miles, Monument, 0, 54.3 and 51.3 miles, Kosmo, 0, 51.3 and 48.3 miles, Lake, 0, 47.3 miles, no highway, Rozel, 0, 37.9 and 34.2 miles, Promontory, 40, 30 and 24 miles, Lampo, 0, 20.9 and 19 miles, Blue Creek, 0, 18.5 and 17 miles, Connor, 0, 14.5 and 13 miles, Balfour, 0, 9.1 and 7.5 miles, Dathol, 0, 6.4 and 5 miles, and Stokes, 0, 4.8 and 3 miles. All are nonagency stations. Brigham City, on the jointly-used segment of the Oregon Short Line, has 5,641 people and is 4.4 miles, by rail, from Corinne Junction. The Southern Pacific does not serve stations between Brigham City and Ogden.

A mixed train was operated from Ogden to Lucin on Wednesdays, and from Ogden to Kelton and return on Mondays and Fridays, from December 30, 1937, to June 30, 1938; from Ogden to Lucin on Wednesdays, with on-call freight service for carload freight between Corinne and Kelton, from June 30, 1938, to June 8, 1939; and from Corinne to Kelton and return on Wednesdays, with on-call service for carload freight between Kelton and Corinne, but on-call service for such freight between Lucin and Kelton on Wednesdays only, from June 8, 1939, to March 7, 1940. Since the latter date service for carload freight has been furnished on call on one day of the week only. Passenger traffic during the five years 1937-41 consisted principally of hunting or other special parties, the number of passengers ranging from 214 to 483 in number, and producing gross system revenue ranging from \$231 to \$1,305. The proposed abandonment would result in no displacement of train crews, and maintenance-of-way employees would be absorbed on the main line.

During each of the above years, in order, the freight traffic originated at or destined to points between Lucin and Corinne Junction was: Local to the line, carloads, 0, 4, 3, 1, 0, less-than-carload freight, 6 tons in 1937, none

thereafter, total tons, 6, 55, 139, 50, 0; forwarded to points beyond Lucin or Corinne Junction, carloads, 676, 879, 691, 572, 660, less-than-carload freight, tons, 16, 9, 8, 2, 2, total tons, 25,107, 35,478, 26,611, 20,132, 23,585; and received from points beyond Lucin or Corinne Junction, carloads, 23, 26, 23, 10, 15, less-than-carload freight, tons, 44, 62, 41, 14, 2, total tons, 524, 720, 780, 267, 205; totals, all shipments, cars, 699, 909, 717, 583, and 675, tons, 25,637, 36,253, 27,530, 20,449, and 23,790.

From analysis of this traffic according to commodities, it appears that the territory tributary to the Promontory branch produced for shipment over its railroad during this entire period of five years 12 cars of asphalt, 121 of sheep, 165 of cattle, 820 of wheat and other grain, and 2,325 of sugar beets; total, 3,443, or an average of 689 cars a year. The sugar beets are raised in the vicinity of Dathol, Stokes, and Rochefort.

As shown by the applicants, the results of operation between Lucin and Ogden in each of the years 1937-41, in order, were as follows: System railway operating revenues, \$68,310, \$84,054, \$46,201, \$14,638, \$15,916; railway operating expenses assigned to the service in question, \$49,029, \$43,508, \$31,542, \$28,198, \$30,802, and cost of moving the traffic on other system lines, \$9,676, \$10,243, \$3,535, \$874, \$342, totals, \$58,705, \$53,751, \$35,077, \$29,072, \$31,144; net revenue from railway operations (deficits in italics), \$9,605, \$30,303, \$11,124, \$14,434, \$15,228; taxes, \$24,355, \$24,441, \$29,656, \$22,988, \$23,684; miscellaneous income, \$236, \$262, \$252, \$273, \$256; net railway operating income, \$14,514, \$6,124, \$18,280, \$37,149, and \$38,656, or a net loss for the entire period of \$102,475. In computing revenues and expenses, the applicants followed the method that has been employed by the Southern Pacific in previous abandonment cases for several years, recently exemplified in Southern Pac. Co. Abandonment, 242 I.C.C. 484, 486. The net salvage value of material recoverable on abandonment is estimated at \$321,479.

Utah State Highway No. 83 closely follows the railroad from Corinne Junction to Promontory, and from Kosmo to Kelton. It is substantially parallel to the railroad between Promontory and Kosmo, but at some points is about 4 miles distant. Between Kelton and Watercress highways are at considerable distances from the railroad. The line is closely paralleled between Watercress and Lucin. There is no common carrier bus service in the territory, but a licensed carrier gives truck service into Kelton from Ogden once a week.

The cattle and horse growers association of Box Elder County opposes the proposed abandonment because construction of the railroad was aided by land grants from the Government; cattlemen and ranchers located in the territory from Tremonton to Lucin expecting that the line would remain; and, if it is removed, land values will be reduced, the county will suffer a large reduction in taxes, and these losses will fall on the farmers and cattlemen. Because of restrictions

on automotive tires, the cattlemen desire the railroad to be retained as a means of travel.

The stockmen load their livestock principally at Kelton, which is a gathering point in the western part of the county. In each of the five years 1937-41, in order, such shipments from Kelton were, sheep, 30, 3, 4, 1; and 5 cars, and cattle, 37, 8, 1, 0, and 0 cars. The cattle now are finished in the vicinity of Bear River City, on U. S. Highway No. 30, about 3 or 4 miles north of Corinne. The witness representing the association admits that the population failed to support the railroad. Therefore, they cannot reasonably expect that the line be preserved at the expense of other sections of the country, as a source of taxes to their county, or only for use in emergencies. See Denver & R. G. W. R. Co. Trustees Abandonment, 247 I.C.C. 381.

At times of severe winter weather, when the natural feed of grazing animals is covered deeply with snow, and the animals are isolated, it is necessary that feed be shipped in to save them from starvation. The receipts of feed in each of the years 1938-41, in order, amounted to 5, 8, 3, and 2 cars, total, 18 cars, or an annual average of about five cars. If storms come up over night, feed must be secured within from 12 to 24 hours. There have been times when storms were so severe that the effects would last from three weeks to a month. However, when the animals are grazed at distances remote from railroads, provision for emergency feeding is made by storing concentrates at some more or less convenient place on the desert; and it is conceded that this could be done in territory tributary to the branch also.

In general the wheat-raising areas of the territory are located in the Blue Creek Valley, extending northward from Lampo;⁴ in territory adjacent to Promontory; and in the Hansel Valley, extending northward from Kosmo. U. S. No. 30, a transcontinental highway, extends northward from Ogden, through Brigham City, to Tremonton, a station on the Oregon Short Line about 11 or 12 miles north of Corinne; then northwest, through a community called Blue Creek, north of Lampo, to Snowville, north of Kosmo; then west to a point north of Kelton, and thence northwest to and across the Utah-Idaho State line. This is a paved highway in excellent condition.

The distance from U. S. No. 30 to Lampo is about 20 miles, and the grain shipped from that station must be trucked to the railroad. Additional distances necessary to be trucked from the center of grain production north of Lampo to Tremonton would be from 5 to 15 or 20 miles. In the case of the Hansel Valley, the grain is now trucked 15 miles from the nearest farm to Kosmo. The haul from the farthest farm in this valley to Tremonton would be about 30 miles. From the territory tributary to Promontory, the most feasible route for trucking would be to Corinne, 24.5 miles, over a highway that is a dirt road east to Lampo, about 7 miles, but is a good gravel road beyond, although traversing a terrain that is low and swampy in spots. A great deal of wheat raised in the valleys is being trucked at the present time.

4

Sometimes spelled Honsel in the record.

Much of the wheat moves to Ogden under transit privileges, but in 1937-41, in order, 4,603, 7,106, 7,837, 2,161, and 2,324 tons moved to mills at Ogden and at Vallejo, Calif., affiliated with a concern which has at Lampo a small, modern elevator of about 12,000-bushels capacity, but has used portable loading equipment at Promontory. This concern furnished statistics showing that in the past decade areas tributary to Lampo and Promontory seeded to wheat have ranged at high as 27,000 and 4,500 acres, with maximum crops of 700,000 and 70,000 bushels, respectively. In each of the five seasons 1936-7 to 1940-41, in order, the total crop and the volume handled by the elevator operator, respectively, were, in bushels, Lampo, 392,000, 121,548; 600,000, 195,558; 700,000, 204,467; 400,000, 47,240; 540,000, 46,623; and Promontory, 40,000, 20,629; 69,000, 35,237; 67,000, 44,944; 45,000, 22,406; 70,000, 30,787; and, in the 1941-42 season, volume handled, Lampo, 39,904, and Promontory, 27,277 bushels. In recent years a large quantity of wheat was stored in the territory of origin. When thus stored, it is more likely to be sold to other purchasers, or to be trucked to Ogden to get a better market. The elevator at Lampo could not be operated without a railroad, and the company's business would end there if the line is abandoned.

The farmers anticipate, if the railroad is abandoned, that the handicaps of longer hauls in additional expense and loss of time, particularly if it becomes necessary to resort to the use of horse-drawn wagons, will result in depreciating the value of their lands at least \$5 an acre. Much grain is raised north of the paved highway.

Dathol and Rochefort, centers of the sugar-beet production, are 4.8 and 5.2 miles, respectively, from Corinne. All the beets go to a refinery at Garland, on the Oregon Short Line about 22 or 23 miles north of Corinne Junction. This plant draws sugar beets from all directions, but the territory centering at Dathol and Rochefort (at the end of a private spur 2 miles south of Stokes, and included in that station) is said to be probably the best beet-producing area of the Garland district. There are about 150 farmers in this territory and nearly all raise beets. Other crops are produced, but the tonnage is comparatively small, and products not consumed locally are trucked out by canners. The railroad gets only the beets.

About one-fourth of the farm acreage, in rotation, is devoted to beet cultivation each year. From 1,500 to 1,600 acres were planted in beets in 1942, but the average is about 1,300 acres. Annual production aggregates approximately 20,000 tons, which is the equivalent of slightly more than 60,000 bags of sugar. In each of the years 1938-41, in order, the Garland refinery received from Dathol 54, 58, 61, 104 cars, or 1,821, 2,234, 2,194, 3,714 tons, and from Stokes, 531, 413, 379, 384 cars, or 19,436, 17,599, 14,656, 14,755 tons; totals, 21,257, 19,833, 16,850, and 18,649 tons. When the shipments are made from the loading stations, they are billed at a minimum of 70,000 pounds a car, and the waybills are corrected after actual weights are obtained.

The beets are hauled from farm to loading point in rubber-tired wagons, and the average haul to Dathol or Stokes is from 2 to 3 miles. To Corinne the average haul would be about 6 miles, or an increase of about 3.5 miles. As the ground often becomes frozen before the end of October or first of November, the harvest season is limited to a period of about 30 days, and it is important that the beets be loaded and shipped within that time. The longer wagon hauls to Corinne would entail additional expense and time, which, it is feared, would result in curtailment of production by half.

The track capacity at Corinne is about 6 cars, and at present the station is taxed to capacity with deliveries of beets aggregating approximately 6,000 tons within the short harvest season. An officer of the Union Pacific expressed confidence that that carrier would be willing to provide facilities at Corinne necessary for the requirements of shippers in that vicinity, if the Promontory branch is abandoned. But the protestants ask, in that event, that at least the segment from Dathol to Corinne, 4.8 miles, be retained for continued operation in order that the farmers may be able to continue to raise beets and thus contribute to the Nation's sugar supply. For this segment to be operated by the Southern Pacific, it would be necessary to operate also the additional 23 miles from Ogden; but it runs some engines from Ogden to Dathol now. The sugar company operating the Garland refinery does not wish to acquire the segment, primarily because independent operation would be too costly. The rate to Garland is 50 cents a ton, of which the Southern Pacific receives 15 cents for the short haul to Corinne. In 1941 the cost of operating sugar-beet trains from Ogden to Dathol or Stokes, and return, was \$6,288. Runs from Ogden to Dathol merely to pick up the traffic and deliver it to the Union Pacific would seem to be wasteful transportation.

It appears that acquisition and operation of the Dathol-Corinne segment by the Union Pacific has not been discussed with that carrier, but this would seem to afford the only practicable solution of the beet farmers' problem if the remainder of the branch is abandoned. While we are without authority to require the Oregon Short Line or the Union Pacific to acquire the segment, we think the Central Pacific should be required to sell it to either of those companies at its fair net salvage value, if such an offer is made, within 30 days from the date of our certificate herein, and our permission herein will be conditioned accordingly.

A salt company began operations at Monument about three years ago. It expects eventually to harvest possibly 50,000 tons a year, but it has shipped none thus far as it has not harvested enough salt to supply local demands. Monument is 23 miles from U. S. Highway No. 30 and 50 miles from Tremonton. The company intends to build storage facilities, so that salt can be moved at any time of the year on the railroad. Because of the condition of the road to Snowville and through Hansel Valley, it would be impossible during stormy seasons to haul the product by truck to the paved highway, and

if the railroad is abandoned the salt company will make no further investment. It had spent over \$28,000 to the date of the hearing.

The Rosette Asphalt Company has invested \$100,000 in developing a deposit of asphalt under the surface of the lake. It has finally overcome difficulties which have prevented or retarded quantity production. It shipped eight carloads since September 1941, and has sold 18½ cars more. The product moves to Chicago, Ill., and Natchez, Miss. It is trucked 13 miles from the deposit to the plant at Rozel. Without the branch it would have to be trucked to Brigham City, 50 miles, or to Corinne, 39 miles, at from \$3.50 to \$4 more a ton.

From the testimony of the chairman of the Board of County Commissioners of Box Elder County it appears that most of the county roads are good; but that a cash outlay of \$18,000 would be necessary to place the entire road between Promontory and Corinne in satisfactory condition for use in all seasons. He states that all the wheat could not be transported over this road in its present state, and that difficulty is being experienced in obtaining road-building equipment.

The Public Service Commission of Utah joins the State Department of Publicity and Industrial Development in the contention that, if the branch is abandoned, some substitute form of transportation should be provided by the applicants, at rates no higher than the present rail rates. It seems evident that the applicants would be subject to the same disadvantages of unfavorable road conditions as are private users of the highways, and if the roads are improved much inconvenience to the latter from loss of the railroad would disappear.

The Promontory branch is a line of heavy grades and many curves. To improve it for modern main-line operation would cost millions of dollars; and all apparent warrant for such expenditure has been obviated by construction of the cross-lake line.

The territory traversed by the branch evidently is not endowed with sufficient natural resources to attract more than a scattered and, west of Kelton, nomadic population; but even the sparse settlement of the country that has occurred no doubt has been encouraged to some extent by the existence of the railroad in the territory for over 70 years. Nevertheless, the few industries developed there over this long period are not wholly dependent on the railroad. Other means of transportation have been and are being used. The possibility that recourse may again have to be had to more primitive modes of transportation, because of restrictions arising from the war emergency, is an event too speculative in nature to warrant withholding the relief which the applicants seek. Removal of the railroad will result in some public inconvenience, but it is apparent that the general territory has not, in all likelihood will not, and possibly cannot, furnish traffic to the railroad sufficient to support

the cost of its operation. Therefore, we are forced to the conclusion that continued operation of the line would impose undue and unnecessary burdens on the applicants and on interstate commerce.

We find that, subject to the condition stated above, the present and future public convenience and necessity permit (1) abandonment by the Central Pacific Railway Company of the part of the line of railroad, and (2) abandonment of operation by the Southern Pacific Company over the parts of lines of railroad, in Box Elder and Weber Counties, Utah, described herein. An appropriate certificate will be issued, effective from and after 30 days from its date. Suitable provision will be made therein for the cancellation of tariffs.

CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 4, held at its office in Washington, D. C., on the 11th day of June, A. D. 1942.

Finance Docket No. 13655

CENTRAL PACIFIC RAILWAY COMPANY ET AL. ABANDONMENT

Investigation of the matters and things involved in this proceeding having been made, a hearing having been held, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is hereby certified, That the present and future public convenience and necessity permit (1) abandonment by the Central Pacific Railway Company of the part of a line of railroad, and (2) abandonment of operation by the Southern Pacific Company over the parts of lines of railroad in Box Elder and Weber Counties, Utah, described in said report: Provided, however, and this certificate is issued upon the express condition, that the Central Pacific Railway Company shall sell the segment of its Promontory branch between Dathol and Grinne to the Oregon Short Line Railroad Company or the Union Pacific Railroad Company, at a price equal to the fair net salvage value thereof, if an offer from either of those carriers to purchase the segment on those terms is made within 30 days from the date hereof.

It is ordered, That this certificate shall take effect and be in force from and after 30 days from its date. Tariffs may be canceled upon notice to this Commission and to the general public by not less than 10 days' filing and posting in the manner prescribed in section 6 of the Interstate Commerce Act.

It is further ordered, That, when filing schedules canceling tariffs applicable on said lines, the Southern Pacific Company shall in such schedules refer to this certificate by title, date, and docket number.

And it is further ordered, That the Southern Pacific Company shall report to this Commission as required by valuation order No. 24, effective May 15, 1928.

By the Commission, division 4.

W. P. BARTEL

(SEAL.)

Secretary.