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SERVICE DATE – MAY 20, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 281X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN  
ORANGE COUNTY, CAL.

Decided: May 20, 2010

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 C.F.R. § 1152 Subpart F—Exempt Abandonments to abandon a 1.15-mile line of railroad, on the Brea Chemical Industrial Lead, from milepost 507.5 to milepost 508.65 near the City of Brea, in Orange County, Cal. Notice of the exemption was served and published in the Federal Register on April 21, 2010 (75 Fed. Reg. 20,874). The exemption is scheduled to become effective on May 21, 2010.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on April 26, 2010. In the EA, SEA states that the National Geodetic Survey (NGS) has identified 3 geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends a condition requiring UP to consult with NGS and notify NGS at least 90 days prior to beginning any salvage activities that could disturb or destroy any geodetic station markers.

SEA also states in the EA that Orange County is one of California's coastal counties subject to state coastal management requirements. Therefore, SEA recommends a condition requiring that, prior to beginning any salvage activities, UP shall consult with the California Coastal Commission (CCC) to determine whether state coastal management consistency certification is required. If consistency certification is required, UP shall notify SEA pursuant to the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., and the Board's environmental regulations at 49 C.F.R. § 1105.9 and shall be prohibited from performing any salvage activities until it obtains consistency certification.

Finally, SEA states in the EA that UP submitted a historic report to the California Department of Parks and Recreation, Office of Historic Preservation (SHPO), pursuant to 49 C.F.R. § 1105.8(c). However, at the time the EA was served, the SHPO had not yet commented on the historic report, and SEA has not been able to consider the SHPO's opinion in determining whether the rail line may be potentially eligible for listing on the National Register of Historic Places. Therefore, SEA recommends a condition requiring UP to retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places (National Register) until the section

106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. UP shall report back to SEA regarding any consultations with the SHPO, any other section 106 consulting parties that have been identified, and the public. UP may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of track and ties) until the section 106 process has been completed and the Board has removed this condition.

Comments to the EA were due by May 11, 2010. No comments were received. Accordingly, the conditions recommended by SEA in the EA will be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.

2. Upon reconsideration, the exemption of the abandonment of the rail line described above and covered by the notice served and published in the Federal Register on April 21, 2010, is subject to the conditions that UP shall: (1) consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers; (2) prior to commencement of any salvage activities, (a) consult with the California Coastal Commission to determine whether state coastal management consistency certification is required, (b) if the consistency certification is required, notify SEA pursuant to the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., and the Board's environmental regulations at 49 C.F.R. § 1105.9 and be prohibited from performing any salvage activities until it obtains consistency certification; and (3) (a) retain its interest in and take no steps to alter the historic integrity of all sites, buildings, structures, and objects within the right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register until the section 106 process has been completed, (b) report back to SEA regarding any consultations with the SHPO, any other section 106 consulting parties that have been identified, and the public, and (c) not file its consummation notice or initiate salvage activities related to the abandonment (including the removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition.

3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.