

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-398 (Sub-No. 7X)

SAN JOAQUIN VALLEY RAILROAD COMPANY
–ABANDONMENT EXEMPTION–
IN TULARE COUNTY, CA

Decided: November 20, 2009

By decision and notice of interim trail use or abandonment served on June 6, 2008, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by San Joaquin Valley Railroad Company (SJVR) of a 30.57-mile portion of the South Exeter Branch between milepost 268.60 at Strathmore and milepost 299.17 at Jovista in Tulare County, CA, subject to environmental, trail use and employee protective conditions.¹

As discussed in the June 6 decision, the Board's Section of Environmental Analysis (SEA) stated in its Environmental Analysis (EA) of the proposed abandonment that it had not heard from the California Office of Historic Preservation (SHPO) and, therefore, had not been able to consider the SHPO's opinion before determining if the rail line may be eligible for listing in the National Register of Historic Places (National Register). Accordingly, SEA recommended that SJVR be required 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 project right-of-way (known as the Area of Potential Effect or APE) eligible for listing or listed in the National Register until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA). SEA also recommended that SJVR be required to report back to SEA regarding any consultations with the SHPO and any other section 106 consulting parties, and that SJVR not be allowed to file its consummation notice or initiate salvage activities related to abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition. Based on SEA's recommendation, the Board imposed a section 106 historic preservation condition with those requirements.

SEA issued a Post EA in this proceeding on October 30, 2009, recommending that the Board remove the historic preservation condition. SEA states that, pursuant to the section 106 regulations of the NHPA at 36 CFR 800.5(b), it has determined that the proposed project would

¹ The Board of Supervisors of the County of Tulare and Tulare Valley Railroad Company timely filed offers of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the line. The OFA process did not result in the sale of the line, and the Board subsequently terminated the OFA process in a decision served September 10, 2008.

not affect historic properties listed in or eligible for inclusion in the National Register located within the right-of-way or APE. According to SEA, the documentation for this finding, as specified at 36 CFR 800.11(e), consists of SJVR's historic report, additional details on bridges located along the rail line provided by SJVR on September 10, 2009, all relevant correspondence, and the EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>. SEA states that it notified the SHPO of this determination by letter dated September 16, 2009, and requested that the SHPO provide its comments, if any, regarding this undertaking within 30 days of receipt of the letter. SEA has not heard from the SHPO within the 30-day time frame specified in the regulations at 36 CFR 800.4(d)(1)(i). SEA states that, because it has not heard from the SHPO within the 30-day timeframe, the Board's compliance responsibilities under section 106 of the NHPA have been completed.

Accordingly, based on SEA's recommendation, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.²

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 section 106 historic preservation condition imposed in the June 6, 2008 decision is removed.
3. This decision is effective on the date of service.

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

² The June 6 decision also imposed an environmental condition requiring SJVR, prior to conducting salvage activities along the line, to consult with the California Public Utilities Commission regarding its concerns that abandoned track could cause safety hazards on roadways. This condition is still in effect, but it is self-executing and is not a barrier to consummation by SJVR of its abandonment authority.