

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-397 (Sub-No. 5X)

TULARE VALLEY RAILROAD COMPANY  
--ABANDONMENT AND DISCONTINUANCE EXEMPTION--  
IN TULARE AND KERN COUNTIES, CA

Decided: May 28, 1997

In a decision served February 21, 1997, Tulare Valley Railroad Company (TVR) was granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon its 18.5-mile line segment between milepost 47.2 near Lindsay to milepost 66.0 near Ultra, in Tulare County, CA.<sup>1</sup> The exemption became effective on March 23, 1997.<sup>2</sup>

The exemption was subject to conditions requiring that TVR: (1) refrain from salvaging or disposing of the entire right-of-way until completion of the section 7 process of the Endangered Species Act, 16 U.S.C. 1531 (section 7 condition), and (2) give at least 90 days' notification to the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Geodetic Survey, if any of the 75 geodetic station markers located along the line will be disturbed by the salvage process.

In a letter filed April 17, 1997, TVR states that it has complied with the section 7 condition and requests that the condition be removed. The United States Fish and Wildlife Service has confirmed that salvage of the track and ties is not likely to adversely affect listed species provided that track removal is conducted in pre-disturbed areas within the railroad ballasted area. Therefore, the Board's Section of Environmental Analysis recommends that the section 7 condition be removed.

Accordingly, this proceeding will be reopened and the previously imposed section 7 condition will be removed. The condition requiring that notice be given if any of the geodetic station markers located along the line will be disturbed by the salvage process remains in effect.

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 condition imposed in the decision served February 21, 1997, to implement the section 7 process of the Endangered Species Act is removed.

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<sup>1</sup> The notice of exemption was published on February 21, 1997, at 62 FR 8077.

<sup>2</sup> On March 18, 1997, TVR filed a petition for reconsideration of the decision served February 21, 1997. This petition will be considered by the entire Board in a subsequent decision.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary