

SERVICE DATE - MAY 8, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-582

NAPA VALLEY WINE TRAIN, INC.—ADVERSE ABANDONMENT—
IN NAPA VALLEY, CA.

Decided: May 7, 2001

In this proceeding, the Board is considering an application filed by the Napa Valley Flood Control and Water Conservation District (the District) pursuant to 49 U.S.C. 10903, requesting that the Board find that the public convenience and necessity permits the forced relocation of three segments of the line of the Napa Valley Wine Train, Inc. (NVWT) located in Napa County, CA. NVWT seeks clarification of what it sees as a conflict between a decision served in this proceeding on March 30, 2001 (the Waiver Decision) and a subsequent notice issued by the Board regarding the filing of an application by the District. The Waiver Decision denied a request by the District to waive the environmental and historic preservation reporting requirements at 49 CFR 1105, 49 CFR 1152.20(c) and 49 CFR 1152.22(f). That decision requires no clarification. The request will therefore be denied.

A notice served and published on April 26, 2001 (66 FR 21039) (the Notice), indicated that the Board's Section of Environmental Analysis (SEA) had reviewed the evidence presented in the application¹ and determined that there is no need for additional environmental or historic review of the District's proposal.² SEA noted that the District has explained that an extensive environmental and historic review process has already been completed for the relocation project and certified through an environmental impact statement (EIS) prepared by the U.S. Army Corps of Engineers (Corps), and concluded that an environmental/historic review performed by the

¹ In the application, the District submitted a verified statement from Howard Siegel, Senior Project Analyst, who stated that none of the thresholds set by the Board at 49 CFR 1105.7(e)(4) and (5) would be exceeded by the relocation project. According to Mr. Siegel, the only effects of the relocation would be brief interruptions to NVWT's freight traffic during the 6 weeks of construction and a modest improvement in NVWT's operating efficiency because of new track. Mr. Siegel stated that neither of these effects would alter rail or truck traffic in excess of the Board's thresholds. Mr. Siegel asserted further that normal rail service would resume on the line after the project is completed. Finally, Mr. Siegel indicated that no culturally or historically significant structures or facilities subject to the Board's jurisdiction would be affected by the relocation plan.

² A copy of SEA's recommendation on this matter has been placed in the public docket of this proceeding.

Board would be duplicative and contrary to the goals of the National Environmental Policy Act. SEA also agreed with the District that no further environmental analysis is warranted because the proposed actions would not result in impacts that would exceed the thresholds set forth in section 1105.7(e)(4) and (5).

In a petition filed on April 26, 2001,³ NVWT states that it seeks clarification of the seeming conflict between the Waiver Decision and the Notice. NVWT suggests that the refusal to waive the application of the environmental regulations conflicts with the findings in the Notice that the District need not file an environmental report and that the Board need not prepare an Environmental Assessment or an EIS.

There is no conflict. The Board's environmental regulations at part 1105 provide standards and procedures that a person may invoke to argue that a proposed transaction does not require environmental review by the Board. Anyone seeking to avoid that review must invoke those procedures and meet those standards, rather than ask the Board to waive them, as the District did. The Waiver Decision properly denied the District's waiver request. The District then filed its application, followed the procedures of part 1105, and demonstrated that its application met the standards of section 1105.6(c) for actions that require the preparation of no environmental documentation. The Notice properly acknowledged that the District had followed the correct procedures and had met the applicable standards.

It is ordered:

1. NVWT's petition for clarification is denied.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

³ The District replied to NVWT's petition on April 30, 2001.