

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 279X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN POLK
COUNTY, IOWA

Decided: April 19, 2011

This decision reopens the proceeding to remove the Section 106 historic preservation condition that was imposed as a condition to the abandonment exemption.

Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon .20 miles of a line of railroad on the Ankeny Industrial Lead from milepost 10.50 in Ankeny to milepost 10.70 in Ankeny, in Polk County, Iowa. Notice of the exemption was served and published in the Federal Register on February 18, 2010 (75 Fed. Reg. 7,303). The exemption became effective on March 20, 2010.

By decision served on March 19, 2010 (March 2010 decision), the proceeding was reopened at the request of the Board's Office of Environmental Analysis (OEA)¹ and the exemption was made subject to 3 salvage-related conditions and a historic preservation condition under Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f (NHPA). Under the historic preservation condition, UP was directed: (a) 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 (the Area of Potential Effect) that are eligible for listing or are listed in the National Register of Historic Places (National Register) until completion of the Section 106 process; (b) to report back to OEA regarding any consultations with the Iowa State Historic Preservation Office (SHPO) and the public; and (c) to refrain from filing its notice of consummation or initiating any 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.

By letter filed on February 4, 2011, UP requests removal of the Section 106 historic preservation condition and attaches to its letter, as Exhibit A, a statement from the SHPO acknowledging that there are no outstanding issues under Section 106 of the NHPA regarding the proposed abandonment. On February 14, 2011, OEA wrote to the SHPO that OEA had reviewed the proposed project and determined that no historic properties listed in or eligible for inclusion

¹ OEA previously was known as the Section of Environmental Analysis, or SEA.

in the National Register would be affected by the proposed abandonment. In correspondence to OEA, the SHPO concurred with OEA's finding.

Accordingly, OEA states that, pursuant to the Section 106 regulations of the NHPA at 36 C.F.R. § 800.5(b), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register located in the Area of Potential Effect. OEA concludes, therefore, that the Board has satisfied its responsibilities under Section 106 of the NHPA in this proceeding and recommends that the Section 106 historic preservation condition imposed in the March 2010 decision be removed. Accordingly, the proceeding will be reopened and the previously imposed Section 106 historic preservation condition will be removed.

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 March 2010 decision is removed.
3. This decision is effective on its service date.

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