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SERVICE DATE – JANUARY 24, 2005

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-874X

SIERRA NORTHERN RAILWAY–ABANDONMENT EXEMPTION–  
IN YOLO COUNTY, CA

Decided: January 21, 2005

Sierra Northern Railway (Sierra) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon an approximately 9.27-mile rail line extending from milepost 90.5 in the City of West Sacramento to a point south of Pumphouse Road, in Yolo County, CA. Notice of the exemption was served and published in the Federal Register on December 23, 2004 (69 FR 76972). The exemption is scheduled to become effective on January 25, 2005.

The Board’s Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on December 30, 2004. In the EA, SEA notes that the California Office of Historic Preservation (SHPO) has not yet completed its evaluation of the potential impact of the project on historic resources. Therefore, SEA recommends that Sierra retain its interest in and take no steps to alter the historic integrity of the line and all sites and structures on the line that are 50 years old and older, until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA). Also, SEA states that the U.S. Fish and Wildlife Service has not provided input on the project’s potential effects on any listed threatened or endangered species in the area. Therefore, SEA recommends that, prior to any salvage activities, Sierra be required to consult with U.S. Fish and Wildlife Service, Sacramento Field Office (916-414-6628) (FWS), regarding any impacts to Federally listed threatened and endangered species that may occur in the vicinity of the line and report the results of the consultation to SEA.

Comments to the EA were due by January 14, 2005. No comments were received by the due date. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

On December 27, 2004, the City of West Sacramento (the City) filed a request for the issuance of a notice of interim trail use (NITU) for the line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), and 49 CFR 1152.29. The City has submitted a statement of willingness to assume financial responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and has acknowledged that the use

of the right-of-way for trail purposes is subject to future reactivation for rail service. In a response submitted on January 6, 2005, Sierra states that it concurs with the City's request for issuance of a NITU.

Because the City's request complies with the requirements of 49 CFR 1152.29 and Sierra is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an agreement during the 180-day period prescribed below. If the parties reach a mutually acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, Sierra may fully abandon the line subject to any outstanding conditions. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

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 notice served and published in the Federal Register on December 23, 2004, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking for a period of 180 days from the service date of this decision and notice (until July 23, 2005), and subject to the conditions that Sierra shall: (1) retain its interest in and take no steps to alter the historic integrity of the line and all sites and structures on the line that are 50 years old and older until completion of the section 106 process of the NHPA; (2) prior to any salvage activities, consult with FWS (916-414-6628) regarding impacts to Federally listed threatened and endangered species that may occur in the vicinity of the line and report the results of the consultation to SEA.
3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

5. If interim trail use is implemented, and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

6. If an agreement for interim trail use/rail banking is reached by July 23, 2005, interim trail use may be implemented. If no agreement is reached by that time, Sierra may fully abandon the line upon expiration of the public use condition, provided the other conditions imposed in this proceeding are met. See 49 CFR 1152.29(d)(1).

7. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary