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SERVICE DATE - MAY 22, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 152X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT
EXEMPTION--IN ORANGE COUNTY, TX

Decided: May 18, 2000

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Service and Trackage Rights to abandon a 0.75-mile portion of the Orange Industrial Lead from milepost 486.75 to milepost 487.5 near Kilowatt, in Orange County, TX. Notice of the exemption was served and published in the Federal Register on April 21, 2000 (65 FR 21500-01). The exemption is scheduled to become effective on May 23, 2000.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on April 28, 2000. In the EA, SEA indicated that the Texas Historical Commission (SHPO), the U.S. Army Corps of Engineers (Corps), and the U.S. Fish and Wildlife Service (FWS) had not completed their evaluation of the potential impact of this project on historical resources, endangered species and water resources. Therefore, SEA recommended in the EA that UP take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; that UP consult with the Corps to determine if the proposed project is consistent with applicable Federal, state and local water quality standards, to determine if permits are required under section 404 of the Clean Water Act, 33 U.S.C. 1344; and that UP refrain from salvaging and disposing of the right-of-way until completion of the section 7 process of the Endangered Species Act, 16 U.S.C. 1531. By letter dated May 2, 2000, however, UP submitted letters: (a) from the SHPO, stating that, based on information provided, it is of the opinion that no historic properties exist within the abandonment area, and (b) from FWS, stating that there are no federally listed or proposed threatened or endangered species in the project area. Therefore, according to SEA, the historic preservation condition and the endangered species condition need not be imposed. Under the circumstances, the historic preservation and endangered species conditions will not be imposed, but the condition requiring consultation with the Corps will be imposed.

SEA had also stated that the National Geodetic Survey (NGS) had identified four geodetic station markers that may be affected by the proposed abandonment. NGS requested that it be notified 90 days in advance of any activities that would disturb or destroy these markers to plan for their relocation. Therefore, SEA recommends that a condition be imposed requiring UP to consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers. The NGS condition will be imposed.

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 exemption of the abandonment of the rail line described above is subject to the conditions that UP shall: (a) consult with the Corps to determine if the proposed project is consistent with applicable Federal, state and local water quality standards, to determine if permits are required under section 404 of the Clean Water Act; and (b) consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station markers.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary