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SERVICE DATE – JANUARY 11, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 246X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT EXEMPTION–  
IN WALKER COUNTY, TX

Decided: January 10, 2008

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 1.67-mile line of railroad known as the Huntsville Industrial Lead, extending from milepost 5.0 to milepost 6.67 near Huntsville, in Walker County, TX (Line). Notice of the exemption was served and published in the Federal Register on December 14, 2007 (72 FR 71191-92). The exemption is scheduled to become effective on January 15, 2008.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on December 21, 2007. In the EA, SEA recommended two conditions. First, SEA noted that the National Geodetic Survey (NGS) had identified one geodetic station marker that may be affected by the proposed abandonment. Therefore, SEA recommended a condition requiring UP to consult with NGS and to notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

Second, SEA stated in the EA that the Texas Parks and Wildlife Department (TPWD) had expressed concerns regarding the possible impacts to vegetation and migratory birds. TPWD has recommended that UP implement the following mitigation measures: (1) avoid clearing mature, native trees along the right-of-way; (2) use site planning and construction techniques designed to avoid and preserve trees, shrubs, grasses, and forbs; (3) avoid conducting any salvage activities, particularly clearing trees or vegetation, during the migratory bird nesting season (April 1 to July 15); (4) prior to any salvage activities, survey the project area for migratory bird nest sites, pursuant to the Migratory Bird Treaty Act; (5) conduct no salvage activities within 100 meters of any raptor nest during their nesting season (February 1 to July 15); and (6) reseed disturbed soils with a mixture of native grasses and forbs and avoid planting Bermuda grass. Accordingly, to address TPWD's concerns, SEA recommended that UP be required to: (1) comply with TPWD's specific recommendations pertaining to salvage activities on this proposed project, (2) consult with TPWD and the U.S. Department of Fish and Wildlife (USFWS) in order to ensure that removal and salvage activities are conducted in a manner that avoids or minimizes impacts to migratory birds and vegetation, and (3) report the results of these consultations to SEA prior to commencement of any salvage activities.

Comments to the EA were due by January 7, 2008. By pleading filed January 7, 2008, UP requested that SEA's second recommended condition be modified to read as follows: "UP shall consult with TPWD and comply with those mitigation measures deemed necessary by TPWD after completion of the survey of the project area by or on behalf of UP pertaining to salvage activities on this proposed project." SEA has found the proposed modification reasonable for the most part and, therefore, now recommends the following modified language for the second of its recommended conditions: Prior to commencement of any salvage activities, UP shall: (1) consult with TPWD and comply with those mitigation measures deemed necessary by TPWD after completion of a survey of the project area by or on behalf of UP; (2) consult with TPWD and USFWS (Region 2) in order to ensure that removal and salvage activities are conducted in a manner that avoids or minimizes impacts to migratory birds and vegetation; and (3) report the results of these consultations to SEA.

The environmental conditions recommended by SEA in the EA, as supplemented and modified based on comments received, will be imposed. Based on SEA's recommendation, the proposed abandonment, if implemented as conditioned, 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 14, 2007, exempting the abandonment of the line described above is subject to the conditions that UP shall: (1) consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers; and (2) prior to commencement of any salvage activities, (a) consult with TPWD and comply with those mitigation measures deemed necessary by TPWD after completion of a survey of the project area by or on behalf of UP, (b) consult with TPWD and USFWS (Region 2) in order to ensure that removal and salvage activities are conducted in a manner that avoids or minimizes impacts to migratory birds and vegetation, and (c) report the results of these consultations to SEA.
3. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary