

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 226X)

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

Decided: December 15, 2005

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments for UP to abandon a 2.2-mile line of railroad between milepost 0.00, near UP Main Switch, and milepost 2.20, near Arthur Street, in Cameron County, TX.¹ Notice of the exemption was served and published in the Federal Register on November 16, 2005 (70 FR 69626-27). The exemption is scheduled to become effective on December 16, 2005.

The Board’s Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on November 21, 2005. In the EA, SEA states that the National Geodetic Survey (NGS) has identified one geodetic station marker that may be affected by the proposed abandonment. Therefore, SEA recommends that UP be required to provide NGS with at least 90 days’ notice prior to beginning salvage activities so that NGS may plan for the possible relocation of the station marker.

SEA also states in the EA that, given the proposed abandonment’s close proximity to the Gulf of Mexico, it has determined that the proposed abandonment may be subject to the Texas Coastal Zone Program. Therefore, SEA recommends that, prior to any salvage activities, UP shall consult with the Texas Coastal Coordination Council to determine whether a coastal zone consistency certification is required in accordance with the Texas Coastal Zone Program. If the consistency certification is required, UP shall be prohibited from performing any salvage activities until it obtains consistency certification, and shall then notify SEA of that certification, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 et seq.

SEA further states in the EA that, although UP has contacted the U.S. Fish and Wildlife Service, Region 2 (FWS) and the Texas Parks & Wildlife (Texas Parks) to determine if the

¹ The exemption also embraced STB Docket No. AB-33 (Sub-No. 654X), Brownsville & Rio Grande International Railroad Company–Discontinuance of Service Exemption–in Cameron County, TX, in which Brownsville & Rio Grande International Railroad Company was granted an exemption to discontinue service over the line.

proposed abandonment is likely to have an adverse impact on any Federally listed species, or adversely modify any areas designated critical habitats, neither agency has responded. Therefore, SEA recommends that, prior to the commencement of any salvage activities, UP be required to consult with FWS and Texas Parks regarding potential impacts from salvage activities to Federally-listed threatened or endangered species that may occur in the vicinity of the line, and to report the results of these consultations to SEA prior to the commencement of salvage operations.

Additionally, SEA states in the EA that the U.S. Environmental Protection Agency (USEPA) has not provided comments on impacts to section 402 of the Clean Water Act. Therefore, SEA recommends that UP be required to consult with the USEPA, prior to the commencement of any salvage activities, to properly address any concerns regarding potential contamination of the right-of-way and the possible need for a section 402 stormwater permit and to report the results to SEA in writing prior to the onset of salvage activities.

Finally, SEA states in the EA that the United States Army Corps of Engineers (USACE) has not provided comments as to whether the proposed abandonment will require a permit under section 404 of the Clean Water Act (33 U.S.C. 1344). Therefore, SEA recommends that, prior to the commencement of any salvage activities, UP be required to consult with the USACE to determine whether a USACE permit under section 404 is required and to report the results to SEA in writing.

No comments to the EA were received by the December 6, 2005 due date. Accordingly, the conditions recommended by SEA in the EA 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 exemption of the abandonment of the rail line described above is subject to conditions requiring that UP: (1) provide NGS with at least 90 days' notice prior to beginning salvage activities so that NGS may plan for the possible relocation of the geodetic station marker; (2) prior to any salvage activities, consult with the Texas Coastal Coordination Council to determine whether a coastal zone consistency certification is required in accordance with the Texas Coastal Zone Program. If the consistency certification is required, UP shall be prohibited from performing any salvage activities until it obtains consistency certification, and shall then notify SEA of that certification, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 et seq.; (3) prior to the commencement of any salvage activities, consult with FWS and Texas Parks regarding potential impacts from salvage activities to Federally listed threatened or endangered species that may occur in the vicinity of the line and report the results of these consultations to SEA; (4) consult with the USEPA, prior to the

commencement of any salvage activities, to properly address any concerns regarding potential contamination of the right-of-way and the possible need for a section 402 stormwater permit and to report the results to SEA; and (5) prior to the commencement of any salvage activities, consult with the USACE to determine whether a USACE permit under section 404 is required and report the results to SEA in writing.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary