

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 272X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN KOOTENAI COUNTY, ID

Decided: June 12, 2009

By decision served on May 4, 2009, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by Union Pacific Railroad Company (UP) of a portion of its Coeur d'Alene Industrial Lead between milepost 7.5 near Gibbs, and the end of the line at milepost 8.79 near Coeur d'Alene, a distance of 1.29 miles in Kootenai County, ID. The exemption was subject to environmental and standard employee protective conditions and to a consummation condition.¹

The environmental conditions required that UP: (1) prior to commencement of any salvage activities, consult with the Idaho Department of Environmental Quality to ensure that any concerns regarding potential contamination of the right-of-way are addressed and report the results of the consultations in writing to SEA prior to the onset of salvage operations; (2) notify the U.S. Department of Commerce, National Geodetic Survey at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of one station marker; and (3) (a) 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 (Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places (National Register) until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed, (b) report to SEA regarding any consultations with the Idaho Historical Society (SHPO) and the public, and (c) not file its consummation notice or initiate 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 the condition.

As to condition (3), the historic preservation condition, SEA notes that, by letter dated August 25, 2008, Ms. Susan Pengilly of the SHPO states that her office determined that the

¹ The grant of authority permitted UP to discontinue service over the line, but not to consummate the abandonment until after BNSF Railway Company (BNSF) obtained approval to discontinue its trackage rights on the line. BNSF sought that approval in a petition for exemption filed February 12, 2009. BNSF Railway Company—Discontinuance of Trackage Rights Exemption—In Kootenai County, ID, STB Docket No. AB-6 (Sub-No. 466). Notice of the filing was published in the Federal Register on March 4, 2009 (74 FR 9476).

proposed abandonment would have no effect on historic properties. SEA states that, pursuant to the section 106 regulations of the NHPA at 36 CFR 800.5(b), and following consultation with the SHPO and the public, it has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. Therefore, SEA recommends that the section 106 historic preservation condition be removed. Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.²

This action 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 May 4, 2009 decision is removed.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary

² Environmental conditions (1) and (2) remain in effect.