

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1229X

DENVER REGIONAL TRANSPORTATION DISTRICT—ABANDONMENT  
EXEMPTION—IN DENVER AND JEFFERSON COUNTIES, CO

Decided: July 5, 2007

The Denver Regional Transportation District (RTD) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 5.7-mile line of railroad between milepost .60 and milepost 6.3, in Denver and Jefferson Counties, CO. Notice of the exemption was served and published in the Federal Register on June 7, 2007 (72 FR 31655) (June 7 notice). The exemption is scheduled to become effective on July 7, 2007.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on June 12, 2007.<sup>1</sup> In the EA, SEA notes that, according to RTD, the U.S. Fish and Wildlife Service (USFWS) has indicated in an Environmental Impact Statement (EIS) prepared by the U.S. Department of Transportation, Federal Transit Administration, and RTD for a light rail transit project that is expected to be located in proximity to the existing rail corridor, that wetlands and threatened or endangered species, particularly the Federally listed Preble's meadow jumping mouse, may exist in Denver and Jefferson Counties. Therefore, to ensure that Federally listed threatened and endangered species are adequately protected in the event that the light rail project is not constructed, and to keep USFWS abreast of the proposed abandonment activities, SEA recommends that the Board require RTD prior to the commencement of any salvage activities to consult further with USFWS regarding potential impacts to the Federally protected species and to report the result of the consultation in writing to SEA.

In the EA, SEA also notes that several areas of major concern to the U.S. Environmental Protection Agency (EPA) were identified in the area of the proposed abandonment, including Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and Resource Conservation and Recovery Act (RCRA) sites. SEA explains that, according to RTD, the contaminated sites were evaluated and remediated as part of the EIS. SEA continues that no response to RTD's request for comments was received from EPA, and no documentation detailing the remediation approval by EPA has been provided by RTD. Therefore, SEA

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<sup>1</sup> The EA states the mileage and mileposts as 6.5 miles of rail line between milepost 0.0 near Denver and milepost 6.5 near Lakewood in Denver and Jefferson Counties, CO. However, as described herein and in the June 7 notice, the line at issue is 5.7 miles in length and extends between mileposts .60 and 6.3.

recommends that the Board require RTD to consult further with EPA regarding the CERCLA and RCRA sites and to report the result of the consultation in writing to SEA prior to the commencement of any salvage activities.

Additionally, SEA states in the EA that the U.S. Army Corps of Engineers (Corps) has reviewed RTD's request for comments on the proposed abandonment, and has advised that any activities along the right-of-way that may involve any work in waters of the United States may require a Corps permit under section 404 of the Clean Water Act (33 U.S.C. 1344). Because two jurisdictional and one isolated wetland are located in the area of the proposed abandonment, SEA recommends that RTD be required to consult with the Corps regarding the Corps' requirements prior to commencing any remaining salvage activities and, if applicable, comply with the reasonable requirements of the Corps. SEA also recommends that RTD be required to report the result of the consultation in writing to SEA prior to the commencement of any salvage activities.

Comments to the EA were due on June 27, 2007. SEA did not receive any additional comments. Accordingly, the conditions recommended by SEA in the EA will be imposed. Based on SEA's recommendations, 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 covered by the notice served and published in the Federal Register on June 7, 2007, is subject to the conditions that, prior to the commencement of any salvage activities, RTD shall: (1) consult further with USFWS regarding potential impacts to the Federally protected species and report the result of the consultation in writing to SEA; (2) consult further with EPA regarding the CERCLA and RCRA sites and report the result of the consultation in writing to SEA; and (3) consult with the Corps regarding the Corps' permit requirements and, if applicable, comply with the reasonable requirements of the Corps, as well as report the result of the consultation in writing to SEA.
3. This decision is effective on its date of service.

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

Vernon A. Williams  
Secretary