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SERVICE DATE - JUNE 9, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 134X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT AND
DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION--
IN LOS ANGELES COUNTY, CA

Decided: June 4, 1999

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 1.44-mile line of railroad on the Lincoln Park Drill from milepost 486.30 near State Street to the end of the line at milepost 487.74 near Lincoln Park, and for discontinuance of overhead trackage rights over a 0.8-mile line of the Southern California Regional Rail Authority's (SCRRA Track) San Gabriel Subdivision from milepost 485.30 to milepost 486.10 near State Street, in Los Angeles County, CA. Notice of the exemption was served and published in the Federal Register on April 7, 1999 (63 FR 17056-57). The exemption became effective on May 7, 1999.

The Board's Section of Environmental Analysis (SEA) issued for public review and comment an environmental assessment (EA) addressing the potential environmental impacts in this proceeding on April 12, 1999. The EA concluded that the proposed abandonment would not significantly affect the quality of the human environment and recommended one environmental condition. No comments were filed in response to the EA.

By decision issued on May 6, 1999, the Board imposed SEA's recommended environmental condition, a National Geodetic Survey (NGS) condition that requires UP to consult with NGS and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic marker. The Board also imposed a public use condition and an interim trail use condition providing 180 days for the Los Angeles & San Gabriel Rivers Watershed Council to negotiate an interim trail use/rail banking agreement with UP for the 1.44-mile line on the Lincoln Park Drill.¹ The interim trail use and public use conditions are scheduled to expire on November 3, 1999.

By petition filed May 11, 1999, a group called the Friends of Hazard Park and Hazard Park Wetlands (Hazard Park), seeks to reopen the proceeding. Specifically, Hazard Park requests

¹ By letter filed May 11, 1999, UP notified the Board that it had discontinued the overhead trackage rights on the 0.8-mile SCRRA Track and had also discontinued service on the 1.44-mile line that is subject to the public use and trail use conditions.

protection of the wetlands between Norfolk Street on the north and Chelsea Street on the south. Hazard Park states that the wetlands are being used and studied by various professionals including botanists, biologists and hydrologists. To justify reopening, Hazard Park attached a letter from the Fish and Wildlife Service of the United States Department of Interior (FWS). The letter expresses the FWS's view that the wetlands near Hazard Park are an important natural resource worthy of protection and have tremendous potential for enhancement and restoration.

In response, a staff member of SEA consulted with the U.S. Army Corps of Engineers (Corps), the agency with primary responsibility over wetlands, concerning the wetlands in Hazard Park, the circumstances of this abandonment, and Hazard Park's petition. The Corps informed SEA that UP would not need to obtain a section 404 permit in order to salvage the right-of-way, as long as the substrata of the wetlands is not disturbed. SEA also contacted UP, and was informed that the railroad's salvage work will be done on-track and therefore will not involve any disturbance of the wetlands' substrata.

In these circumstances, the petition to reopen will be denied. Based on SEA's consultation with the Corps and UP, it is clear that the abandonment and/or salvage of this line will not have any adverse effect on the wetlands. Rather, UP has indicated that its salvage activities undertaken in connection with this abandonment will not affect the substrata of the wetlands, and the Corps has stated that, therefore, UP does not require a section 404 permit. If wetlands' restoration occurs at some point in the future, then the entity that would perform the restoration would have to seek appropriate approval from the Corps at that point. That, however, does not mean that Hazard Park has shown that the reopening of this abandonment proceeding is warranted. Based upon SEA's consultation with the Corps and UP, Hazard Park's petition will be denied.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. The petition by Hazard Park to reopen this proceeding is denied.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary