

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 232X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN  
ORANGE COUNTY, CA

Decided: November 17, 2005

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinue of Service and Trackage Rights to abandon a 1.46-mile line of railroad known as the Tustin Industrial Lead from milepost 514.84 to milepost 516.10 and from milepost 514.70 to milepost 514.90 in the City of Orange, Orange County, CA. Notice of the exemption was served and published in the Federal Register on October 8, 2005 (70 FR 60600-01). The exemption is scheduled to become effective on November 17, 2005.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on October 21, 2005. In the EA, SEA states that the National Geodetic Survey (NGS) has identified five geodetic station markers 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 conducting salvage so that NGS may plan for the possible relocation of the identified geodetic station markers.

SEA also states that the California State Historic Preservation Office (SHPO) has not completed its evaluation of the potential impact of this project on historic resources. Accordingly, SEA recommends that UP retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are eligible for listing or listed in the National Register of Historic Places until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA), and report to SEA the results of any consultations with the SHPO.

Finally, SEA states that the United States Army Corps of Engineers (Corps) has stated that the information in UP's environmental report was not sufficient for the Corps to make a determination on whether the proposed abandonment would affect areas under their jurisdiction. Therefore, SEA recommends that, prior to any salvage activities, UP consult with the Corps to determine whether a permit under section 404 of the Clean Water Act (33 U.S.C. 1344) is required.

Comments to the EA were due by November 7, 2005. In a letter dated October 27, 2005, the City of Orange (City), submitted to SEA comments to the EA regarding vehicular and

pedestrian safety issues that may result following the proposed abandonment. In a November 7, 2005 letter, the Southern California Regional Rail Authority (SCRRA)<sup>1</sup> also submitted a comment addressing similar issues. In its letter, the City notes that the EA mistakenly stated that UP would eliminate grade crossings at three intersections (Walnut Avenue, Collins Avenue and Katella Avenue), all of which currently have signalized gates and flashers. The City explains that no grade crossings will be eliminated by UP's proposed abandonment, and that an active rail line will still exist at these three arterial crossings. In order to address potential safety concerns at the crossing, the City requests that UP relocate the east side gates and flashers (which it believes UP owns) and suggests that UP pay for the relocation of the east side gates and flashers as part of the abandonment process. SCRRA currently owns and operates the west side gates and flashers. SCRRA, in its comments, concurs with the City's suggestion regarding UP's relocation of the gates and flashers. However, SCRRA also specifically requests that UP bear the cost of relocating the current grade crossing automatic warning devices at the Collins Street and Katella Avenue intersections to the east side of the operating right-of-way used by Metrolink. SCRRA additionally requests that UP integrate the relocated signals into Metrolink's signaling system. In addition, the City has expressed concern regarding UP's intention to leave track in place at the three highway crossings which it believes would create a safety hazard for vehicles crossing at those locations. In order to alleviate the potential safety hazard to vehicles, the City requests that UP remove the track within the road crossings. Finally, the City also has expressed concern regarding the development of the parcels of land that would remain following the proposed abandonment. The City notes that any construction activities that may occur along the land left following any abandonment of the line would require the construction of driveways over an active track line which would create a potential safety hazard in the area.

In response to the comments, a representative from UP has informed SEA that UP does not own the signalized gates and flashers along the east side of the line. UP's representative also indicated that any discussion that UP may have regarding the movement of the gates and flashers and the removal of rail within the intersections would occur at a later date with the appropriate state officials. UP's representative further notes that any redevelopment of the abandoned railroad right-of-way is unknown at this time and any safety issues that may arise would be determined at a later time following abandonment of the right-of-way. Based on the above information provided by UP's representative, SEA does not recommend that the Board impose any conditions in this area at the time and none will be imposed. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

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<sup>1</sup> SCRRA is a joint powers authority comprised of five county member agencies that operate and maintain rail lines including the Metrolink commuter rail.

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) notify NGS 90 days prior to conducting salvage activities so that NGS may plan for the possible relocation of the identified geodetic station markers; (2) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are eligible for listing or listed in the National Register of Historic Places until completion of the section 106 process of the NHPA and report to SEA the results of any consultations with the SHPO; and (3) prior to salvage activities, consult with Corps to determine whether a permit under section 404 of the Clean Water Act (33 U.S.C. 1344) is required.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary