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SERVICE DATE - MARCH 25, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 221X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN SANTA CLARA COUNTY, CA

Decided: March 24, 2005

On August 10, 2004, Union Pacific Railroad Company (UP) filed a petition seeking an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon and discontinue service over a line, known as the San Jose Industrial Lead, extending from milepost 16.3 to milepost 19.6, for a distance of 3.3 miles, in Santa Clara County, CA. By decision served on November 26, 2004 (November 26 decision), the petition for exemption was granted, subject to the conditions that UP: (1) consult with the National Geodetic Survey (NGS) and notify NGS 90 days prior to salvage activities to plan for the relocation of an identified station marker; (2) retain its interest in and take no steps to alter the historic integrity of all sites and structures located on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; and (3) consult with the California Coastal Commission (CCC) before beginning salvage activities to determine whether a California State Coastal Management (CSCM) consistency certification is required, and, if so, refrain from performing any salvage activities until obtaining certification, and notifying the Board's Section of Environmental Analysis (SEA), pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.* (CZMA).¹

On December 27, 2004, UP filed a letter stating that it had consulted with NGS regarding the location of the identified station marker. Based on the information in this letter, SEA recommends that the NGS notification condition be removed.

Concerning the section 106 condition, on February 16, 2005, UP provided to SEA a copy of a letter from the California Office of Historic Preservation, stating that the proposed abandonment would have no effect on historic properties. Because this completes the section 106 process, SEA recommends that the historic preservation condition be removed.

Finally, SEA notes that The Federal Consistency Unit of CCC orally informed SEA that Santa Clara County is not within California's coastal zone and a CSCM consistency certification

¹ The November 26 decision also imposed the employee protective conditions in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

would not be required for this abandonment proceeding. Based on this information, SEA recommends that the CCC consultation condition be removed.

Accordingly, the proceeding will be reopened and the three previously imposed historic and environmental conditions will be removed.² Upon service of this decision, UP may proceed to consummate the abandonment.³

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 three historic and environmental conditions imposed in the November 26 decision are removed.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² The employee protective conditions remain in effect.

³ In its December 27, 2004 letter, UP stated that it had consummated the abandonment. In that letter, UP indicated that it had received correspondence from the California Office of Historic Preservation indicating that the abandonment would have no effect on historic properties. Before moving to consummate the abandonment, UP should have submitted a copy of this letter to SEA to document proper completion of the section 106 process so that the Board could remove the section 106 condition. Also, although, as discussed above, CSCM consistency certification is not needed for this abandonment, had CSCM consistency certification been necessary, UP would have been required to obtain consistency certification and inform SEA that it had obtained such certification, prior to consummation.