

SERVICE DATE – MARCH 6, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-512X

SIERRA PACIFIC INDUSTRIES—ABANDONMENT EXEMPTION—
IN AMADOR COUNTY, CA

Decided: March 3, 2006

By decision served on February 25, 2005, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by Sierra Pacific Industries, Inc. (SPI) of a line of railroad extending from milepost 0.0 at Ione to milepost 12.0 at Martell, in Amador County, CA.¹ The Board made the exemption subject to public use trail use, and environmental conditions. SPI submitted a consummation notice on February 16, 2006.²

By letter filed on February 28, 2006, SPI seeks to withdraw its consummation notice. SPI notes that, among the conditions that were imposed, SPI was required to 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 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. SPI explains that it mistakenly filed the notice without having fulfilled the historic preservation condition. SPI assures the Board that it will comply with the historic preservation condition and not attempt to consummate the abandonment before the condition has been satisfied and removed by the agency.

The Board's regulations at 49 CFR 1152.29(e)(2) require the filing of a notice of consummation within 1 year from the service date of the decision authorizing abandonment, but only if there are no legal or regulatory barriers to consummation. The existence of an unsatisfied historic preservation condition constitutes such a barrier. In that case, the Board's regulations provide that the time to consummate the abandonment and file a notice of consummation extends until 60 days after the satisfaction, expiration, or removal of the condition. Because the historic preservation condition here has not been satisfied, SPI's request to withdraw the consummation letter will be granted.

¹ In the same decision, the Board also granted an exemption for SierraPine to discontinue service over the line in SierraPine—Discontinuance Exemption—In Amador County, CA, STB Docket No. AB-880X (STB served Feb. 25, 2005).

² While SierraPine joined in this filing, only the carrier that has received abandonment authority is subject to the requirement for filing a notice of consummation. See 49 CFR 1152.29(e)(2).

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

It is ordered:

1. The request of SPI to withdraw the consummation letter is granted.
2. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary