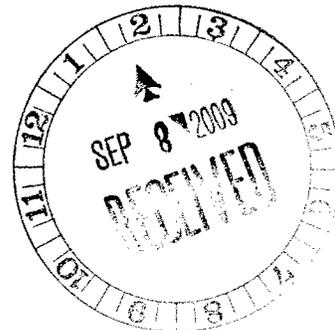


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ORIGINAL



September 8, 2009

VIA HAND DELIVERY – RETURN COPY

Hon. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423

ENTERED  
Office of Proceedings

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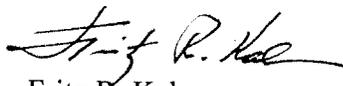
Dear Secretary Quinlan:

Enclosed for filing in STB Docket No. b-397 (Sub-No. 7X), Tulare Valley Railroad Company—Abandonment Exemption—in Tulare County, CA, are the original and ten copies of the Petition for Reconsideration of Tulare Valley Railroad Company.

Attached is this firm's check for \$250 in payment of the filing fee.

Additional copies of this letter and of the Petition for Reconsideration are enclosed for you to stamp to acknowledge your receipt of them and to return to me via the messenger.

Sincerely yours,

  
Fritz R. Kahn

Enc.

Cc: Michael J. Van Wagenen, Esq.

SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC

STB Docket No. AB-397 (Sub-No. 7X)

TULARE VALLEY RAILROAD COMPANY  
--ABANDONMENT EXEMPTION--  
IN TULARE COUNTY, CA

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PETITION FOR RECONSIDERATION  
OF  
TULARE VALLEY RAILROAD COMPANY



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Attorney for

TULARE VALLEY RAILROAD COMPANY

Dated: September 8, 2009

SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC

STB Docket No. AB-397 (Sub-No. 7X)

TULARE VALLEY RAILROAD COMPANY  
--ABANDONMENT EXEMPTION--  
IN TULARE COUNTY, CA

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PETITION FOR RECONSIDERATION  
OF  
TULARE VALLEY RAILROAD COMPANY

Tulare Valley Railroad Company ("TVR"), a Class III railroad subject to this Board's jurisdiction, pursuant to 49 C.F.R. 1115.4, seeks reconsideration of the Board's Decision, served August 19, 2009, on the ground that it contained material error. The Board's Decision, among other things, stated:

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on July 24, 2009. In the EA, SEA stated that TVR submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the California State Historic Preservation Office (SHIPO), pursuant to 49 CFR 1105.8(c). SEA indicated that the historic report stated that the line includes a 48-foot culvert at milepost 70.4 stamped with the date 1934 and a wooden trestle bridge at milepost 67.8 constructed in 1924. SEA indicated that it is currently in consultation with the SHIPO regarding the potential eligibility of these resources for listing on the National Register of Historic Places (National Register). Accordingly, SEA recommended a condition requiring TVR to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project's right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register until completion of the section 106 process.

In its Decision, the Board accepted SEA's recommendation and conditioned the proposed abandonment, as follows:

TVR shall: ... (a) retain its interest in and take no steps to alter the historic

integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the section 106 process of the National Historic Preservation Act has been completed; (b) report back to SEA regarding any consultations with the SHIPO and other section 106 consulting parties that have been identified and the public; and (c) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition . . .

TVR has complied fully with the Board's condition. SHIPO, however, has not. SHIPO has been absolutely incommunicado. Despite repeated efforts to learn what additional information SHIPO wants from TVR, SHIPO has not been heard from.

In the meantime, TVR bears the burden of bearing the liability for the railroad line authorized for abandonment and is denied the opportunity cost that salvage of the tracks, ties and other track materials would yield. Based upon SHIPO's past indifference, this unwarranted imposition upon TVR could continue for many months.

In the circumstances, conditioning TVR's proposed abandonment to await SHIPO's response constituted material error, and the condition should be stricken.

Respectfully submitted,

TULARE VALLEY RAILROAD COMPANY

By its attorney,



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Dated: September 8, 2009