

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 33 (Sub-No. 345X)

**Union Pacific Railroad–Abandonment Exemption–
in Riverside and San Bernardino Counties, Cal.**

BACKGROUND

In this proceeding, Union Pacific Railroad (UP) filed a verified notice with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad located in Riverside and San Bernardino counties, California.¹ The rail line proposed for abandonment is located on a portion of the Crestmore Industrial Lead and extends approximately 0.54 miles from milepost 7.06 to milepost 7.60 (the Line). The Line closely parallels Rubidoux Boulevard and crosses El Rivino Road near the Line’s midpoint. A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If this notice becomes effective, UP would be able to salvage the track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to UP, the Line was built around 1911 by the Riverside Rialto and Pacific Railroad Company. The Line was sold to the Los Angeles & Salt Lake City Railroad Company in 1917 and became part of the UP system in 1921. UP indicates that the Line served a former cement plant that is no longer in production and that the area is now being redeveloped for non-rail uses. According to UP, all the track north of El Rivino Road has been completely removed.²

¹ UP initially filed for abandonment of the Line on September 18, 2020. However, after discovering that a United States Zip Code and a county were omitted, UP requested that the Board hold this proceeding in abeyance to allow time for UP to correct the mistake and provide the appropriate notice to the parties. UP’s updated notice, filed with the Board on June 2, 2021, provides the corrected information.

² UP filed an errata notice on October 2, 2020 that may be viewed on the Board’s website at <https://prod.stb.gov/> by clicking “Search STB Records;” selecting “Filings” in the “Search for” dropdown menu; entering “AB” “33” “345” “X” sequentially in the four boxes for “Docket Number,” then selecting “Search.”

The Line passes through residential communities and industrial uses but the segment with remaining track and ties is within an industrial area that terminates at the former cement plant. The right-of-way is generally 100 feet in width and the topography is flat. UP states that there are no bridges on the Line. The Line traverses United States Zip Codes 92509 and 92316. Based on information in its possession, UP indicates that the Line does not contain any federally granted rights-of-way.

ENVIRONMENTAL REVIEW

UP submitted an Environmental and Historic report (E&H Report) with its updated notice filed with the Board on June 2, 2021 that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage. UP served the E&H Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].³ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to UP, no local traffic has moved over the Line for at least two years and there is no need to reroute any overhead traffic. Moreover, UP states that the area would continue to receive rail service from UP via the remaining portion of the Crestmore Industrial Lead and other UP lines in the vicinity, and that the area just east of Los Angeles is well served by major highways and numerous local roads. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. If abandonment authority is granted, UP would salvage the remaining rail, tie, and track material still in place. UP intends to retain the underlying ballast (unless suitable for resale) and any structures, including culverts, so as not to alter or impede existing drainage flows. All at-grade crossings would be removed and remediated, then resurfaced with gravel, asphalt or concrete, as required by the governing road authority. UP notes that its salvage work for abandonments is always performed by experienced rail material salvagers and each salvage contract includes detailed information on any environmental or historical conditions imposed by the Board. Completed work is independently inspected by a UP maintenance official to ensure compliance

³ Id.

with UP standards of quality and all contractual obligations, including Board imposed conditions, if applicable.

The California Coastal Commission (CCC) has not provided comments on whether the Line is located in a California coastal zone. However, OEA conducted a search of CCC's web site and found that there are no designated coastal zone boundaries in Riverside County or San Bernardino County.⁴ Accordingly, the proposed abandonment is not subject to the federal coastal zone consistency requirements of the Coastal Zone Management Act.

UP requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species. To date, USFWS has not provided comments. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.⁵ Eight protected threatened or endangered species are located in the area of the proposed abandonment. The species identified are: the threatened Coastal California Gnatcatcher (*Polioptila californica californica*) and Santa Ana Sucker (*Catostomus santaanae*); and the endangered San Bernardino Merriam's Kangaroo Rat (*Diposomys merriami parvus*), Least Bell's Vireo (*Vireo bellii pusillus*), Southwestern Willow Flycatcher (*Empidonax traillii extimus*), Delhi Sands Flower-loving Fly (*Rhaphiomidas terminatus abdominalis*), San Diego Ambrosia (*Ambrosia pumila*) and the Santa Ana River Woolly Star (*Eriastrum densifolium ssp. Sanctorum*). According to the IPaC report, no critical habitat exists in the project area for these species and OEA believes that salvage of the Line would not affect federally listed threatened or endangered species because much of the area adjoining the right-of-way appears to be disturbed, possibly as a result of the prior industrial operations associated with the former cement plant, as well as by new redevelopment activities. OEA is providing USFWS Carlsbad field office a copy of this EA for its review.

UP requested comments from the U.S. Army Corps of Engineers (Corps) regarding the need for a Section 404 of the Clean Water Act (33 U.S.C. § 1344) permit if fill material is discharged or placed into any water bodies, including inland waterways as a result of salvage activities. To date, the Corps has not provided comments. However, OEA has reviewed aerial digital images of the area and believes a Corps permit is not necessary because there are no water features along the abandonment right-of-way. And as previously noted, UP would retain any culverts so as not to alter the prevailing water flows. OEA is providing the Corps' Los Angeles District office with a copy of this Draft EA for review.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Similarly, any noise related to salvage operations would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

⁴ California Coastal Commission, <https://www.coastal.ca.gov/maps/czb/>, (last visited June 10, 2021).

⁵ U.S. Fish and Wildlife Service, Information, Planning, and Conservation (IPaC) System, <http://ecos.fws.gov/ipac> (last visited June 14, 2021).

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to the following agencies for review and comment: the National Geodetic Survey; the U.S. Fish and Wildlife Service; and the U.S. Army Corps of Engineers.

HISTORIC REVIEW

UP served the E&H Report on the California State Parks' Office of Historic Preservation (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).⁶ OEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, OEA is recommending a condition requiring UP 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 right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development Tribal Directory Assessment Tool to identify federally recognized tribes that may have ancestral connections to the project area.⁷ The database indicates that there are 22 federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way or APE of the proposed abandonment. The tribes are: Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Augustine Band of Cahuilla Indians, California; Cabazon Band of Mission Indians, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort McDowell Yavapai Nation, Arizona; Fort Mojave Indian Tribe of Arizona, California and Nevada; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Los Coyotes Band of Cahuilla and Cupeno Indians, California; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Morongo Band of Cahuilla Mission Indians, California; Paiute Indian Tribe of Utah; Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Ramona

⁶ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act (NHPA). Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found on the Board's website at <https://prod.stb.gov/resources/environmental/historic-preservation-overview/>.

⁷ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat/> (last visited June 14, 2021).

Band of Cahuilla, California; San Manuel Band of Mission Indians, California; Santa Rosa Band of Cahuilla Indians, California; Soboba Band of Luiseno Indians, California; Torres Martinez Desert Cahuilla Indians, California; and Twenty-Nine Palms Band of Mission Indians of California. OEA is sending a copy of this Draft EA to these tribes for review and comment.

CONDITION

OEA recommends that the following condition be imposed on any decision granting abandonment authority.⁸

1. Union Pacific Railroad Company (UP) shall 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, 54 U.S.C. § 306108, has been completed. UP shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the California State Parks' Office of Historic Preservation and the public. UP may 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.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the Line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Board's Federal Register notice of the proposed abandonment.

⁸ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 were to be reached for the Line (or a portion thereof), compliance with this condition would not be required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁹

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29). The Federal Register notice is also issued as a Board decision and is available on the Board's website.¹⁰

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

As of March 17, 2020, all filings and other submissions should be submitted electronically through the Board's website at <https://prod.stb.gov>. To submit a comment on the Draft EA, select "File an Environmental Comment" under "Need Assistance?" on the Board's home page. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat or other file formats. If you have any questions, please contact Diana Wood by email at diana.wood@stb.gov or by phone at 202-245-0302.

Date made available to the public: July 2, 2021.

Comment due date: July 19, 2021.

By the Board, Danielle Gosselin, Acting Director, Office of Environmental Analysis.

Attachment

⁹ Board decisions are available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "33" "345" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

¹⁰ Id.



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Legend
— the Line

Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.

