

SERVICE DATE – JULY 29, 2021

SURFACE TRANSPORTATION BOARD

DECISION

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

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN RIVERSIDE AND SAN BERNARDINO COUNTIES, CAL.

Decided: July 29, 2021

Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 0.54-mile portion of the Crestmore Industrial Lead in Crestmore, Cal., between milepost 7.06 and milepost 7.6, in Riverside and San Bernardino Counties, Cal. (the Line). Notice of the exemption was served and published in the Federal Register on June 30, 2021 (86 Fed. Reg. 34,830). The exemption is scheduled to become effective on July 30, 2021.

The Board's Office of Environmental Analysis (OEA) served a Draft Environmental Assessment (Draft EA) on July 2, 2021, recommending that one condition be imposed on any decision granting abandonment authority. OEA stated that UP served its environmental and historic 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) and noted that because the SHPO had not yet commented, OEA had not been able to consider the SHPO's opinion in determining the impact of the proposed abandonment on historic resources. Accordingly, OEA recommended 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, or APE) that are eligible for listing or listed in the National Register of Historic Places (National Register) until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108 (NHPA), has been completed and the Board has removed the condition.

OEA served its Final Environmental Assessment (Final EA) on July 22, 2021. The Final EA notes that two comments were received. First, the Cultural Resources Management Department (CRM) of the San Manuel Band of Mission Indians (SMBMI) comments that, pursuant to Section 106 of NHPA, the proposed abandonment's APE is within its ancestral territory and therefore is of interest to the tribe. Nevertheless, SMBMI notes that no further consultation would be necessary, given the nature and location of the proposed abandonment as well as CRM's present state of knowledge of the area. However, SMBMI requests that, should cultural resources be discovered during salvage, all work related to the salvage process immediately cease pending further consultation and resolution of the matter.

In order to address SMBMI's concern about unanticipated discoveries, OEA, in the Final EA, recommends a condition requiring that, in the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, UP immediately cease all work and notify OEA, interested federally recognized tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b) and providing that OEA shall then consult with the SHPO, interested federally recognized tribes, UP, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

Second, UP provided a website link to an environmental impact report prepared by the City of Jurupa Valley (City) in December 2019 for redevelopment of the surrounding area, which includes the area of the proposed abandonment. The City's report concludes that the Line is not eligible for listing on the National Register and that redevelopment of the area would result in a less than significant impact. The Final EA states that, although the City's report was thoroughly documented, OEA has not received any correspondence from the SHPO that would indicate the SHPO concurs with the report's findings and conclusions, and OEA has not received comments from the SHPO regarding the proposed abandonment. Accordingly, OEA continues to recommend that the Section 106 condition recommended in the Draft EA be imposed.¹

Accordingly, based on OEA's recommendations, the two conditions proposed in the Final EA will be imposed.

This decision, and the proposed abandonment if implemented as conditioned, 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 notice served and published in the Federal Register on June 30, 2021, exempting the abandonment of the Line described above is subject to the following conditions:²

(a) 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 Area of Potential

¹ The Final EA also indicates that the unanticipated discoveries condition proposed in response to SMBMI's comment also would address concerns expressed in the City's report about possible prehistoric archeological resources near the project area.

² If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with the condition set forth in the Final EA is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

Effect that are eligible for listing or listed in the National Register until the Section 106 process of the NHPA has been completed. UP shall report back to OEA regarding any consultations with the SHPO, any other Section 106 consulting parties that have been identified, and the public. UP shall not file its consummation notice or initiate any salvage activities related to the abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

(b) In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, UP shall immediately cease all work and notify OEA, interested federally recognized tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b). OEA shall then consult with the SHPO, interested federally recognized tribes, UP, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.