

**SURFACE TRANSPORTATION BOARD**  
**SECTION OF ENVIRONMENTAL ANALYSIS**

#EO-1264

**POST ENVIRONMENTAL ASSESSMENT**

ENVIRONMENTAL RECOMMENDATIONS IN  
STB DOCKET NO. AB-33 (Sub-No. 278X)

July 27, 2009

**ABANDONMENT TYPE**

The time for comments on the Environmental Assessment (EA) has expired in this:

(X) Notice of Exemption ( ) Petition for Exemption ( ) Regulated Abandonment

( ) **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

SEA served an Environmental Assessment (EA) for this proceeding on July 7, 2009 for public review and comment. In the EA, SEA recommended one (1) environmental condition and concluded that the proposed action would not significantly impact the quality of the human environment.

**Comments on the EA**

SEA received one comment (see attached) after the issuance of the EA. The City of Modesto commented that it is interested in entering into a trails use agreement with the Union Pacific Railroad Company (UP) for the 5.18 miles of rail line to be abandoned. The City indicates that it has four miles of recreational trail already rail banked in its Virginia Corridor Trail project and would like to expand the recreational corridor further by adding the 5.18 miles of rail line proposed for abandonment in this proceeding. The City has requested that there be no salvage activities during this period of negotiation. Based on this request, SEA is recommending a new condition that requires UP to consult with the City of Modesto prior to initiating salvage activities.

**Conclusions**

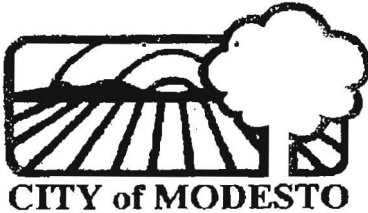
The EA comment period has ended. Accordingly, SEA recommends that the one condition recommended in the EA as well as the new condition recommended in this document be imposed upon any decision granting abandonment authority. SEA concludes that if the following conditions are imposed, the proposed action would not significantly affect the quality of the human environment.

1. The Union Pacific Railroad Company (UP) shall retain its interest in and take no further steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way (area of potential effects) 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, 16 U.S.C. § 470(f), has been completed. UP shall report back to the Section of Environmental Analysis (SEA) regarding any consultations with the California Department of Parks and Recreation (State Historic Preservation Office) and any other Section 106 consulting parties. UP may not file its consummation notice or initiate any salvage activities related to abandonment until the Section 106 process has been completed and SEA has removed this condition
2. Prior to commencement of salvage activities, UP shall contact the City of Modesto in order to discuss local concerns regarding the future use of the rail line proposed for abandonment. UP shall report the results of the consultations back to the Section of Environmental Analysis (SEA) in writing.

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Distribution: Ann Newman, Office of Proceedings  
SEA Chron  
ECT

Attachment: (1)



**Parks,  
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**Hearing and Speech  
Impaired Only**  
TDD 209/526-9211

July 21, 2009

Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001

Dear Ms. Quinlan:

RE: Union Pacific Railroad Company Abandonment in Modesto, Escalon, Stanislaus and San Joaquin Counties, California; STB Docket No. AB-33 (sub-no. 278).

This request is filed on behalf of the City of Modesto, which is a government agency interested in transportation and recreation, hereinafter referred to as "proponent."

While not taking a position on the merits of this abandonment, proponent requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization for the rail corridor between Pelandale Avenue in Modesto to just south of East Jones Avenue in Escalon, for a total of 5.18 miles.

**A. Public Use Condition**

Proponent requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the corridor would make an excellent recreational trail, and conversion of the property to trail use is in accordance with local plans. Modesto has already "Railbanked" four (4) miles of the rail corridor, south of Pelandale Avenue to downtown, and we have built the first 1.4 miles of trail and linear park. The conversion of this additional 5.18 miles to recreational trail use will augment the existing "Virginia Corridor Trail" project. The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time because we have not had an opportunity to assemble or to review title information, complete a trail plan or commence negotiations with the carrier.

*Citizens First!*

of any and all taxes that may be levied or assessed against the debt of any person

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2. An order barring removal or destruction of potential trail-related structures, such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

#### B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for rail banking. In addition to the public use conditions sought above, proponent also make the following request:

#### STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, the City of Modesto is willing to assume full responsibility for management of , for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by the Union Pacific Railroad Company and operated by same.

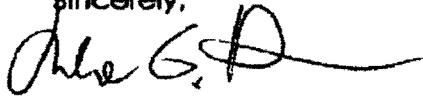
The property, known as the McHenry Industrial Lead, extends from railroad milepost 21.25 near East Jones Avenue to railroad milepost 26.43 near Pelandale Avenue, a distance of 5.18 miles in Stanislaus and San Joaquin Counties, California. The right-of-way is part of a line of railroad proposed for abandonment is STB Docket No. AB-33 (Sub278).

A map depicting the right-of-way is enclosed.

The City of Modesto acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon Union Pacific Railroad Company/Director of Real Estate-West/1800 Farnam Street/Omaha, Nebraska 68102, by Federal Express priority overnight delivery, on July 21, 2009.

Sincerely,



Julie G. Hannon  
Director

JGH:BF:mch  
Enclosure