

SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS

SUPPLEMENTAL ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 33 (Sub-No. 285X)

August 31, 2010

RECOMMENDATION: Remove Section 106 Condition and Add New Condition

In this proceeding, Union Pacific Railroad Company (UP) filed a notice of exemption to abandon a 1.45-mile line of railroad near Grandview, in Yakima County, Washington. Because the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f (NHPA), had not been completed at the time of the Board's July 21, 2010 decision, the Board imposed a condition requiring UP to: (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 that are eligible for listing or are listed in the National Register of Historic Places until the Section 106 process of the NHPA has been completed; (b) report back to the Board's Section of Environmental Analysis (SEA) regarding any consultations with the Washington Department of Archaeology & Historic Preservation (the State Historic Preservation Office or SHPO) and the public; and (c) not file a 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 the condition.

New Comments On the Abandonment

Section 106 Condition

On July 28, 2010, UP filed a letter with the Board requesting an amended decision in order to allow salvage of the portion of the track between milepost 57.9 and milepost 58.1.¹ According to UP, the Sunnyside Valley Irrigation District is seeking to cross the right-of-way at this location with an irrigation pipe, and the U.S. Bureau of Reclamation previously conducted an historic review of this area in connection with that irrigation project.

Following UP's request to modify the Section 106 condition, the SHPO asked the railroad to provide additional information, including more detailed maps. Based on that

¹ Where an historic condition is needed only for a segment of the line, a railroad may request that the Board modify the condition to allow the railroad to salvage the portions of the line not affected by that condition. See Consummation of Rail Line Abandonments That Are Subject To Historic Preservation And Other Environmental Conditions, EP 678 (April 23, 2008).

information, as well as further consultations with the SHPO and the railroad, SEA determined that UP's proposed abandonment of the entire 1.45-mile line would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places.² In a letter dated August 17, 2010, the SHPO submitted comments stating that it concurs with this determination. Accordingly, the Board has satisfied its responsibilities under Section 106 of the NHPA in this proceeding, and SEA is recommending that the Board remove the Section 106 condition.

New Condition To Address Unanticipated Discoveries Of Archaeological Resources

In its August 17, 2010 letter, the SHPO also stated that if any archaeological resources are uncovered during salvage activities, work in the area of the discovery should stop and further consultations should be undertaken. In response to the SHPO's concern regarding unanticipated discoveries of archaeological resources, SEA is recommending that the Board impose the following new condition:

In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, Union Pacific Railroad Company (UP) shall immediately cease all work and notify the Board's Section of Environmental Analysis (SEA), appropriate federally-recognized tribes, and the Washington Department of Archaeology & Historic Preservation (the State Historic Preservation Office or SHPO) pursuant to 36 C.F.R. § 800.13(b). SEA will then consult with the SHPO, appropriate federally-recognized tribes, the railroad, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

Conclusions

For the reasons stated above, SEA recommends that the Board: (1) remove the Section 106 condition that was imposed in the July 21, 2010 decision and (2) impose a new condition to address the SHPO's concerns regarding unanticipated discoveries of archaeological resources. Condition 1, which requires consultation with the U.S. Army Corps of Engineers, remains unchanged. Accordingly, the conditions are as follows:

1. Prior to commencement of any salvage activities, Union Pacific Railroad Company shall consult with the U.S. Army Corps of Engineers' Seattle District (Corps) regarding potential impacts to waters of the United States, including wetlands, and shall comply with the reasonable requirements of the Corps.
2. In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, Union

² The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of the railroad's Historic Report, all relevant correspondence, and the June 25, 2010 Environmental Assessment, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

Pacific Railroad Company (UP) shall immediately cease all work and notify the Board's Section of Environmental Analysis (SEA), appropriate federally-recognized tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b). SEA will then consult with the SHPO, appropriate federally-recognized tribes, the railroad, and other consulting parties, if any, to determine whether mitigation measures are necessary.

If the above conditions are imposed, SEA believes that the proposed action will not significantly affect the quality of the human environment.

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