

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 285X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT EXEMPTION–
IN YAKIMA COUNTY, WASH.

Decided: October 14, 2010

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F–Exempt Abandonments to abandon a 1.45-mile line of railroad, on the Yakima Industrial Lead, from milepost 57.30 to milepost 58.75 near Grandview, in Yakima County, Wash. Notice of the exemption was served and published in the Federal Register on June 22, 2010 (75 FR 35,513-14). The exemption became effective on July 22, 2010.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on June 25, 2010. By decision served on July 21, 2010, the proceeding was reopened at the request of SEA, and the exemption was made subject to the following 2 conditions requiring that: (1) UP consult with the U.S. Army Corps of Engineers' Seattle District (Corps) prior to the commencement of any salvage activities regarding potential impacts to waters of the United States, including wetlands, and comply with the reasonable requirements of the Corps; and (2) (a) UP 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 listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 § U.S.C. 470f (NHPA), has been completed, (b) UP report back to SEA regarding any consultations with the Washington Department of Archaeology & Historic Preservation (the State Historic Preservation Office or SHPO) and the public, and (c) 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.

On July 28, 2010, UP filed a letter with the Board requesting an amended decision in order to remove the Section 106 condition and allow salvage activities for 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

¹ Where a 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 Abans. That Are Subject To Hist. Preservation And Other Environ. Conditions, EP 678 (STB served Apr. 23, 2008).

that irrigation project. Based on additional information, including more detailed maps sought by the SHPO and provided by UP, 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. In a letter dated August 17, 2010 (August 17 letter), the SHPO submitted comments stating that it concurs with this determination. Accordingly, SEA recommends that the Board remove the Section 106 condition.

Also, in its August 17 letter, the SHPO 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. Accordingly, SEA recommends that the Board impose a new condition that, in the event any unanticipated archaeological sites, human remains, funerary items, or associated artifacts are discovered during salvage activities, UP shall immediately cease all work and notify the Board's Office of Environmental Analysis (OEA),² appropriate federally recognized tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b). OEA 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.

Based on SEA's recommendations, the Board will remove the Section 106 condition. The Board will also impose the above-described condition addressing unanticipated discoveries of archaeological resources. The condition requiring UP to consult with the Corps remains in effect. Based on SEA's recommendation, 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 Section 106 condition is removed.
3. The exemption of the abandonment of the line described above is subject to the condition that, in the event 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, appropriate federally recognized tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b). OEA 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.

² As of September 1, 2010, SEA is now the Office of Environmental Analysis.

4. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.