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SERVICE DATE – NOVEMBER 25, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 338X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN SALT
LAKE COUNTY, UTAH

Decided: November 25, 2022

Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon a 0.5-mile portion of a rail line known as the SLC Passenger Line, from milepost 743.7 to milepost 744.2 in Salt Lake City, Salt Lake County, Utah (the Line). Notice of the exemption was served and published in the Federal Register on March 29, 2022 (87 Fed. Reg. 18,056). The exemption became effective on April 28, 2022.

By decision served April 27, 2022, the Board imposed one condition recommended by the Board's Office of Environmental Analysis (OEA), 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 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 (NHPA), 54 U.S.C. § 306108, has been completed and the Board has removed the condition.

In a Supplemental Final Environmental Assessment (Supplemental Final EA) served on August 25, 2022, OEA states that on July 14, 2022, OEA received a comment from the Utah State Historical Society (State Historic Preservation Office, or SHPO) finding that no historic properties would be affected by the proposed abandonment. Therefore, and pursuant to its consultation with the SHPO and the public, OEA recommends that the Board remove the Section 106 historic preservation condition.

The SHPO also noted that work must be halted within 50 feet of any ground disturbing activity that encounters subsurface archaeological deposits including, but not limited to, prehistoric artifacts or features, human remains, historic building foundations or walls, outhouse/privies, or dense trash deposits until appropriate notifications and assessments are conducted. Accordingly, OEA, in the Supplemental Final EA, recommends that a condition be imposed stating that, in the event any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during the railroad's abandonment-related salvage activities, the railroad will immediately cease all work and notify OEA, interested Federally recognized tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b). OEA will then

consult with the SHPO, interested Federally recognized tribes, the railroad, and other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

Consistent with OEA's recommendation, this proceeding will be reopened, the previously imposed Section 106 historic preservation condition will be removed, and the unanticipated archaeological discovery condition will be imposed.

This action 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 historic preservation condition imposed in the April 27, 2022 decision is removed, and the abandonment of the Line described above is subject to the following condition:¹

(a) In the event any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during the railroad's abandonment-related salvage activities, the railroad will immediately cease all work and notify OEA, interested Federally recognized tribes, and the SHPO pursuant to 36 C.F.R. § 800.13(b). OEA will then consult with the SHPO, interested Federally recognized tribes, the railroad, 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, Mai T. Dinh, Director, Office of Proceedings.

¹ 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 Supplemental 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.