

ED-922
CD

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

Susan Stratton, Senior State Archaeologist
California Department of Parks and Recreation
Office of Historic Preservation
1416 9th Street, Room 1442
Sacramento, California 94296

May 19, 2008

RE: **Log No. STB070814A**
STB Docket No. AB-512X, Sierra Pacific Industries – Abandonment Exemption
– in Amador County, CA

Dear Ms. Stratton:

The Surface Transportation Board's Section of Environmental Analysis (SEA) has completed its review of Sierra Pacific Industries's (SPI) proposed abandonment of an approximately 12-mile rail line in Amador County, California, pursuant to Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f.

As you know, the Amador Central Railroad District and associated historic resources were found to be eligible for listing in the National Register of Historic Places. After consultation with your office, the railroad, and other interested parties, SEA concluded that the proposed abandonment would have an adverse effect on these historic properties. As a result of the Section 106 consultation process, SEA developed a Memorandum of Agreement (MOA) pursuant to 36 CFR 800.6.

I have enclosed six copies of the MOA for your review and signature. In the interest of completing the Section 106 process in a timely manner, I would greatly appreciate your response within 20 days after receipt of this letter. In addition, please reference STB Docket No. AB-512X in all correspondence for this proceeding. **If you agree to the terms of the MOA, please sign all six copies at the appropriate line and return all six originals to:**

Surface Transportation Board
Section of Environmental Analysis
395 E Street, S.W.
Room 1108
Attn: Christa Dean, Attorney
Washington D.C. 20423-0001

If you have questions regarding the MOA or require further information, please do not hesitate to contact me at (202) 245-0299. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Christa Dean".

Christa Dean
Attorney
Section of Environmental Analysis

Enclosure

**MEMORANDUM OF AGREEMENT
BETWEEN
THE SURFACE TRANSPORTATION BOARD,
SIERRA PACIFIC INDUSTRIES AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER**

**REGARDING STB DOCKET NO. AB-512X
SIERRA PACIFIC INDUSTRIES
- ABANDONMENT EXEMPTION -
IN AMADOR COUNTY, CALIFORNIA**

WHEREAS, on November 12, 2004, Sierra Pacific Industries (SPI) filed a petition with the Surface Transportation Board (Board) seeking exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 for SPI to abandon an approximately 12-mile rail line between milepost 0.0 at Ione and milepost 12.0 at Martell, in Amador County, California ("Rail Line Abandonment"); and

WHEREAS, in a decision served on February 25, 2005, the Board imposed a condition for the proposed abandonment that requires SPI to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA). In a decision served on March 6, 2006, the Board made it clear that SPI must not file its consummation notice or initiate any salvage activities related to abandonment until the Section 106 process has been completed and the Board has removed this condition; and

WHEREAS, the Board has determined that the Rail Line Abandonment constitutes an Undertaking, as defined in 36 CFR 800.3(a); and

WHEREAS, for abandonments, the railroad right-of-way is the area of potential effects, defined at 36 CFR 800.16(d) as "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist." In this case, the right-of-way is 50 feet from the center line of track; and

WHEREAS, at the request of the California Office of Historic Preservation (State Historic Preservation Office or SHPO), a qualified cultural resources consultant conducted a survey of the proposed project area. The work included discussions with various Amador County historical groups; a record search from the North Central Information Center; discussions with local tribes and contact with the California Native American Heritage Commission; archaeological survey of the railroad grade from Ione to Highway 49 in Martell; research into the historic archives; preparation of a background history for the Amador Central Railroad; documentation and evaluation of the surviving railroad buildings; and evaluation of the railroad complex for the National Register of Historic Property (National Register). This work was conducted by professionals who meet the Secretary of the Interior's Professional Qualifications

Standards; and

WHEREAS, based on information in the survey and consultation with the SHPO, the Board's Section of Environmental Analysis (SEA) determined that the Amador Central Railroad Historic District and associated historic resources are eligible for listing on the National Register under Criteria A and C for: 1) association with events that have made a significant contribution to the broad patterns of our history and 2) embodiment of the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction. Contributors to the Amador Central Railroad Historic District include the following historic resources: the Amador Central Railroad; Martell Depot and Freight Shed; Amador Central Railroad Engine House and Car Shed; Shop/Barn; trackage, signals, and switches; and

WHEREAS, the Board consulted with the SHPO pursuant to 36 CFR Part 800, and determined that the proposed abandonment will have an adverse effect on the above mentioned historic properties¹; and

WHEREAS, in a letter dated August 28, 2007, the Board notified the Advisory Council on Historic Preservation (Advisory Council) of the adverse effect in accordance with 36 CFR Part 800 regulations, effective August 30, 2004, implementing Section 106 of the NHPA; and

WHEREAS, in a letter dated September 13, 2007, the Advisory Council declined to participate in the negotiation of this MOA; and

WHEREAS, pursuant to 36 CFR 800.6, the Board has consulted with the SHPO, SPI, and the Amador County Historical Society regarding ways to avoid, minimize, or mitigate potential effects to the historic resources as a result of abandonment and the Board, SHPO, and SPI have all agreed upon the measures described below under "Stipulations"; and

WHEREAS, SPI owns the historic property that will be adversely affected by the proposed undertaking and has participated in the consultation process, and pursuant to 36 CFR 800.6(c)(2)(iii), the Board has invited SPI to be a signatory party in this MOA that will guide taking such adverse effects into account; and

WHEREAS, the definitions listed in 36 CFR 800.16 are applicable throughout this MOA.

NOW, THEREFORE, the Board, SPI, and SHPO agree that the Undertaking shall be

¹ The SHPO concurred with the eligibility determination in a letter dated September 10, 2007.

implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties, and further agree that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated. Additionally, the Board, SPI and SHPO agree that the execution of this MOA by the parties hereto and its subsequent submission to the Advisory Council in accordance with 36 CFR 800.6(b)(1)(iv), shall, pursuant to 36 CFR 800.6(c), be considered to be an agreement with the Advisory Council for purposes of the NHPA. Execution and submission of the MOA, and implementation of its terms, evidences that the Board has afforded the Advisory Council an opportunity to comment on the proposed action relating to the line, and that the Board has taken into account the effects of the abandonment on historic properties and is satisfying the requirements of Section 106 of the NHPA.

STIPULATIONS

The Board shall ensure that the following mitigation measures are carried out:

I. TREATMENT OF HISTORIC PROPERTIES

A. Recordation of Historic Properties: the Board shall ensure that the following measures are conducted to mitigate the adverse effects of the rail line abandonment, removal of approximately 1.5 miles of rail line from State Route 88 to the eastern end of the rail in Martel (between milepost 10.5 and milepost 12.0), and removal of three buildings in Martell: a combined purchase order office/freight shed, a combined machine shop/round house and an engine and car house. Once the mitigation measures are complete and SHPO is notified, the Board will notify SPI that it may commence with removal of the rail line and structures. The actions that implement this MOA shall include the following:

1. SPI shall conduct photo documentation of the portion of the railroad to be removed, and include representative samples of trackage, switches, associated terraces, markers and other items that reflect the significance of the portions to be removed. The black and white photographs should move from an overall view of the structure in its environment to details of how it was constructed with associated features.
2. Minimum camera requirements pursuant to federal standards for the Historic American Buildings Survey (HABS) and the Historic American Engineering Record (HAER) collections shall be used, and large format (4x5 or larger negative size) professional black and white photography shall be processed for archival permanence and should include a photo index.
3. SPI should provide original construction drawings of the structures should they be available, selected drawings should be reproduced photographically in accordance with the photographic specifications of HABS/HAER. The preferred negative format for reproducing drawings is 8 x 10"; however, a 4 X 5" format may be used as long as the prints are enlarged to 8 x 10" in order to maximize their legibility.

4. A written historical and descriptive report shall be prepared according to the "Outline Format" of the National Park Service Guidelines for HABS/HAER documentation. The report should include a detailed description of the buildings and structures within the complex and a brief discussion of the contextual history of the Amador Central Railroad. A site plan on 8 ½ x 11" paper should be incorporated into the report.
5. The Recreational Railroad Coalition (RRC) would like the remaining length of rail line, from milepost 10.5 at State Route 88 to milepost 0.0 at Ione, to remain in place for use by its organization for recreational purposes. A lease agreement between RRC and SPI is in effect. This item in its entirety is not subject to the terms of this MOA.
6. All buildings and their contents of historic value in the current Martell Station will be donated to the Amador County Museum, provided that the Amador County Museum removes any property that it wants within four months of the date that this MOA is executed.²
7. A marker or plaque describing the significance of the area, historic context, and importance to the development of the community will be donated and established by SPI. SPI will provide photographs, video documentation, blueprints, and maps to the Amador County Historical Society.

II. UNANTICIPATED DISCOVERIES

If the Board determines after rail removal/construction has commenced, that the Undertaking will affect a previously unidentified property that may be eligible for inclusion in the National Register, the Board will address the discovery in accordance with 36 CFR 800.13(b)(3). The Board may assume the discovered property to be eligible for the National Register in accordance with 36 CFR 800.13(c).

III. STANDARDS

A. Professional Qualifications: All historic preservation activities implemented pursuant to this MOA shall be carried out by or under the direct supervision of a person or persons meeting, at a minimum, *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* for Professional Qualifications Standards (48 FR 44738–44739) in the appropriate disciplines. However, nothing in this stipulation may be interpreted to preclude the use of properly supervised services of persons who do not meet the Professional Qualifications Standards.

² On December 19, 2007, SPI made an offer to convey the buildings in Martel to the Amador County Historical Society. However, the Amador County Historical Society declined this offer.

IV. REPORTING REQUIREMENTS

- A. Draft Report:** SPI shall complete the photodocumentation and historic research report within four months of the signing of this MOA.
1. *Comment Period.* Following receipt of the draft report, the SHPO will have 30 days to comment on the documentation. SPI and the Board shall modify the report in accordance with any SHPO comments provided within the period. Failure of SHPO to comment within the specified period shall be deemed by the Board to constitute SHPO approval of the documentation.
 2. *Distribution of Final Report.* A copy of the documentation identified in Section I.A. will be sent by SPI to: the Board, North Central Information Center at California State University, Sacramento, Amador County Historical Society, SHPO, the California State Railroad Museum, and to other appropriate archives designated by the Board and SHPO.

V. ADMINISTRATIVE PROVISIONS

A. Dispute Resolution: Should any signatory party to this MOA object at any time to the manner in which the terms of the MOA are implemented, the Board shall consult with the objecting party to resolve the objection. If the Board determines, within 15 days after consultation begins, that such objection cannot be resolved, the Board will either:

1. Render a decision regarding the dispute within 30 days after it has determined that the dispute could not otherwise be resolved. The Board will notify all parties of its decision in writing within this time frame. In reaching its decision, the Board will take all comments from the objecting party regarding the dispute into account. The Board's decision will be final; or
2. Forward all documentation relevant to the dispute to the Advisory Council in accordance with 36 CFR 800.2(b)(2). Any Advisory Council comment, and all comments from either party to this MOA, will be taken into account by the Board in reaching a final decision regarding the dispute. The Board's decision will be final.

B. Amendments, Non-Compliance and Termination: If any party believes that the terms of this MOA cannot be carried out or that an amendment to its terms should be made, that party shall immediately consult with the other parties to develop amendments to this MOA pursuant to 36 CFR 800.6(c)(7) and 800.6(c)(8). No amendments shall take effect without the unanimous consent of the signatory parties. If this MOA is not amended as provided for in this stipulation, any signatory party may terminate it, whereupon the Board shall proceed in accordance with 36 CFR 800.6(c)(8).

C. Duration of the MOA: Unless terminated pursuant to Section V.B. above, this MOA will be in effect until the Board, in consultation with the other signatory parties, determines that all of its terms have been satisfactorily fulfilled. Upon a determination

by the Board that all of the terms of this MOA have been satisfactorily fulfilled, this MOA will terminate and have no further force or effect. The Board will promptly provide the other signatory parties with written notice of its determination and of termination of the MOA.

D. Effective Date: This MOA will take effect on the date that it has been executed by the Board, SPI, and SHPO.

EXECUTION of this MOA by the Board, SPI, and SHPO; its transmittal to the Advisory Council; and subsequent implementation of its terms, evidences that the Board has afforded the Advisory Council a reasonable opportunity to comment on the Undertaking and its effects on historic properties, that the Board has taken into account the effects of the Undertaking on historic properties, and that the Board has satisfied its responsibilities under Section 106 of the NHPA and applicable implementing regulations.

SIGNATORY PARTIES:

SURFACE TRANSPORTATION BOARD

By: Victoria Rutson
Victoria Rutson
Chief of the Section of Environmental Analysis

Date: May 15, 2008

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: _____
Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

Date: _____

SIERRA PACIFIC INDUSTRIES

By: _____
M.D. Emmerson

Date: _____

CONCURRING PARTIES:

AMADOR COUNTY BOARD OF SUPERVISORS

By: _____
Richard Forster
Chairman

Date: _____