

**SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS**

POST ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN STB DOCKET NO. AB-1052X

March 5, 2010

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 EA for this proceeding on February 12, 2010 for public review and comment. In the EA, SEA recommended three environmental conditions and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

On February 17, 2010, SEA received the California Office of Historic Preservation's (State Historic Preservation Office or SHPO) reply to Almanor Railroad Company's (AL or railroad) historic report. The SHPO's reply states that no historic properties would be affected by the proposed abandonment (SHPO Project Number STB091109A, letter dated February 8, 2010). Pursuant to the Section 106 regulations of the National Historic Preservation Act (NHPA) at 36 CFR 800.4(d)(1), and following consultation with the SHPO and the public, SEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's Web site at <http://www.stb.dot.gov>. Accordingly, the EA condition pertaining to Section 106 of the National Historic Preservation Act is no longer recommended by SEA.

The railroad also submitted comments on the EA (electronically filed, February 23, 2010). In its comments, the railroad states that Section 106 of the NHPA requires that the Federal agency (in this case the Board) consult with the SHPO regarding a proposed undertaking (i.e., the proposed abandonment). The railroad goes on to state that the "Board as yet has not

taken the first step to initiate the Section 106 process, and its failure to do so contravenes the provisions of the National Historic Preservation Act.” Therefore, asserts the railroad, SEA’s recommended condition prohibiting the railroad from salvaging and consummating the abandonment until the Section 106 process is completed, is “completely out of order.” The railroad requests that the Board in its authorization of the abandonment not adopt SEA’s recommended Section 106 condition.

The railroad’s comments on and request to remove SEA’s recommended Section 106 condition have been made moot by the SHPO’s reply, SEA’s subsequent no adverse affects determination, and SEA’s removal of Section 106 consultations as a recommended condition. However, for the benefit of the railroad, SEA would like to clarify the Board’s Section 106 consultation process.

As permitted by 36 CFR Section 800.2(c)(4) of the Advisory Council on Historic Preservation’s (ACHP) regulations implementing Section 106, the Board delegated Section 106 consultation authority on September 15, 2009 to applicants seeking authority from the Board to abandon rail lines. Thus, the historic reports that applicants must submit to SHPOs at least 20 days prior to filing for abandonment authority before the Board initiates the Section 106 consultation process. Although this delegation had always been implied in the Board’s environmental rules, the reluctance of some SHPOs to accept this implied delegation resulted in the Board formally delegating authority in 2009. Additional guidance on historic preservation and the Board’s Section 106 process can be found on the Board’s Web site at: www.stb.dot.gov/stb/environment/HistoricPreservation/Guidnace.

Modifications to the EA

SEA no longer recommends that the Board impose a Section 106 consultation process.

Conclusions

The EA comment period has ended. Accordingly, SEA recommends that the following conditions previously recommended in the EA be imposed upon any decision granting abandonment authority:

1. Almanor Railroad Company shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers.
2. Almanor Railroad Company shall contact the U.S. Fish and Wildlife Service (USFWS), Endangered Species Program, Sacramento, CA prior to beginning salvage activities to discuss potential impacts to Federally listed endangered or threatened species that may occur in the project area (as identified by the USFWS in December 8, 2009 correspondence with the railroad). The railroad shall report the results of this consultation to the Board’s Section of Environmental Analysis (SEA) in writing.

Should any potential impacts be identified, the railroad shall consult with SEA and USFWS to develop appropriate mitigation measures.

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

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