

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

March 3, 2010

Larry Cenotto, President
Amador County Historical Society
P.O. Box 761
Jackson, CA 95642

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

Dear Mr. Cenotto:

In a letter dated February 10, 2010, the Amador County Historical Society (ACHS) contacted the Surface Transportation Board (Board) regarding the Memorandum of Agreement (MOA) for the above-referenced abandonment in Amador County, California. This letter responds to the comments and questions submitted by the ACHS.

Background

As you know, in 2004, Sierra Pacific Industries (SPI) filed a petition for exemption with the Board seeking approval authority to abandon this 12-mile railroad line in Amador County, California. The Board's approval of the abandonment is considered an undertaking under Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) (NHPA) and is thus covered under its provisions. The Section of Environmental Analysis (SEA) is the office within the Board responsible for conducting the environmental review process pursuant to the National Environmental Policy Act and the historic preservation review process under NHPA (the Section 106 process).

As early as March 2006, SEA commenced discussions with the ACHS, primarily with Mr. Dave Butow, regarding this rail line abandonment and the Section 106 process. Following an extensive consultation process that involved SPI, the California State Historic Preservation Office (SHPO), the ACHS, and the Amador County Board of Supervisors, SEA negotiated an MOA to comply with the Section 106 process and to mitigate potential harm to historic resources. The MOA was signed by the Board, the SHPO, and SPI; the Amador County Board of Supervisors signed the MOA as a concurring party. The ACHS was invited to sign the MOA as a concurring party pursuant to 36 CFR 800.6(c)(3), but it declined to sign the agreement. Thereafter, on September 4, 2008, SEA submitted the executed MOA to the Advisory Council on Historic Preservation, and on September 22, 2008, the Board removed the Section 106 historic preservation condition in this proceeding.

The MOA contains seven stipulations or mitigation measures, and the railroad has complied with the majority of those measures. However, in fall 2009, the Board received a report that salvage activities had begun on the rail line, and on November 3, 2009, SEA notified SPI that all salvage activities must be discontinued until the stipulations and terms of the MOA are fulfilled and SEA notifies SPI in writing that it may proceed with salvage activities. Mr. Mark Beason at the SHPO was notified about this development in a telephone call, as well as in an e-mail dated November 12, 2009. The status of the MOA is addressed below.

Memorandum of Agreement

As stated above, Section I.A. of the MOA contains seven stipulations, and SPI has complied with six of those stipulations. The only stipulation in the MOA that is still outstanding is Stipulation Number 7. That stipulation states that: "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."

Both SPI and a representative for the ACHS, Ms. Charline Buckley, have confirmed that SPI is currently working with the ACHS to establish the marker or plaque. To comply with the video documentation requirement, SPI confirmed that it is sending the ACHS two videos; these videos are titled "The Last Run of Amador" and "Great Shorelines West." Because some of the track has already been removed, the ACHS expressed concern that the videos might have been made after the removal of part of the line and, therefore, that the videos might not sufficiently document the resource. However, SPI states that the track was still in place when both of these videos were made and, in fact, "The Last Run of Amador" captures the last freight train to run over the line. SPI has indicated that it has already provided maps to the ACHS, and in your letter, the ACHS has acknowledged that it "is not interested in [receiving] blueprints."

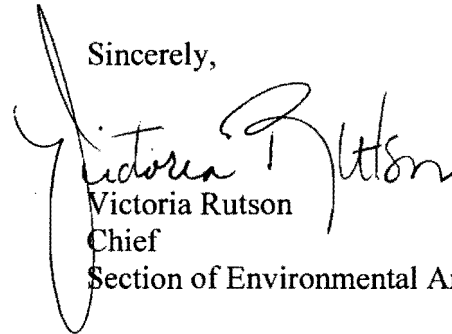
While we recognize the ACHS's interest in the historic properties involved in this rail line abandonment, we want to reiterate that the Board has limited authority to protect historic properties. Documentation of historic properties or resources (taking photographs or preparing a history) is the only form of nonconsensual mitigation that the Board can require. In this proceeding, SPI voluntarily agreed to undertake additional mitigation beyond what the Board may require, and that mitigation was also incorporated into the MOA.

Moreover, it appears that the ACHS is requesting information that is not required by the MOA, as well as changes to the language in the MOA. For example, Stipulation 1 of the MOA requires SPI to: "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." SPI has submitted the photographs as required by the MOA, but the ACHS is now requesting electronic copies of the images. In addition, ACHS is asking for revisions to the Final HABS/HAER Report and requesting that materials,

such as photographs, video documentation, drawings and maps, also be provided on archival quality paper or CDs.

The Section 106 process has been completed, and the ACHS had the opportunity to comment on the MOA, as well as its stipulations, while it was being drafted. The ACHS also had the opportunity to sign the MOA but declined to do so. The Board, SPI, and the SHPO are the signatory parties to the MOA, and under 36 CFR 800.6(c)(7), only the signatories to an MOA can amend or make changes to the document. We are continuing to work with SPI to ensure the completion of the stipulations as set out in the MOA. If you have any questions or require any additional information, please do not hesitate to contact me or Christa Dean at (202) 245-0299.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with a large initial "V" and "R".

Victoria Rutson
Chief
Section of Environmental Analysis

Cc: Gary Reinoehl, ACHS Director
Mark Beason, California SHPO
Najah Duvall-Gabriel, Advisory Council
Dave Brown, SPI
Brian Oneto, Amador County Board of Supervisors