

E1-17946
CD



"Dave Brown"
<DBrown@spi-ind.com>
11/18/2009 05:53 PM

To <Christa.Dean@stb.dot.gov>
cc <Brian.OBoyle@stb.dot.gov>, "Richard A. Allen"
<raallen@zsrllaw.com>
bcc

Subject Re: AB-512X

History: This message has been forwarded.

Christa - This is an update regarding consultation with the four agencies mentioned below. In each of the conversations, the rail removal was specified as the purpose for the consultation.

1. California Natural Diversity Database - I spoke with Kristine Lazar (916-322-2493) earlier today 11/18/2009. Kristine indicated that the CNDD is a database that SPI is a subscriber of for database searches and recommended me to have our CNDD internal contact print a search for the requested area. Tom Engstrom is the contact in our company. Attached is a CNDD search specific to the rail salvage area with a single (1) species indicated. The species is east of the local airport and beyond (1000'+) the limits of any proposed rail salvaging.

2. U.S. Fish & Wildlife - Message was left with Arnold Ressler (916-414-6600) of the Sacramento Fish & Wildlife (USFW) office earlier today (11/18/2009). I also spoke with Jamie Galos of ESA Consulting, who was our consultant during the development of the Amador Central Business Park (post 2005). Jamie indicated consultation with USFW specific to Elderberry shrubs, none of which were indicated at the rail line. I'm awaiting a returned call from Mr. Ressler.

3. California Dept. of Toxic Substances Control (DTSC) - I spoke with Mary Misener (916-322-2505) and also Li Tang (916-255-3545) earlier today (11/18/2009) regarding removal of rail and associated ties. Mary indicated no DTSC concerns with the physical rail, although the ties 'may' be considered treated wood waste and deferred me to Li Tang. Li indicated that the rail-ties would only be an issue (as a treated wood waste) if they are resold for landscape purposes, unless otherwise characterized as non-hazardous. If they are used for industrial purposes, they are exempt from further testing. I am checking with the salvage contractor on the ultimate disposition of the rail ties and also with our environmental consultant (Rob Kull, Carlton Engineering) to test a representative rail-tie in the event the ties are already non-hazardous.

4. EPA Region IX - I spoke with Amy Miller, Enforcement & Compliance for Stormwater at Region IX (415-947-4198) earlier today. Amy indicated that no permit or further consultation is required if ground disturbance for the salvage operation is under the 1-acre threshold. Amy clarified that ground disturbance is the exposing of non-vegetation or erosion soils and that simply removing rail and tie from the existing gravel was not ground disturbance.

Dave

-----Original Message-----

From: Christa.Dean@stb.dot.gov [mailto:Christa.Dean@stb.dot.gov]
Sent: Tuesday, November 10, 2009 1:26 PM
To: Dave Brown
Cc: Brian.OBoyle@stb.dot.gov; Richard A. Allen

Subject: RE: AB-512X

Mr. Brown:

Thank you for your response. I spoke with Dick Allen yesterday regarding the three outstanding environmental conditions in AB-512X, and the purpose of this e-mail is to clarify what information the Surface Transportation Board's Section of Environmental Analysis (SEA) still needs from Sierra Pacific Industries (SPI).

As you know, three of the conditions imposed in the Board's February 25, 2005 decision expressly require SPI to consult with federal or state agencies and to report the results of these consultations to SEA prior to salvage activities. While it appears that a considerable amount of environmental work has been done in the project area by SPI or its consultants, it is not clear from your response when this environmental work was completed or whether it was done in response to the Board's February 25, 2005 decision. In addition, your November 6, 2009 letter describes consultations with various agencies but gives no indication of when those consultations took place.

Accordingly, SEA requests that SPI submit an additional response that specifically addresses each of the three outstanding environmental conditions (which require SPI to consult directly with staff at the California Natural Diversity Database, the U.S. Fish and Wildlife Service, the California Department of Toxic Substances Control, and the U.S. Environmental Protection Agency's Region 9 Office) and explains the results of those required consultations. In your response to SEA please include:

- 1) the name of the contact person at each of these agencies; 2) the contact person's phone number; 3) the date of the consultation; and 4) the outcome of the consultation.

I strongly suggest that SPI initiate contact with each of the above agencies this week unless you have clear written evidence of consultations regarding the rail line abandonment dating after February 25, 2005. Mr. Allen indicated that he would seek to obtain this additional information over the next week, and we request an update on these consultations by no later than November 18, 2009.

We want to remind SPI that no further salvage activities may take place anywhere on the line, including the portion of the track near the industrial park, until: 1) the outstanding environmental conditions are satisfied; 2) the stipulations and terms of the Memorandum of Agreement are fulfilled; and 3) SEA notifies SPI in writing that it may proceed with salvage activities.

Thank you.

Christa L. Dean
Surface Transportation Board
Section of Environmental Analysis

202.245.0299

"Dave Brown"
<DBrown@spi-ind.com>
To <Christa.Dean@stb.dot.gov>
11/06/2009 05:28
cc <Brian.OBoyle@stb.dot.gov>,
PM "Richard A. Allen"
<raallen@zsrlaw.com>
Subject RE: AB-512X

Christa - Attached is a brief response as discussed earlier this week. Included is a general update and specifics as requested. Please review and let's discuss next week. Looking ahead on schedules, I'm planned to be in the field all next Tuesday and the office otherwise.

Dave

-----Original Message-----

From: Christa.Dean@stb.dot.gov [mailto:Christa.Dean@stb.dot.gov]
Sent: Thursday, November 05, 2009 11:59 AM
To: Dave Brown
Cc: Brian.OBoyle@stb.dot.gov
Subject: RE: AB-512X

Thanks. When you have a status update for us, could you also include Brian O'Boyle on the e-mail? Thanks again.

Christa L. Dean, Attorney

Surface Transportation Board
Section of Environmental Analysis
202.245.0299

"Dave Brown"
<DBrown@spi-ind.com>
To: <Christa.Dean@stb.dot.gov>
11/05/2009 02:36
cc: PM
Subject: RE: AB-512X

Here's my current contact information... will get back to you soon.

David C. Brown, PE
Environmental Affairs & Compliance Manager
Sierra Pacific Industries
19794 Riverside Avenue
Redding, CA 96049-6028
(530) 378-8179
(530) 378-8139 fax
(530) 391-7650 cell

-----Original Message-----

From: Christa.Dean@stb.dot.gov [mailto:Christa.Dean@stb.dot.gov]
Sent: Tuesday, November 03, 2009 2:07 PM
To: Dave Brown
Cc: raallen@zsrlaw.com; Brian.OBoyle@stb.dot.gov; Sierra
Subject: AB-512X

Mr. Brown:
In a February 25, 2005 decision, the Surface Transportation Board
(Board)

imposed six conditions in abandonment proceeding AB-512X. As you know, the Section 106 historic preservation condition was removed on September 22, 2008. However, three conditions require Sierra Pacific Industries (SPI) to consult with federal or state agencies and to report the results of these consultations to the Board's Section of Environmental Analysis (SEA) prior to commencement of salvage activities. These three conditions state that SPI shall:

the Consult with the California Natural Diversity Database and with the U.S. Fish and Wildlife Service regarding the possible impacts on Federally listed threatened or endangered species and report the results of the consultations to SEA prior to the onset of salvage operations;
to Consult with the California Department of Toxic Substances Control ensure that any concerns regarding potential contamination of the right-of-way are addressed and report the results of these consultations to SEA prior to the onset of salvage operations; and
to Consult with the U.S. Environmental Protection Agency, Region 9, address concerns regarding potential contamination of the right-of-way, comply with requirements imposed pursuant to section 402 of the Clean Water Act, and report the outcome of these consultations to SEA prior to the commencement of any salvage activities.

As the above conditions state, there should be no salvage activities until the railroad has complied with all of these consultation conditions. The Board has received a report that salvage activities may have begun on this rail line. If that is the case, all salvage activities must be discontinued until the above environmental conditions are satisfied. In addition, SEA hereby requests that SPI submit a response to this e-mail by Friday, November 6, 2009, that: 1) provides the Board with an update on the status of these required consultations and/or confirms compliance with the above-mentioned environmental conditions; and 2) explains the scope of salvage activities that have taken place on the line, if any.

Thank you.

Christa L. Dean
Surface Transportation Board
Section of Environmental Analysis
202.245.0299

(See attached file: 20091106142146703.pdf)