

42123

SERVICE DATE – JANUARY 12, 2012

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 33 (Sub-No. 299X)]

Union Pacific Railroad Company—Discontinuance of Service Exemption—in Pittsburg, Hughes, and Seminole Counties, Okla.

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over a portion of a line of railroad known as the Shawnee Branch Line, between milepost 428.00, near Seminole, and milepost 370.5, near McAlester, a distance of 57.69 miles,¹ in Pittsburg, Hughes, and Seminole Counties, Okla. (the line). The line traverses United States Postal Service Zip Codes 74501, 74570, 74531, 74848, 74884, and 74868.

UP has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; and (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period. UP has further certified that the

¹ UP notes a milepost equation of 402.78 = 402.59 in Hughes County, which makes the line 0.19 miles longer than the terminal mileposts would otherwise indicate.

requirements at 49 C.F.R. § 1105.12 (newspaper publication) and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.²

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on February 11, 2012, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 C.F.R. § 1152.27(c)(2)³ must be filed by January 23, 2012.⁴ Petitions to reopen must be filed by February 1, 2012, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

² Because this is a discontinuance proceeding and not an abandonment, the proceeding is exempt from the requirements of 49 C.F.R. § 1105.7 (environmental reports), 49 C.F.R. § 1105.8 (historic reports), and 49 C.F.R. § 1105.11 (transmittal letter).

³ Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 C.F.R. § 1002.2(f)(25).

⁴ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate.

A copy of any petition filed with the Board should be sent to UP's representative:
Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920,
Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is
void ab initio.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: January 9, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.