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SERVICE DATE – LATE RELEASE AUGUST 7, 2009

SURFACE TRANSPORTATION BOARD

NOTICE

STB Docket No. AB-33 (Sub-No. 261)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT—IN NEW MADRID,
SCOTT, AND STODDARD COUNTIES, MO

August 7, 2009

NOTICE TO THE PARTIES:

By decision and certificate of interim trail use or abandonment served on June 17, 2009, the Board, under 49 U.S.C. 10903, granted the abandonment application by Union Pacific Railroad Company (UP) of its Essex-to-Miner Line, extending from milepost 196.7, near Essex, to milepost 216.27, near Miner, a distance of 19.57 miles, in New Madrid, Scott, and Stoddard Counties, MO (the Line),¹ subject to trail use, public use, environmental, and standard employee protective conditions.

The decision and certificate was scheduled to become effective on July 17, 2009, unless it was stayed by the Board or a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1) was filed by June 26, 2009. On June 16, 2009, Mississippi Central Railroad Co. (MSCI), a Class III rail carrier, filed a notice of intent to file an OFA and asked that the Board toll the period for submitting OFAs for an additional 30 days. In a decision served on June 24, 2009, the Board tolled the due date for MSCI to file an OFA until July 24, 2009, and extended the effective date of the abandonment until August 3, 2009 (10 days after the due date for filing the OFA).

On July 27, 2009, MSCI late filed an OFA to purchase a portion of the Line from milepost 208.95, near Sikeston, MO, to milepost 213.8, in Sikeston, a distance of 4.85 miles in Scott County. In a decision served on July 30, 2009, the Board granted MSCI leave to late file, but rejected the OFA. On August 4, 2009, after the abandonment authority became effective, MSCI filed an OFA to address the deficiencies that led to the Board's rejection.

The OFA regulatory scheme does not envision a situation such as this where the abandonment authority has become effective prior to the refiling of the OFA. The Board is currently evaluating the OFA. Although the June 17, 2009 decision allows trail use and public use negotiations to have begun, the Board reminds the parties that continued rail service, a

¹ In addition to the 19.57 miles of branch line, the Line includes approximately 4.4 miles of sidings and industrial track.

possible outcome of the OFA process, takes priority over interim trail use/rail banking and public use.² Thus, the Board trusts that the parties will abstain from completing such negotiations until the Board has ruled on the OFA process.

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

Anne K. Quinlan
Acting Secretary

² See Rail Abandonments–Use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 608 (1986).