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SERVICE DATE – DECEMBER 28, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1050X]

Regional Rail Right of Way Company—Abandonment Exemption—in Collin and Dallas Counties, TX

[STB Docket No. AB-585 (Sub-No. 4X)]

Dallas, Garland and Northeastern Railroad, Inc.—Discontinuance Exemption—in Collin and Dallas Counties, TX

[STB Docket No. AB-33 (Sub-No. 288X)]

Union Pacific Railroad Company—Discontinuance Exemption—in Collin and Dallas Counties, TX

Regional Rail Right of Way Company (RRROW), Dallas, Garland and Northeastern Railroad, Inc. (DGNO), and Union Pacific Railroad Company (UP) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights for RRROW to abandon, and for DGNO and UP to discontinue trackage rights over, a 5.34-mile line of railroad known as the Cotton Belt, extending between milepost 592.43 at Renner Junction and milepost 597.77 at Knoll Trail Road in Collin and Dallas

Counties, TX.<sup>1</sup> The line traverses United States Postal Service Zip Codes 75248, 75252 and 75080.

Applicants have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (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 or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

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<sup>1</sup> In 1999, DGNO acquired, inter alia, local trackage rights over the line from UP, a successor in interest to St. Louis Southwestern Railway Company, which held both local and overhead trackage rights at the time. See Dallas, Garland & Northeastern Railroad, Inc.—Lease Exemption—Union Pacific Railroad Company, STB Finance Docket No. 33686 (STB served Feb. 5, 1999). In 2003, Dallas Area Rapid Transit (DART) acquired, inter alia, from RRROW, a successor in interest to Dallas Area Rapid Transit Property Acquisition Corporation, the right, title, and ownership interest in the right-of-way, trackage, and other physical assets associated with the line, subject to RRROW's reservation of an exclusive, perpetual freight rail operating easement. See Dallas Area Rapid Transit—Acquisition Exemption—Certain Assets of Regional Rail Right of Way Company, STB Finance Docket No. 34346 (STB served June 3, 2003). DART currently owns the line. RRROW owns a freight rail operating easement over the line (including the residual common carrier obligation to provide freight service), and DGNO owns local trackage rights over the line. Although RRROW believes that UP does not retain any trackage rights over the line as a result of the aforementioned 1999 transaction with DGNO, UP is joining this transaction out of an abundance of caution to discontinue any trackage rights that UP may continue to have over the line.

As a condition to these exemptions, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.–Abandonment–Goshen, 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) has been received, these exemptions will be effective on January 27, 2010, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 7, 2010. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 19, 2010, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: For RRROW, Edward J. Fishman, K&L Gates LLP, 1601 K Street, N.W, Washington, DC 20006; for DGNO, Scott Williams, Senior V.P. and General Counsel, RailAmerica, 7411 Fullerton Street, Suite 300, Jacksonville, FL 32256; and for

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<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 CFR 1002.2 (f)(25).

UP, Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company,  
101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuances on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 31, 2009. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), RRROW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by RRROW's filing of a notice of consummation by December 28, 2010, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at  
“[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: December 22, 2009.

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