

21399 SERVICE DATE - JANUARY 16, 1997  
FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 106X)]

Union Pacific Railroad Company--Abandonment Exemption--in  
Santa Clara County, CA

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Service and Trackage Rights to abandon an approximately 0.44-mile line of railroad known as the San Jose Industrial Lead from milepost 22.45 (West Carlos Street) to the end of the line at milepost 22.89 (West San Fernando Street, near West San Jose, in Santa Clara County, CA.

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; (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; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 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.

As a condition to this exemption, 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, this exemption will be effective on February 15, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29<sup>3</sup> must be

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<sup>1</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 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>2</sup> See Exempt. of Rail Abandonment--Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

<sup>3</sup> The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

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filed by January 27, 1997. Petitions to reopen or requests  
for public use conditions under 49 CFR 1152.28 must be filed  
by February 5, 1997, with: Office of the Secretary, Case  
Control Branch, Surface Transportation Board, 1201  
Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be  
sent to applicant's representative: Joseph D. Anthofer,  
General Attorney, Union Pacific Railroad Company, 1416 Dodge  
Street, Room 830, Omaha, NE 68179.

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

UP has filed an environmental report which addresses  
the abandonment's effects, if any, on the environment and  
historic resources. The Section of Environmental Analysis  
(SEA) will issue an environmental assessment (EA) by  
January 21, 1997. Interested persons may obtain a copy of  
the EA by writing to SEA (Room 3219, Surface Transportation  
Board, Washington, DC 20423) or by calling Elaine Kaiser,  
Chief of SEA, at (202) 927-6248. Comments on environmental  
and historic preservation matters must be filed within 15  
days after the EA becomes available to the public.

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

Decided: January 8, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary