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SERVICE DATE - DECEMBER 26, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34292]

Santa Clara Valley Transportation Authority–Acquisition Exemption–Union Pacific Railroad
Company

Santa Clara Valley Transportation Authority (VTA), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Union Pacific Railroad Company (UP) approximately 14.88 miles of railroad right-of-way and related improvements known as the WP Milpitas Line. The line is located between a point north of Pasco Padre Parkway at approximately UP milepost 2.61 (former Western Pacific Railroad (WP) San Jose Branch milepost 33.14), and William Street in San Jose, CA, at approximately UP milepost 17.49 (former WP San Jose Branch milepost 48.02), in Alameda and Santa Clara Counties, CA. VTA is acquiring the line in order to construct a public transportation system.¹ VTA will not obtain the right or obligation to conduct freight rail service on any portion of the line, and will not at any time hold itself out as a freight common carrier. UP will retain an exclusive permanent easement for purposes of providing freight rail service on the line.

¹ According to VTA, construction will begin after UP has relocated its freight rail service to an adjacent line and abandoned or discontinued operations on the subject line.

The transaction was scheduled to be consummated on December 11, 2002, the effective date of the exemption (7 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void ab initio.²

Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34292, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Charles A. Spitulnik, One Massachusetts Avenue, N.W., Suite 800, Washington, DC 20001.

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“WWW.STB.DOT.GOV.”

² VTA, a State of California public agency, asserts that, because it will not be acquiring a common carrier obligation here, the Board lacks jurisdiction over this transaction. For that reason, VTA states that it intends to file a motion to dismiss and vacate this notice. If and when such a motion is filed, it will be addressed in a subsequent Board decision.

Decided: December 17, 2002.

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

Vernon A. Williams

Secretary