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SERVICE DATE – MAY 8, 2009

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-33 (Sub-No. 268X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN
MILWAUKEE COUNTY, WI

Decided: May 7, 2009

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 3.08-mile line of railroad known as the Capitol Drive Industrial Lead, extending from milepost 92.21, the Shoreline connection, to the end of the line at milepost 89.13, south of Hampton Avenue in the Northeast Milwaukee area, in Milwaukee County, WI. Notice of the exemption was served and published in the Federal Register on April 9, 2009 (74 FR 16256-57). The exemption is scheduled to become effective on May 9, 2009.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on April 14, 2009. In the EA, SEA states that the National Geodetic Survey (NGS) has identified six geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends a condition requiring UP to consult with NGS and notify NGS at least 90 days prior to beginning any salvage activities that could disturb or destroy any geodetic station markers.

SEA also states in the EA that the Wisconsin State Historic Preservation Society (SHPO) returned the report submitted by UP and directed UP to its web site with instructions on the process for submitting review requests under section 106 of the National Register of Historic Place Act, 16 U.S.C. 470f (section 106 process). Therefore, SEA recommends that UP retain its interest in and take no steps to alter the historic integrity of all sites, buildings, structures, objects or districts within the right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places (National Register) (generally, 50 years old or older) until the section 106 process has been completed. UP shall report back to the Section of Environmental Analysis regarding any consultations with the SHPO and any other section 106 consulting parties. UP may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition.

Comments to the EA were due on April 29, 2009. No comments were received. Accordingly, the conditions recommended by SEA in the EA will be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.

2. Upon reconsideration, the exemption of the abandonment of the rail line described above, and covered by the notice served and published in the Federal Register on April 9, 2009, is subject to the conditions that UP shall: (1) consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers; and (2) (a) retain its interest in and take no steps to alter the historic integrity of all sites, buildings, structures, objects or districts within the right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register (generally, 50 years old or older) until the section 106 process has been completed, (b) report back to SEA regarding any consultations with the SHPO and any other section 106 consulting parties, and (c) not file its consummation notice or initiate salvage activities related to the abandonment (including the removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition.

3. This decision is effective on its service date.

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

Anne C. Quinlan
Acting Secretary