

29798
DO

SERVICE DATE - NOVEMBER 20, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 119X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION--
IN ROCK, GREEN AND DANE COUNTIES, WI

Decided: November 19, 1998

By a decision served June 23, 1998, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by the Union Pacific Railroad Company (UP) of a 15-mile line of railroad known as the Harvard Subdivision (herein, the Line), extending from railroad milepost 119.0 near Evansville to railroad milepost 134.0 near "MX", a crossing of Wisconsin & Southern Railroad Company, near Madison, in Rock, Green and Dane Counties, WI, subject to trail use, public use, environmental, and standard employee protective conditions.¹ Before the decision authorizing abandonment became effective, the City of Fitchburg/the Village of Oregon Partnership (the Partnership) timely filed an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the Line.

By decision served on September 4, 1998, the Partnership was found to be financially responsible, and the effective date of the decision authorizing abandonment was postponed to permit the OFA process to proceed. Subsequently, as no agreement was reached, the Partnership filed a request that the Board establish the conditions and amount of compensation for the sale of the Line, to which UP replied. Thereafter, in a decision served November 2, 1998, the Board set the purchase price for the Line at \$978,270, consisting of \$591,426 for track materials and \$386,844 for the real estate, and established terms for transfer of the Line.

By a letter filed November 10, 1998, the Partnership indicates that it accepts the terms and conditions set out in the Board's November 2, 1998 decision for the purchase of the Line.

When a carrier and a person offering to purchase a line enter into an agreement for continued rail service, the Board is required to approve the transaction and dismiss the petition for

¹ Notice of this filing of the petition was published in the Federal Register FR 14173-74) on March 24, 1998.

abandonment exemption. See 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2).² Accordingly, the sale will be approved and the petition for abandonment exemption will be dismissed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. 10904, the Partnership is authorized to acquire the rail line described above.
2. Under 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2), the petition for an abandonment exemption is dismissed, effective on the date the sale is consummated.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² On November 19, 1998, UP filed a petition for reconsideration of the Board's November 2, 1998 decision, together with a request to supplement the record. The Board's rules do not provide for such a pleading in a proceeding under 49 U.S.C. 10904. Moreover, the requirement of subsection 10904(f)(1) that "[w]henver the Board is requested to establish the conditions and amount of compensation under this section . . . the Board shall render its decision within 30 days" effectively precludes the Board from entertaining such petitions. The only support cited by UP for its request is a case involving the correction of a mathematical error, a case that does not support UP's petition here. UP's petition will not be considered.