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SERVICE DATE - FEBRUARY 18, 2000

SURFACE TRANSPORTATION BOARD

DECISION¹

Docket No. AB-33 (Sub-No. 99X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION--
LITTLE MOUNTAIN JUNCTION-LITTLE MOUNTAIN LINE
IN BOX ELDER AND WEBER COUNTIES, UT

Decided: February 16, 2000

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR part 1152 Subpart F--Exempt Abandonments and Discontinuances to abandon approximately 12.0 miles of the Little Mountain Junction-Little Mountain Line (portion of the Little Mountain Branch) from milepost 0.0 near Little Mountain Junction to milepost 12.0 near Little Mountain, in Box Elder and Weber Counties, UT.² A decision and notice of interim trail use or abandonment (NITU) served and published in the Federal Register on August 12, 1996 (61 FR 41823-30), authorizing, among other things,³ a 180-day period for UP to negotiate an interim trail use/rail banking agreement with various parties and governmental agencies for the 12.0-mile line of railroad. At the request of UP, the negotiation period under the NITU was extended by decisions served February 10, 1997,

¹ This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company--Control and Merger--Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company (UP/SP). The common control authorized in UP/SP, Decision No. 44 (STB served Aug. 12, 1996) was consummated on September 11, 1996.

² By letter filed December 22, 1997, and amended on December 31, 1997, UP notified the Board that it had exercised the authority conferred as follows: (1) service was discontinued over the 10-mile portion of the line extending from milepost 1.0 near Little Mountain Junction to milepost 11.0 near Little Mountain, UT; (2) the 1-mile portion of the line extending from milepost 0.0 to milepost 1.0 near Little Mountain Junction, UT, was reclassified to yard trackage; and (3) the 1-mile portion of the line extending from milepost 11.0 to milepost 12.0 near Little Mountain, UT, was reclassified to yard trackage.

³ The abandonment is subject to historic and environmental mitigating conditions imposed in UP/SP, Finance Docket No. 32760, Decision No. 44 (STB served Aug. 12, 1996) slip op. at 281-84.

January 26, 1998, August 5, 1998, and July 30, 1999.⁴ The latest extension was scheduled to expire on February 8, 2000.

On February 14, 2000, UP filed a request to extend the NITU negotiating period for an additional 180 days until August 8, 2000. UP states that it has not consummated the abandonment. UP also states that, when it requested an extension in January of the NITU negotiating period for a number of other UP/SP-related abandonment proceedings, it believed that there was no longer any reasonable prospect of a trail use agreement for the right-of-way and that it therefore did not include this line with the others in its request for extension of the negotiating period under the NITU that was scheduled to expire on February 8, 2000. The negotiating period for those other proceedings was extended to August 8, 2000, by decision served January 26, 2000.⁵ UP also states that, because of developments in the past week, a trail use agreement is likely.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended to August 8, 2000.

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

It is ordered:

1. The negotiating period under the NITU is extended to August 8, 2000.

⁴ The July 30, 1999 decision was affirmed in Missouri Pacific Railroad Company--Abandonment Exemption--Iowa Junction Line-Manchester Line In Jefferson Davis And Calcasieu Parishes, LA, Docket No. AB-3 (Sub-No. 133X) et al. (STB served Aug. 4, 1999).

⁵ The January 26, 2000 decision extended the trail use negotiation period for the following proceedings: Docket No. AB-3 (Sub-No. 133X), Missouri Pacific Railroad Company--Abandonment Exemption--Iowa Junction Line-Manchester Line in Jefferson Davis and Calcasieu Parishes, LA; Docket No. AB-33 (Sub-No. 93X), Union Pacific Railroad Company--Abandonment Exemption--Whittier Junction-Colima Junction Line in Los Angeles County, CA; Docket No. AB-33 (Sub-No. 96), Union Pacific Railroad Company--Abandonment--Barr-Girard Line in Menard, Sangamon and Macoupin Counties, IL; Docket No. AB-33 (Sub-No. 97X), Union Pacific Railroad Company--Abandonment Exemption--in DeCamp-Edwardsville Line in Madison County, IL and Docket No. AB-33 (Sub-No. 98X), Union Pacific Railroad Company--Abandonment Exemption--Edwardsville-Madison Line in Madison County, IL.

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2. The decision is effective on its service date.

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

Vernon A. Williams
Secretary