

34243

SERVICE DATE - DECEMBER 16, 2003

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34439]

Union Pacific Railroad Company and Stillwater Central Railroad Company—Joint Relocation
Project Exemption—Fort Sill, OK

On November 25, 2003, Union Pacific Railroad Company (UP) and Stillwater Central Railroad Company (SLWC) filed a verified notice of exemption under 49 CFR 1180.2(d)(5) to participate in a joint project involving the relocation of certain rail lines of UP near the Fort Sill Military Reservation (FSMR) at Fort Sill, OK. The transaction was scheduled to be consummated on or after December 2, 2003.

The purpose of the joint relocation project is to permit the reconstruction of the wye tracks providing access to FSMR to accommodate larger rail cars. To allow the needed reconstruction, UP must remove certain existing main line track and relocate its operations over that track to a parallel line of SLWC. Thus, the joint relocation project notice covers the following actions:

- (1) SLWC will grant trackage rights to UP (including rights to serve FSMR) over SLWC's line extending from SLWC milepost 624.65 near Fort Sill, OK, to SLWC milepost 628.0 near Lawton, OK, a distance of approximately 3.35 miles; and

(2) UP will abandon and remove approximately 1.04 miles of its line between UP milepost 48.56 and UP milepost 49.60 near Fort Sill, OK.

UP and SLWC state that the proposed project will not disrupt service to shippers. They also state that the relocated line and trackage rights will not involve an expansion of service by either carrier into a new territory, but rather, will enable UP to continue to serve FSMR once its line is abandoned and removed.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. See City of Detroit v. Canadian National Ry. Co., et al., 9 I.C.C.2d 1208 (1993), aff'd sub nom. Detroit/Wayne County Port Authority v. ICC, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. See D.T.&I.R.—Trackage Rights, 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

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

Petitions 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. 34439, 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 Robert T. Opal, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179 and Craig R. Richey, Stillwater Central Railroad Company, 315 West 3rd Street, Pittsburg, KS 66767.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: December 9, 2003.

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

Vernon A. Williams

Secretary