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SERVICE DATE - DECEMBER 3, 2001

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 183)]

Salt Lake City Corporation—Adverse Abandonment—in Salt Lake City, UT

On November 13, 2001, Salt Lake City Corporation (City) filed an adverse application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (Board) authorize the abandonment by Union Pacific Railroad Company (UP) of a portion of a line of railroad known as the 900 South Line extending from milepost 781.0 to milepost 782.32 in Salt Lake City, UT, a distance of 1.32 miles. The line traverses United States Postal Service ZIP Codes 84101 and 84104 and includes no stations.

The City filed the adverse abandonment application to prevent UP from reactivating the line. At issue is a Franchise Agreement, dated March 20, 1989, between the City and UP, which the City submits obligates UP to remove its track on the line and to take the necessary steps to permit that removal. The City views UP's use of the line as "creating conflicts" with the City's plans for the area. If the line is reactivated, the City states that trains will run through a minority community and cross a major thoroughfare, posing safety risks and creating environmental justice violations.

In a decision served in this proceeding on October 5, 2001, the City was granted a waiver from many of the filing requirements of the Board's abandonment regulations at 49 CFR 1152 that were not relevant to its adverse abandonment application. Specifically,

the City was granted waiver from 49 CFR 1152.10-14 and 1152.24(e)(1), pertaining to System Diagram Maps, from 49 CFR 1152.20(a)(3), pertaining to posting notice requirements, and from 49 CFR 1152.24(f) and 1152.29(e)(2), pertaining to abandonment consummation notice. However, the City was required to comply with 49 CFR 1152.20(a)(2), which pertains to service requirements, and 49 CFR 1152.20(a)(4), which pertains to publishing requirements. Also, the Board did not waive the environmental regulations at 49 CFR 1105, 49 CFR 1152.20(c), and 49 CFR 1152.22(f).

The City states that the line does not contain federally granted rights-of-way. Any documentation in the City's possession will be made available promptly to those requesting it. The City's entire abandonment case in chief was filed with the application, except for its Environmental and Historic Report filed on October 22, 2001, and errata thereto filed on October 31, 2001.

The City states that the interests of railroad employees will not be adversely affected because there have been no freight operations for the past 2 years.

Any interested person may file written comments concerning the proposed abandonment or protests (including protestant's entire opposition case) by December 28, 2001. All interested persons should be aware that, following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) or for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by December 28, 2001. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27). The due date for applicant's reply is January 14, 2002.

Persons opposing the proposed adverse abandonment who wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Parties seeking information concerning the filing of protests should refer to 49 CFR 1152.25.

All filings in response to this notice must refer to STB Docket No. AB-33 (Sub-No. 183) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) Charles A. Spitulnik, McLeod, Watkinson & Miller, One Massachusetts Ave., N.W., Suite 800, Washington, DC 20001. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152.

The October 5 decision noted that the City had requested waiver from the environmental requirements of 49 CFR 1152.22(f), arguing that its proposal has no environmental impact because there has been no traffic for 2 years and, in effect, qualifies for treatment under 49 CFR 1105.6(c). However, the October 5 decision indicated that the City should make that showing in its application, rather than seeking a waiver. As

noted, on October 22, 2001, the City filed a Combined Environmental and Historic Report and, on October 31, 2001, filed errata thereto. Questions concerning environmental issues may be directed to the Section of Environmental Analysis (SEA) at (202) 565-1552. [TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact SEA. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our website at  
“[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: November 27, 2001.

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

Vernon A. Williams

Secretary