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SERVICE DATE – JUNE 16, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 272X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—  
IN KOOTENAI COUNTY, IDAHO

Decided: June 15, 2010

By decision served on May 4, 2009, the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903, the abandonment by Union Pacific Railroad Company (UP) of a portion of its Coeur d'Alene Industrial Lead between milepost 7.5 near Gibbs, and the end of the line at milepost 8.79 near Coeur d'Alene, a distance of 1.29 miles in Kootenai County, Idaho. The exemption was subject to environmental and standard employee protective conditions and to a consummation condition.<sup>1</sup>

The environmental conditions required that UP: (1) prior to commencement of any salvage activities, consult with the Idaho Department of Environmental Quality to ensure that any concerns regarding potential contamination of the right-of-way are addressed and report the results of the consultations in writing to SEA prior to the onset of salvage operations; (2) notify the U.S. Department of Commerce, National Geodetic Survey at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of one station marker; and (3) (a) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places (National Register) until the section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed, (b) report to SEA regarding any consultations with the Idaho Historical Society (SHPO) and the public, and (c) 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 the condition.<sup>2</sup>

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<sup>1</sup> The grant of authority permitted UP to discontinue service over the line, but not to consummate the abandonment until after BNSF Railway Company (BNSF) obtained approval to discontinue its trackage rights on the line. BNSF obtained that approval in BNSF Railway Company—Discontinuance of Trackage Rights Exemption—In Kootenai County, Idaho, Docket No. AB 6 (Sub-No. 466X) (served June 2, 2009).

<sup>2</sup> By decision served on June 12, 2009, the proceeding was reopened and the section 106 historic preservation condition was removed.

In the May 4 decision, the Board stated that, if consummation had not been effected by UP's filing of a notice of consummation by May 4, 2010, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause, file a request for an extension of time to file a notice of consummation in abandonment proceedings.

On May 6, 2010, UP filed a request to extend, for 180 days (until October 31, 2010), the time to file its notice of consummation.<sup>3</sup> The request to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding will be granted.

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

It is ordered:

1. UP's request for an extension of time to consummate the abandonment is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before October 31, 2010.
3. This decision is effective on its service date.

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

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<sup>3</sup> Although the request was late-filed, the Board has in the past granted extensions when the late-filing period was minimal, as here (2 days). See, e.g., Union Pacific Railroad Company—Abandonment Exemption—In Smith County, Tex., Docket No. AB 33 (Sub-No. 223X) (served June 11, 2007).