

42333

SERVICE DATE – APRIL 24, 2012

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 33 (Sub-No. 303X)]

Union Pacific Railroad Company—Abandonment of Freight Easement Exemption—in Alameda and Santa Clara Counties, Cal. (San Jose Industrial Lead)

[Docket No. AB 980 (Sub-No. 1X)]

Santa Clara Valley Transportation Authority—Abandonment of Residual Common Carrier Obligation Exemption—in Alameda and Santa Clara Counties, Cal. (San Jose Industrial Lead)

On April 4, 2012, Union Pacific Railroad Company (UP) and Santa Clara Valley Transportation Authority (VTA) jointly filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 10903 for UP to abandon its freight operating easement on, and for VTA, the owner of the line, to abandon its residual common carrier obligation for, a portion of the San Jose Industrial Lead between milepost 7.35 near Warm Springs and milepost 16.30 near San Jose, a distance of 8.95 miles, in Alameda and Santa Clara Counties, Cal.¹ The line traverses United States Postal Service Zip Codes 95116, 95122, 95112, 95133 and 94533.

¹ According to petitioners, VTA purchased the line from UP in December 2002, with UP retaining an operating easement. See Santa Clara Valley Transp. Auth.—Acquisition Exemption—Union Pac. R.R., FD 34292 (STB served Dec. 26, 2002, and Apr. 30, 2003).

In addition to an exemption from the provisions of 49 U.S.C. § 10903, petitioners seek an exemption from 49 U.S.C. § 10904 (offer of financial assistance (OFA) procedures) and 49 U.S.C. § 10905 (public use provisions). In support, petitioners state that the line is to be abandoned for freight rail service, but will be retained and rebuilt for future inclusion in the Bay Area Rapid Transit System (BART). Petitioners assert that the right-of-way is thus needed for a valid public purpose and that there is no other overriding public need for continued freight rail service.² These requests will be addressed in the final decision.

According to petitioners, the line does not contain Federally granted rights-of-way. Any documentation in petitioners' possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by July 23, 2012.

Any OFA under 49 C.F.R. § 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,500 filing fee. See 49 C.F.R. § 1002.2(f)(25).

² Petitioners state that the two former shippers on the line, Clean Harbors San Jose LLC and Frank-Lin Distillers Products Ltd., have, pursuant to agreements with VTA, relocated and will continue to be rail served at their new locations.

All interested persons should be aware that, following 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 C.F.R. § 1152.28 or for trail use/rail banking under 49 C.F.R. § 1152.29 will be due no later than May 14, 2012. Each trail use request must be accompanied by a \$250 filing fee. See 49 C.F.R. § 1002.2(f)(27).

All filings in response to this notice must refer to Docket Nos. AB 33 (Sub-No. 303X) and AB 980 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) petitioners' representatives, Mack H. Shumate, Jr., 101 North Wacker Drive, Suite 1920, Chicago, IL 60606 (UP), and Charles A. Spitulnik, 1001 Connecticut Ave., N.W., Suite 800, Washington, DC 20036 (VTA). Replies to the petition are due on or before May 14, 2012.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment or discontinuance regulations at 49 C.F.R. pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested

persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

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

Decided: April 19, 2012.

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