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SERVICE DATE – JANUARY 14, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 104X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT  
EXEMPTION—IN OCONTO COUNTY, WIS.

Decided: January 14, 2015

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon and discontinue service over an approximately 8.3-mile line of railroad known as the Oconto Falls Industrial Lead. The line extends from milepost 54.4, near Oconto, to the end of the line at milepost 46.1, near Stiles Junction, in Oconto County, Wis. Notice of the exemption was served and published in the Federal Register on December 11, 1996 (61 Fed. Reg. 65,264). On December 20, 1996, the Wisconsin Department of Transportation (WisDOT) petitioned for issuance of a notice of interim trail use/rail banking for the Wisconsin Department of Natural Resources (WDNR) to negotiate with UP to acquire and use the entire right-of-way for interim highway, bicycle, pedestrian, and other trail use purposes and rail banking under the National Trail System Act, 16 U.S.C. § 1247(d). By decision and notice of interim trail use or abandonment (NITU) served on January 9, 1997, the proceeding was reopened and a 180-day period was authorized for WDNR to negotiate an interim trail use/rail banking agreement with UP for the right-of-way. The negotiation period was extended several times before, according to WisDOT, WDNR acquired the corridor from UP on or near September 29, 1998.

On December 15, 2014, WisDOT, on behalf of WDNR, filed a petition to vacate the January 9, 1997 NITU in favor of abandonment, asking that the Board do so by no later than 30 days after the petition was filed (i.e., by January 14, 2015). WisDOT states that UP concurs with this request. By letter filed on January 12, 2015, WisDOT filed supplemental information clarifying who currently owns the line.<sup>1</sup> On January 9, 2015, U.S. Senator Ron Johnson and U.S. Representative Reid J. Ribble filed a letter in support of WisDOT's petition.

WisDOT has complied with the requirements of 49 C.F.R. § 1152.29(d)(2) regarding a request to vacate a NITU. Therefore, WisDOT's request will be granted. Because the existing NITU is being vacated, UP's abandonment exemption authority will be reinstated. If UP

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<sup>1</sup> According to WisDOT, portions of the line are separately owned by WisDOT, WDNR, the City of Oconto, Wis., and a private developer. A copy of this decision will be served on UP and the current owners of the line.

chooses to abandon the line, it must file a notice of consummation as set forth under the Board's rules at 49 C.F.R. § 1152.29(e)(2) by March 15, 2015. If UP does not timely file a notice of consummation, and there are no legal or regulatory barriers to consummation, the railroad's abandonment authority will automatically expire.

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

It is ordered:

1. This proceeding is reopened.
2. The NITU issued on January 9, 1997, is vacated.
3. The abandonment exemption granted on December 11, 1996, is hereby reinstated.
4. If UP chooses to abandon the line, it must file a notice of consummation by March 15, 2015.
5. This decision will be served on UP's representative, Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606-1718, and on the current owners of the line.
6. This decision is effective on its service date.

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