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SERVICE DATE - FEBRUARY 18, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 146X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION AND
DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION--
IN DALLAS COUNTY, TX

Decided: February 17, 2000

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Service and Trackage Rights to abandon 2,367 feet of railroad over the Oakland Avenue Spur from station 186+62 at Malcolm X Boulevard to the end of the track at station 210+29.2 in the city of Dallas, Dallas County, TX. Notice of the exemption was served on January 24, 2000, and published in the Federal Register on January 28, 2000 (65 FR 4570-71). The exemption was scheduled to become effective on February 23, 2000, but a formal expression of intent to file an offer of financial assistance (OFA) was timely filed by John Radovich, John's Cars, Inc., John's Trains, Inc., and John's Retrofit, Inc. (referred collectively as JOHN'S) (to purchase the entire line). This automatically stayed the effective date of the exemption for 10 days until March 4, 2000.¹ JOHN'S simultaneously requested UP to provide it with financial data and information prescribed in 49 CFR 1152.27(a). On February 15, 2000, UP advised the Board that it had mailed the required information in accordance with 49 CFR 1152.27(a)(1)(ii) and 1152.27(d) to JOHN'S. Under 49 CFR 1152.27(c)(2)(ii)(B), OFAs are due 30 days after publication of the notice of exemption in the Federal Register. Because the notice was published on January 28, 2000, an OFA by JOHN'S must be filed with the Board by February 25, 2000.²

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on January 28, 2000. In the EA, SEA states that the Texas Natural Resource Conservation Commission (TNRCC) indicates that, although any demolition, construction, rehabilitation or repair project will produce dust and particulate emissions, these actions pose no significant impact upon air quality standards and the minimal dust and particulate emissions can easily be controlled with standard dust mitigation techniques by the construction contractors. TNRCC identifies Mr. Ken Gathright, State Implementation Plan Development Section, (512) 239-0774, as the contact person for air quality. SEA also states that TNRCC has determined that an Application for Approval of Floodplain Development Project need not be filed, but the records indicate that the community is a participant in the National Flood Insurance Program

¹ See 49 CFR 1152.27(c)(2)(i).

² See 49 CFR 1152.25(d)(4).

and has a Flood Hazard Prevention Ordinance/Court Order. TNRCC states that care should be taken to ensure that the proposed construction takes into account the possible Flood Hazard Areas within the community's floodplains. TNRCC also states that questions should be directed to Mr. Mike Howard, Floodplain Management Section (512) 239-6155. TNRCC finally states that the Policy and Regulations Division and the Remediation Division have reviewed the information submitted and have no comments on this project at this time, but if there are questions, Mr. Randy Arnett, Remediation Division, (512) 239-1315, or Mr. Clyde Bohmfalk, Policy and Regulations Division, (512) 239-1315, are the contact persons. Accordingly, SEA recommends imposition of a condition requiring that, prior to salvage operations, UP consult with TNRCC's Mr. Ken Gathright, State Implementation Plan Development Section, (512) 239-0774, concerning air quality; Mr. Mike Howard, Floodplain Management Section, (512) 239-6155, to ensure that all construction is in compliance with the community's Flood Hazard Prevention Ordinance/Court Order; and Mr. Randy Arnett, Remediation Division, (512) 239-1315, and Mr. Clyde Bohmfalk, Policy and Regulations Division, (512) 239-1315, if there are any questions.

Additionally, on January 27, 2000, UP submitted a letter from the U.S. Army Corps of Engineers (Corps), Fort Worth District, stating that its evaluation of the project area has not been completed. Therefore, SEA recommends that a condition be imposed requiring UP, prior to engaging in any salvage activities, to contact the Corps' Fort Worth District to determine if permits are required.

The recommended conditions will be imposed.

This decision 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. Upon reconsideration, the exemption of the abandonment of the line described above is subject to the conditions that UP shall: (a) consult with Mr. Ken Gathright, State Implementation Plan Development Section, concerning air quality; (b) Mr. Mike Howard, Floodplain Management Section, to ensure that all construction is in compliance with the Community's Flood Hazard Prevention Ordinance/Court Order; (c) contact Mr. Randy Arnett, Remediation Division or Mr. Clyde Bohmfalk, Policy and Regulations Division, if there are any questions; and (d) prior to engaging in any salvage activities, contact the Corps' Fort Worth District to determine if permits are necessary.
3. The deadline for JOHN's to file an OFA is February 25, 2000.

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4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary