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SERVICE DATE - OCTOBER 10, 2003

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 157X)]

Union Pacific Railroad Company—Discontinuance of Trackage Rights Exemption—in  
Monterey County, CA

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to discontinue trackage rights over a 13.1-mile line of railroad (the Seaside Industrial Lead) owned by the Transportation Agency for Monterey County (TAMC)<sup>1</sup> extending from milepost 110.2 near Castroville, CA, to the end of the line at milepost 123.3, near Seaside, CA, in Monterey County, CA.<sup>2</sup> The line traverses United States Postal Service Zip Codes 95012 and 93955.

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<sup>1</sup> See Transportation Agency for Monterey County—Acquisition Exemption—Line of Union Pacific Railroad Company, STB Finance Docket No. 34405 (STB served and published Oct. 3, 2003).

<sup>2</sup> According to UP, the line has been sold to TAMC effective September 12, 2003. UP states that, in accordance with the terms of the sale, UP reserved trackage rights for freight operations over the line. UP states that it no longer has any need to maintain the reserved trackage rights for freight operations and therefore is proposing discontinuance of those rights. While the terms of the September 12 sale are not altogether clear from the filings made by the parties to that sale in either the present proceeding or in STB Finance Docket No. 34405, the fact that UP has couched its proposal as a discontinuance and not an abandonment would indicate that UP takes the position that a freight common carrier obligation was conveyed to TAMC as part of the September 12 sale.

UP has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1152.50(d)(1) (notice to governmental agencies), and 49 CFR 1105.12 (newspaper publication) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 11, 2003, unless stayed pending reconsideration.<sup>3</sup> Petitions to stay and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>4</sup> must be filed by October 20, 2003. Petitions to

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<sup>3</sup> UP stated in its notice that the proposed discontinuance would be consummated on or after November 7, 2003 (which it projected to be 50 days after the notice was filed). Because UP's notice was not filed until September 22, 2003, the exemption is not due to take effect until November 11, 2003.

<sup>4</sup> Each OFA must be accompanied by the filing fee, which currently is set at  
(continued...)

reopen<sup>5</sup> must be filed by October 30, 2003, with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on the Board's website at "WWW.STB.DOT.GOV."

Decided: October 6, 2003.

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

Vernon A. Williams

Secretary

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<sup>4</sup>(...continued)  
\$1,100. See 49 CFR 1002.2(f)(25).

<sup>5</sup> Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise no environmental or historic reporting requirements are required here under 49 CFR 1105.6(c), and 1105.8(b), respectively. However, UP submitted an environmental report with its notice.