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SERVICE DATE - NOVEMBER 21, 2003

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 157X)]¹

Union Pacific Railroad Company—Abandonment 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 to abandon a 13.1-mile line of railroad (the Seaside Industrial Lead) 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.²

The line traverses United States Postal Service Zip Codes 95012 and 93955.

¹ This notice of exemption supersedes the Board's notice served and published in Union Pacific Railroad Company—Discontinuance of Trackage Rights Exemption—in Monterey County, CA, STB Docket No. AB-33 (Sub-No. 157X) (STB served Oct. 10, 2003) (68 FR 58748-49).

² On October 10, 2003, UP filed this revised notice of exemption, as supplemented on November 3, 2003, to take the place of the notice that it had previously filed on September 22, 2003. UP states that it has determined that initially it should have filed to abandon its interest in the line, rather than merely to discontinue trackage rights because, under the purchase and sale agreement with the Transportation Agency for Monterey County (TAMC), UP reserved an exclusive railroad easement for freight operations over the line. UP now seeks to abandon its entire right and obligation to provide service over the line. UP submits that the terms of the easement specifically provide that the easement shall terminate automatically upon the effective date of a decision by the Board granting UP abandonment authority and UP's satisfaction of any Board-imposed conditions. According to UP, the line was sold to TAMC effective September 12, 2003. See Transportation Agency for Monterey County—Acquisition Exemption—Line of Union Pacific Railroad Company, STB Finance Docket No. 34405 (STB served Oct. 3, 2003).

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 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 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment 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 December 23, 2003, unless stayed pending reconsideration. Petitions to stay that do not involve environmental

issues,³ and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ must be filed by December 1, 2003. Petitions to reopen must be filed by December 11, 2003,⁵ 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.

UP has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 28, 2003. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

⁵ Because the line has already been sold to TAMC, a public agency, to conduct passenger service, requests for trail use/rail banking under 49 CFR 1152.29 and public use under 49 CFR 1152.28 would not be appropriate here.

available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental and historic preservation conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by November 21, 2004, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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

Decided: November 10, 2003.

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

Vernon A. Williams

Secretary