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SERVICE DATE - JUNE 23, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 118X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT
EXEMPTION--IN EL PASO COUNTY, CO

Decided: June 22, 1998

By decision served on June 8, 1998, the Board exempted Union Pacific Railroad Company (UP) from the prior approval requirements of 49 U.S.C. 10903 to abandon a 3.07-mile line of railroad known as the Templeton Gap Spur, extending from the end of the line at milepost 602.70 to milepost 605.77, in Colorado Springs, El Paso County, CO, subject to environmental and labor protective conditions. The exemption was scheduled to become effective on July 8, 1998, unless stayed by the Board or unless a formal offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1) was filed by June 18, 1998.

On June 15, 1998, a petition to toll the 10-day period for submitting an OFA for an additional 60 days was filed by the Colorado Springs & Eastern Railroad Company (CS&E). CS&E's president indicates that, although she submitted a request to UP's counsel for the required information on May 29, 1998, that information has not been received and is not expected to be received prior to the deadline for filing the subject petition.

UP replied on June 17, 1998, seeking either denial of the petition or an extension of the OFA period to no later than June 25, 1998. UP claims that it responded to the request in a June 12, 1998 letter, that CS&E should have received the information on June 15, and that CS&E could have filed an OFA by the June 18, 1998 due date. As UP points out, CS&E could have requested the information well before May 29, 1998. The expanded notice procedure at the outset of abandonment proceedings allows adequate time for parties to consider filing an OFA. CS&E gives no reason for not submitting its request for information until May 29, 1998. Under the circumstances, CS&E's request to toll the OFA period for 60 days will be denied, and, instead, the OFA period will be tolled until June 29, 1998.

Under section 1152.27(c)(1)(i)(C), the Board will entertain petitions to toll the 10-day period for filing OFAs when an applicant has failed to provide a potential offeror with the information necessary to the development of its OFA. Where, as here, it appears that UP has already provided the necessary information, an extension of 11 days, not 60 days, would be more reasonable. Accordingly, the period within which an OFA must be filed in this proceeding will be tolled until June 29, 1998, and the effective date of the exemption will be postponed until July 19, 1998.

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

It is ordered:

1. The time period for CS&E to file an OFA is extended until June 29, 1998.
2. The effective date of the exemption is postponed until July 19, 1998.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary