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SERVICE DATE - FEBRUARY 17, 2000

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-439 (Sub-No. 5X)]

Dallas Area Rapid Transit--Abandonment Exemption--in Dallas County, TX

[STB Docket No. AB-33 (Sub-No. 144X)]

Union Pacific Railroad Company--Discontinuance of Service Exemption--in Dallas County,  
TX

Dallas Area Rapid Transit (DART) and Union Pacific Railroad Company (UP) have filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances for DART to abandon and UP to discontinue service over approximately 1.585 miles of rail line from milepost 213.024 at Malcolm X Boulevard to milepost 211.439 near Fletcher Street, just west of the switch to the Age of Steam Museum in the City and County of Dallas, TX.<sup>1</sup> The line traverses United States Postal Service Zip Codes 75223, 75226, and 75246.

DART and UP have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line during the past 2 years; (3) no

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<sup>1</sup> DART acquired this line from the Missouri Pacific Railroad Company in 1990. See Dallas Area Rapid Transit--Acquisition and Operation Exemption--Rail Lines of Missouri Pacific Railroad Company, Finance Docket No. 31690 (ICC served July 17, 1990). UP concurrently acquired trackage rights over the line. See Missouri Pacific Railroad Company--Trackage Rights Exemption--Dallas Area Rapid Transit, Finance Docket No. 31733 (ICC served Sept. 13, 1990).

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 (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 March 18, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 28, 2000. Petitions to reopen or

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<sup>2</sup> 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 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.

<sup>3</sup> Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).

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requests for public use conditions under 49 CFR 1152.28 must be filed by March 8, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representatives: Judith H. Caldwell, Oppenheimer Wolff Donnelly & Bayh LLP, 1350 Eye Street, N.W., Suite 200, Washington, DC 20005-3324; and James P. Gatlin, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179-0001.

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

DART and UP have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by February 22, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), DART 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 DART's filing of a notice of

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consummation by February 17, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at  
“WWW.STB.DOT.GOV.”

Decided: February 10, 2000.

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

Vernon A. Williams

Secretary