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SERVICE DATE – NOVEMBER 20, 2015

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 33 (Sub-No. 323X)]

Union Pacific Railroad Company—Abandonment of Freight Easement—in Adams County, Colo.

On November 2, 2015, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 10903 to abandon an 8.57-mile freight rail operating easement over a portion of the Boulder Industrial Lead (Lead) extending from milepost 0.70 near Commerce City, Colo., to milepost 9.27 near Eastlake, Colo. (the Line), in Adams County, Colo. The Line traverses U.S. Postal Service Zip Codes 80022, 80640, 80229, 80233, and 80241.

According to UP, in June 2009, it sold the entire 32.97-mile Lead, right-of-way, trackage, and structures, including all bridges, from milepost 0.20 near Commerce City to milepost 33.17 near Valmont, to the Denver Regional Transportation District (RTD), a political subdivision of the State of Colorado. Reg'l Transp. Dist.—Acquis. Exemption—Union Pac. R.R. in Adams, Boulder, Broomfield, & Weld, Colo, FD 35252 (STB served June 29, 2010). UP retained an exclusive, perpetual freight easement over the entire Lead. UP states that following abandonment, the Line would continue to be owned by RTD and would be rebuilt for inclusion in RTD's integrated mass transit

system known as FasTracks. UP points out that this is the same transit use as is planned for the western portion of the Lead, which was the subject matter of Union Pacific Railroad Co.—Abandonment Exemption—in Adams, Weld, & Boulder Counties, Colo., Docket No. AB 33 (Sub-No. 307X) (STB served Oct. 23, 2012). Following consummation of the proposed abandonment, UP would retain its freight easement from milepost 0.20 to milepost 0.70 of the Lead.

According to UP, only one customer located on the Line, Atlas Roofing Corporation (Atlas), has moved traffic over the Line within the past two years. The last Atlas shipment moved over the Line in February 2015. UP states that RTD, Atlas, and Leroy Industries LLC (Leroy) (the owner of the facility Atlas leases for its operations) have entered into an agreement covering alternative transportation arrangements for service off the Line. UP states that it does not anticipate any need for future rail service on the Line to Atlas, Leroy, or any other potential customer and that the proposed abandonment will have no adverse effect on any shippers. UP notes that, in the agreement, Atlas and Leroy state that they do not object to and are willing to support the proposed abandonment.

In addition to an exemption from the provisions of 49 U.S.C. § 10903, UP seeks an exemption from 49 U.S.C. § 10904 (offer of financial assistance (OFA) procedures) and 49 U.S.C. § 10905 (public use conditions) for reasons of overriding public need. In support, UP states that the right-of-way is needed for a valid public purpose by RTD for public passenger transportation purposes, and there is no other overriding public need for

continued freight rail service on the Line.<sup>1</sup> UP adds that the area the Lead served has shifted away from rail-oriented industries, and as a consequence, no new shippers are expected to locate on the Line. The request for exemption from § 10904 and § 10905 will be addressed in the final decision.

According to UP, the Line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, In Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by February 19, 2016.

Any OFA under 49 C.F.R. § 1152.27(b)(2) will be due by February 29, 2016, or 10 days after service of a decision granting the petition for exemption, whichever occurs first. Each OFA must be accompanied by a \$1,600 filing fee. See 49 C.F.R. § 1002.2(f)(25).

All interested persons should be aware that, following abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 C.F.R. § 1152.28 or for trail use/rail banking under 49 C.F.R. § 1152.29 will be due no later than December 10, 2015. Each trail use request must be accompanied by a \$300 filing fee. See 49 C.F.R. § 1002.2(f)(27).

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<sup>1</sup> According to UP, a transit line will use the former right-of-way from milepost 1.15 to milepost 9.27.

All filings in response to this notice must refer to Docket No. AB 33 (Sub-No. 323X) and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606. Replies to the petition are due on or before December 10, 2015.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245-0238 or refer to the full abandonment regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1-800-877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any other agencies or persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our website at  
“[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: November 17, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.