

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 223X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT EXEMPTION–IN SMITH
COUNTY, TX

Decided: November 9, 2007

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 7.25-mile line of railroad, the Tyler Industrial Lead, extending from milepost 0.25 near Troup to milepost 7.50 near Whitehouse, in Smith County, TX. Notice of the exemption was served and published in the Federal Register on May 11, 2006 (71 FR 27531-32). The exemption became effective on June 10, 2006. In the May 11, 2006 notice, the Board stated that, if consummation had not been effected by UP's filing of a notice of consummation by May 11, 2007, and there were no legal or regulatory barriers to consummation,¹ the authority to abandon would automatically expire. By decision served on June 11, 2007, at the request of UP, the due date for filing a notice of consummation in this proceeding was extended until November 7, 2007.

By letter filed on November 7, 2007, UP requests an additional extension of 180 days to file a notice of consummation in this proceeding. UP states that UP and the Texas Department of Transportation have failed to reach an agreement for rail banking purposes and that salvage activities are expected to be completed within the next 180 days.

Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. UP has shown good cause to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding. Accordingly, the request will be granted.

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

¹ By decision served on June 9, 2006, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to one environmental condition requiring UP to notify the U.S. Department of Commerce, National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities so that NGS could plan for the possible relocation of any station markers. Although the condition requires notification prior to the commencement of any salvage activities, it does not constitute a barrier to consummation.

It is ordered:

1. UP's request for an extension of time to consummate the abandonment is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before May 5, 2008.
3. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary