

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 267X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN  
COMANCHE COUNTY, OKLA.

Decided: June 11, 2010

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 C.F.R. part 1152 Subpart F—Exempt Abandonments to abandon and discontinue its lease operation over a 3.85-mile line of railroad known as the Lawton Industrial Lead, extending from milepost 50.75, near Fort Sill, to milepost 54.60, south of Lawton, in Comanche County, Okla. Notice of the exemption was served and published in the Federal Register on December 12, 2008 (73 Fed. Reg. 75,809). The exemption became effective on January 13, 2009.<sup>1</sup>

In the December 12, 2008 notice, the Board stated that, if consummation had not been effected by UP's filing of a notice of consummation by December 12, 2009, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. At the request of UP, the Board, by decision served on December 9, 2009, extended the deadline for UP to file its notice of consummation in this proceeding until June 12, 2010.

By letter filed on June 4, 2010, UP requests another 6-month extension of time to file a notice of consummation. UP states that it was resolving a question under the lease of the line with the Oklahoma Department of Transportation as to which party should undertake the salvaging of the track structure on the line. According to UP, UP is the responsible party. UP also states that it is finalizing the bid process and that the successful bidder will commence salvage activities in conjunction with its consultation with USFWS. UP indicates that it will file its notice of consummation with the Board upon completion of salvage activities.

Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause shown, request an extension of time to file a notice of consummation in abandonment proceedings. UP has shown

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<sup>1</sup> By decision served on January 12, 2009, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to the condition that, prior to commencement of any salvage activities, UP shall consult with U.S. Fish and Wildlife Service (USFWS) regarding USFWS's concerns about the endangered species that may occur in the area of the proposed abandonment. By decision served on May 20, 2009, the proceeding was again reopened and modified to impose a public use condition. The public use condition expired on July 12, 2009, and by statute cannot be extended.

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

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 December 12, 2010.
3. This decision is effective on its date of service.

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