

37084

SERVICE DATE – JUNE 29, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 242X)]

Union Pacific Railroad Company—Abandonment Exemption—in Montgomery  
County, KS

[STB Docket No. AB-471 (Sub-No. 7X)]

South Kansas & Oklahoma Railroad, Inc.—Discontinuance of Service Exemption—in  
Montgomery County, KS

Union Pacific Railroad Company (UP) and South Kansas & Oklahoma Railroad, Inc. (SKO) (collectively, applicants), have jointly filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service for UP to abandon, and for SKO to discontinue service over, approximately 0.8 miles of railroad located: (1) between milepost 166.0, at the west bank of the Verdigris River, and milepost 166.6, at the west edge of Sunflower Road; and (2) at the portion of UP's railroad easement between milepost 166.6, at the west edge of Sunflower Road, and milepost 166.8, at the west edge of Linden Street, near Coffeyville, in Montgomery County, KS.<sup>1</sup> The line traverses United States Postal Service Zip Code 67337.

---

<sup>1</sup> Applicants state that the portion of the rail line over which UP has a railroad easement is located within the premises of Coffeyville Resources Refinery & Marketing, LLC (Refinery Company), and that Refinery Company owns the right-of-way and track materials within that portion of the rail line. Applicants also state that, by lease effective December 10, 1990, UP leased the line and adjacent trackage to Southeast Kansas

(continued...)

Applicants have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years;<sup>2</sup> (3) no 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 July 29, 2006, unless stayed

---

(...continued)

Railway Company, which subsequently was merged into SKO. According to applicants, UP intends to make private non-rail use of the land east of the refinery.

<sup>2</sup> It appears that the line is stub-ended and thus that there can be no overhead traffic to be rerouted.

pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>4</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 10, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 19, 2006, with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: for UP, Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Suite 1920, Chicago, IL 60606; for SKO, Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604.

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

Applicants have filed an environmental and historic report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 3, 2006. Interested

---

<sup>3</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 (SEA) in its independent investigation) cannot be made before the exemption's effective date. See (...continued) 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>4</sup> Each OFA must be accompanied by the filing fee, which increased to \$1,300, effective April 19, 2006. See Regulations Governing Fees For Services Performed in Connection with Licensing and Related Services—2006 Update, STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006).

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) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] 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), UP 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 UP's filing of a notice of consummation by June 29, 2007, 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: June 26, 2006.

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

Vernon A. Williams

Secretary