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SERVICE DATE - LATE RELEASE AUGUST 19, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 163X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN LAMAR
AND FANNIN COUNTIES, TX

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: August 19, 2003

The Union Pacific Railroad Company (UP) and The Texas Northeastern Division, Mid-Michigan Railroad, Inc. (TNER), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service for UP to abandon and TNER to discontinue service over a 33.5-mile portion of the Bonham Subdivision between milepost 94.0, near Paris, and milepost 127.5, east of Bonham, in Lamar and Fannin Counties, TX (the line). Notice of the exemption was served and published in the Federal Register on May 19, 2003 (68 FR 27142).¹ Before the exemption became effective, Fannin Rural Rail Transportation District (FRRTD), a political subdivision of the State of Texas, filed an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the line.²

By decision served on June 25, 2003, the effective date of the exemption authorizing abandonment was postponed to permit the OFA process to proceed. The June 25 decision also set July 21, 2003, as the deadline for either party to request the Board to establish the terms and conditions for the purchase if UP and FRRTD could not agree on the purchase price.

By letters filed on July 21 and 25, 2003, respectively, FRRTD and UP advised the Board that the parties have reached an agreement on the terms and conditions for purchase of the line.

¹ The notice embraced STB Docket No. AB-364 (Sub-No. 8X), Texas Northeastern Division, Mid-Michigan Railroad, Inc.—Discontinuance of Service Exemption—In Lamar and Fannin Counties, TX.

² The exemption was to have become effective on June 18, 2003, but FRRTD's timely filing of a notice of intent to file an OFA automatically stayed the effective date of the exemption until June 28, 2003. By decision served on June 18, 2003, the time period for FRRTD to file an OFA was extended until June 23, 2003, and the effective date of the exemption was further postponed until July 3, 2003. On June 20, 2003, FRRTD timely filed its OFA to purchase the line for \$496,314.

When a carrier and a person offering to purchase a line enter into an agreement for continued rail service, the Board is required to approve the transaction and dismiss the abandonment notice of exemption. See 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2). Accordingly, the sale will be approved and the notice of exemption will be dismissed.³

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

It is ordered:

1. Under 49 U.S.C. 10904, FRRTD is authorized to acquire and operate the line.
2. Under 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2), the notice of exemption is dismissed effective on the date the sale is consummated.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

³ A decision served on July 14, 2003, imposed environmental conditions and provided that the requests for issuance of a notice of interim trail use under the National Trails System Act, 16 U.S.C. 1247(d), and for a public use condition under 49 U.S.C. 10905, would be delayed pending completion of the OFA process. The financial assistance process under 49 U.S.C. 10904 takes priority over interim trail use/rail banking and public use. Because the line is being sold under the OFA procedures, and the dismissal of the notice of exemption will render the environmental conditions moot, and preclude trail use and public use conditions.