

Surface Transportation Board Acts to Allow Both Passenger & Freight Service to Be Accommodated; Finds Board Approval Not Needed for Santa Clara Valley Transportation Authority's Acquisition of "Union Pacific" Right-of-Way

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision granting the Santa Clara Valley Transportation Authority's (VTA) motion to dismiss, as unnecessary, its verified notice of exemption from regulation to acquire approximately 5.8 route miles of the Union Pacific Railroad Company's (UP) railroad right-of-way and certain related improvements located in Santa Clara County, California.

As noted in the Board's decision, VTA (a public agency) and UP will enter into agreements designed to permit both freight service and passenger service on the right-of-way. Through the agreements, VTA will acquire a portion of UP's right-of-way and certain rail improvements on it for the sole purpose of constructing and operating an extension to VTA's light rail transit system. Under the terms of the agreements, VTA will construct and operate its light rail transit extension on the northerly portion of the right-of-way and UP will operate freight service on the southerly portion. To accommodate operations, UP's freight trackage will be relocated and reconstructed on the southerly portion of the right-of-way and UP will continue to operate freight service over the newly constructed line. The agreements further provide that UP will retain a perpetual, exclusive railroad easement on the line for the continuation of freight service, by itself or through its designee, and that VTA will be prohibited from using all or any portion of the line for freight operations.

The two issues before the Board in this case were (1) whether the proposed acquisition by VTA (a noncarrier) of rail assets of UP (a rail carrier) required regulatory authorization, and (2) whether VTA would become a regulated "common carrier" (by definition, offering railroad services to the public). Based on the public record before it, the Board found that VTA will not hold itself out as a common carrier to perform rail freight service, and no common carrier rights or obligations are being transferred to VTA. Thus, VTA will not become a regulated carrier. The Board also found that the transaction will not impair UP's ability to perform its common carrier obligation and, therefore, VTA does not need the Board's approval to acquire UP's rail assets.

The Board issued its decision today in the case entitled *Santa Clara Valley Transportation Authority--Acquisition Exemption--Union Pacific Railroad Company*, STB Finance Docket No. 34094. A printed copy of the decision is available for a fee by contacting **D-2-D- Legal, Suite 405, 1925 K Street, N.W., Washington, DC 20006, telephone(202) 293-7776**, or via [http://Da_To_Da@Hotmail.com](mailto:Da_To_Da@Hotmail.com). The decision also is available for viewing and downloading via the Board's website at <http://www.stb.dot.gov>.

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