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SERVICE DATE – OCTOBER 17, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 310X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN POLK
COUNTY, IOWA

Decided: October 12, 2012

This decision reopens the proceeding to amend the previously imposed public use condition.

Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 5.8-mile line of railroad on the Ankeny Industrial Lead between milepost 4.7 near Des Moines and milepost 10.5 at the end of the line at Ankeny, in Polk County, Iowa. Notice of the exemption was served and published in the Federal Register on August 24, 2012 (77 Fed. Reg. 51,614). The exemption became effective on September 25, 2012.

By decision and notice served on September 24, 2012 (September 24 decision), the proceeding was reopened and the notice of exemption amended, at UP's request, to limit the exemption to the segment between mileposts 4.8 and 10.5 (the Line). Additionally, the September 24 decision authorized the Polk County Conservation Board, the City of Ankeny, and the Iowa Natural Heritage Foundation (collectively, trail sponsors) to negotiate an interim trail use/rail banking agreement with UP for the Line and imposed, at the trail sponsors' request, a public use condition under 49 U.S.C. § 10905 prohibiting UP from disposing of the Line, including the tracks, ties, and signal equipment, for a period of 180 days to enable any state or local government agency or other interested person to negotiate the acquisition of the Line for public use.

By letter filed on September 25, 2012, the Iowa Natural Heritage Foundation, on behalf of the trail sponsors, requests the Board to amend the public use condition to permit removal of the tracks, ties, and signal equipment, while still prohibiting removal of potential trail-related structures. The trail sponsors state that they have no objections to UP salvaging the corridor's track, ties, and signal equipment at any time following the effective date of a Board decision while they continue to negotiate with UP. In a letter filed on September 25, 2012, UP states that it supports the trail sponsors' request and that UP intends to salvage the tracks, ties, and signal materials on the Line as soon as it has authorization to do so.

Typically, where, as here, parties have sought a public use condition to facilitate interim trail use, the Board has imposed a public use condition permitting the removal of tracks, ties and signal equipment but prohibiting the removal of structures such as bridges, trestles, culverts and

tunnels to keep the corridor intact. See, e.g., Cent. R.R. Co. of Indianapolis—Aban. Exemption—in Howard Cnty., Ind., AB 511 (Sub-No. 6X) (STB served June 15, 2012); S.C. Cent. R.R. Co., LLC—Aban. Exemption—In Chesterfield & Darlington Cntys., S.C., AB 312 (Sub-No. 3X) (STB served Feb. 3, 2012). No party opposes the requested amendment. Accordingly, this proceeding will be reopened and the public use condition imposed in the September 24 decision will be amended to exclude the tracks, ties and signal equipment from the condition.

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

It is ordered:

1. The trail sponsors' request to amend the public use condition imposed in the September 24 decision to exclude the tracks, ties and signal equipment from the scope of the condition is granted.
2. Ordering Paragraph No. 5 of the September 24 decision is amended to read:
Consistent with the public use and interim trail use/rail banking conditions imposed in this decision and notice, UP may discontinue service over the Line. UP shall keep intact the right-of-way, including bridges, trestles, culverts and tunnels, and shall refrain from disposing of the Line (except for the tracks, ties, and signal equipment), for a period of 180 days to enable any state or local government agency or other interested person to negotiate the acquisition of the Line for public use. If an interim trail use/rail banking agreement is executed before the expiration of the 180-day public use period, the public use condition will expire to the extent the trail use/rail banking agreement covers the same portion of the Line.
3. This decision is effective on its service date.

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