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SERVICE DATE – APRIL 24, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35240]

Muskogee City-County Port Authority—Operation Exemption—A Line of Railroad in
Muskogee County, OK

Muskogee City-County Port Authority (the Port), a non-carrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate a 4.7-mile rail line extending from milepost 88.80, at or near Davis Field, to milepost 93.50, at or near Shopton, in Muskogee County, OK.

On January 6, 1993, a decision and notice of interim trail use or abandonment (NITU) was served by the Board's predecessor agency, the Interstate Commerce Commission, in Missouri Pacific Railroad Co. —Abandonment Exemption—In Muskogee, McIntosh and Haskell Counties, OK, Docket No. AB-3 (Sub-No. 104X), establishing a 180-day period for Missouri Pacific Railroad Company (MP)¹ to negotiate an interim trail use/rail banking agreement under the National Trails System Act, 16 U.S.C. 1247(d) for a 43.0-mile rail line extending from milepost 93.50, at or near Shopton, to milepost 50.50, near Kerr McGee, in Muskogee, McIntosh, and Haskell Counties, OK. Trail negotiations were successful and an agreement for rail banking and interim trail use was reached in the Line Donation Contract (Contract) between MP, the Port, and Indian Nations

¹ Union Pacific Railroad is the successor-in-interest to MP.

Recreation Trail (INRT). Pursuant to that agreement, the Port obtained the right to use the 4.7-mile segment described above for rail banking and interim trail use.² The Port now wishes to reactivate service over the 4.7 mile line segment.³

The Port certifies that its projected annual revenues as a result of this transaction will not result in the Port becoming a Class II or Class I rail carrier and further certifies that its projected annual revenues will not exceed \$5 million.

The transaction is scheduled to be consummated on May 10, 2009, the effective date of the exemption (30 days after the exemption is filed).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction. Petitions for stay must be filed no later than May 1, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35240, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Jeffrey O. Moreno, 1920 N Street, NW, Suite 800, Washington, DC 20036-1601.

² The NITU governing the rest of the line is not at issue here.

³ Port simultaneously filed a petition to vacate the NITU issued in Missouri Pacific Railroad Co. –Abandonment Exemption–In Muskogee, McIntosh and Haskell Counties, OK, Docket No. AB-3 (Sub-No. 104X) (ICC served Jan. 6, 1993). The petition will be addressed by the Board in a separate decision.

Board decisions and notices are available on our website at
"WWW.STB.DOT.GOV."

Decided: April 21, 2009.

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

Anne K. Quinlan

Acting Secretary