

40857

SERVICE DATE – JUNE 22, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 33 (Sub-No. 285X)]

Union Pacific Railroad Company–Abandonment Exemption–in Yakima County, Wash.

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 C.F.R. § 1152 Subpart F–Exempt Abandonments to abandon a 1.45-mile line of railroad, on the Yakima Industrial Lead, from milepost 57.30 to milepost 58.75 near Grandview, in Yakima County, Wash.¹ The line traverses United States Postal Service Zip Code 98930.

UP has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or filed 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 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 C.F.R. § 1105.7 (environmental report), 49 C.F.R. § 1105.8 (historic report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

¹ The notice of exemption was filed on June 2, 2010 and supplemented on June 4, 2010 by the inclusion of “Attachment 1” to Exhibit 2.

In its notice, UP states that it granted the Washington Central Railroad Company (WC) local trackage rights over the line. With UP's concurrence, WC sold the trackage rights it had over the line to BNSF Railway Company (BNSF). BNSF, in turn, assigned these rights to the Central Washington Railroad Company (CWRR). See Central Wash. R.R.—Lease and Operation Exemption—BNSF Railway Co., Docket No. FD 34640 (STB served Jan. 21, 2005). UP states that it expects that BNSF and CWRR will make a separate filing with the Board to discontinue applicable trackage rights over the line. In light of the existing trackage rights, it would be premature for UP to consummate the abandonment while the trackage rights remain in effect.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 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 or after July 22, 2010, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 C.F.R.

² 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 (continued . . .)

§ 1152.27(c)(2),³ and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by July 2, 2010. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by July 12, 2010, with: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Suite 1920, Chicago, IL 60606.

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

UP has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by June 25, 2010. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at

(. . . continued)

its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines et al., 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.

³ Each OFA must be accompanied by the filing fee, which currently is set at \$1,500. See 49 C.F.R. § 1002.2(f)(25).

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 C.F.R. § 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 22, 2011, 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 17, 2010.

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