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SERVICE DATE - JUNE 4, 1998

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 117X)]

Union Pacific Railroad Company--Abandonment Exemption--in Lake County, CO

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon an approximately 1.8-mile portion of the Leadville Branch from milepost 274.3 near McWethy Drive to the end of the line at milepost 276.1 at the rail yard near U.S. Highway 24, in Leadville, Lake County, CO.¹ The line traverses United States Postal Service Zip Code 80461.

¹ This notice of exemption is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company--Control and Merger--Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company.

The Denver and Rio Grande Western Railroad Company (DGRW) previously owned the involved line of railroad, which became a line on the UP after DRGW was merged into UP on June 30, 1997. However, the Board granted discontinuance authority rather than full abandonment over the Sage-Leadville Line in Docket No. AB-8 (Sub-No. 36X), The Denver and Rio Grande Western Railroad Company--Discontinuance Exemption--Sage-Leadville Line In Eagle and Lake Counties, Co and Docket No. AB-8 (Sub-No. 39), The Denver and Rio Grande Western Railroad Company--Discontinuance--Malta-Canon City Line, In Lake, Chaffee and Fremont Counties, CO, See Finance Docket No. 32760 (ICC served Aug. 12, 1996). In this filing, UP is seeking to abandon the stub end of the line.

The Lake County Board of County Commissioners (Lake County) filed a request for issuance of a notice of interim trail use (NITU) for the entire line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). The Board will address Lake County's trail use request, and any others that may be filed, in a subsequent decision.

UP has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or 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 Surface Transportation Board (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 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.--Abandonment--Goshen, 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 July 4, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal

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

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expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 15, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 24, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Joseph D. Anthofer, General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

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

UP has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by June 9, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1545. 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.

³ Each offer of financial assistance must be accompanied by the filing fee, which is currently set at \$1000. See 49 CFR 1002.2(f)(25).

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Pursuant to the provisions of 49 CFR 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 4, 1999, 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: May 28, 1998.

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

Vernon A. Williams

Secretary