

SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36524

SAVAGE TOOEELE RAILROAD COMPANY
— ACQUISITION AND OPERATION EXEMPTION IN TOOEELE COUNTY, UTAH —
UNION PACIFIC RAILROAD COMPANY

MOTION TO WITHDRAW

Savage Tooele Railroad Company (“STR”) hereby files this Motion to Withdraw, with prejudice, the Verified Notice of Exemption filed in this docket on September 2, 2021, (“Notice”) as well as subsequent filings submitted to supplement and/or correct the Notice. The Notice was filed pursuant to 49 U.S.C. § 10901 and 49 C.F.R. Part 1150, Subpart D (§§ 1150.31 – 1150.36) and describes a transaction whereby STR would acquire certain rights in approximately seven miles of a dormant line of railroad owned by Union Pacific Railroad Company (“UP”) and would also acquire property adjacent to the UP track on which to construct and operate additional track connected to the UP track, all in Tooele County, Utah. The purpose of the described transaction was to establish STR as a Class III carrier providing common carrier service to tenants locating in a new industrial park being developed near Grantsville, Utah.

Although STR has not changed its plans to re-establish service over the former UP right-of-way and track and to provide common carrier service over it and new track to be constructed in the industrial park, STR must nevertheless withdraw the Notice and related filings in this docket. This is because ongoing due diligence activities related to the proposed transaction recently revealed that, while the parties to the transaction believed the right-of-way and tracks to

be acquired by STR were still a line of railroad subject to the STB's jurisdiction – albeit unused for many years - a predecessor to UP had, in fact, formally abandoned the entire line in 1983 in Interstate Commerce Commission Finance Docket No. 30208, *Western Pacific Railroad Company - Abandonment Exemption – in Tooele County, Utah (the Warner Branch)*. Although this branch line was formally abandoned by UP's predecessor, the track was not removed and much of it remains in place.

Because all the tracks and right-of-way STR is acquiring from UP were formally abandoned in 1983, UP has no assets or rights subject to the Board's jurisdiction for STR to acquire through a notice of exemption from 49 U.S.C. §10901 pursuant to 49 CFR §1150.31. Instead, pursuant to Board precedent and policy, authority for STR to reinstate common carrier operations over the former UP line and its planned construction of new track (1) related to reinstatement of common carrier service over the abandoned line;¹ and (2) within the new industrial park, will require a Petition for Exemption from the requirements of 49 U.S.C. §10901 for such approval.² STR is in the process of preparing the appropriate filing for submittal to the Board in due course.³

For the reasons set forth hereinabove, STR respectfully moves for permission to withdraw with prejudice the Notice and related filings made by STR in this docket, in particular

¹ Approximately .54 miles of the right-of-way and track were sold by UP to two adjacent landowners in 2004 and 2015 and the tracks on their parcels were removed. This will require STR to re-acquire the right-of-way and reconstruct this segment of track in order to re-establish a continuous rail line to the industrial park.

² See, e.g., STB Finance Docket No. 35116, *R.J. Corman Railroad Co./Pennsylvania Lines Inc. – Construction and Operation Exemption – In Clearfield County, Pa.* (Served July 27, 2009).

³ Docket No. FD 36616 has been reserved for this subsequent filing. STR has also commenced a dialogue with the Board's Office of Environmental Analysis about its role in assessing the environmental impacts of the construction aspects of the overall project.

the Verified Supplement Per Board Order filed October 19, 2021, the Correction to Verified Notice of Exemption filed November 12, 2021, and the letter to the Board filed April 5, 2022 from counsel for STR.

STR notes finally that this Motion applies only to filings made by STR in Docket No. FD 36524, and that STR is not also seeking to withdraw its Verified Notice of Exemption in Docket No. FD 36525, *Savage Companies, Continuance in Control Exemption – Savage, Bingham and Garfield Railroad Company and Savage Tooele Railroad Company*, which remains pending before the Board.

Respectfully submitted,

A handwritten signature in blue ink that reads "Thomas W. Wilcox".

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May 13, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of May 2022 a copy of the foregoing Motion to Withdraw was served on each Party of Record listed on the official Service List for Docket No. FD 36524.

Thomas W. Wilup
