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December 20, 2024

Cynthia T. Brown,
Chief, Section on Administration
U.S. Surface Transportation Board
395 E Street, NW
Washington, DC 20423-0001

Re: STB Docket No.: AB-12 (Sub-no. 184X), Abandonment Exemption for the Wendel-Alturas Line in Lassen and Modoc Counties, California, Motion by Lassen Land Trail Trust to Substitute Interim Trail User pursuant to 49 C.F.R. 1152.29(f)

Dear Ms. Brown:

This letter is on behalf of the Lassen Land and Trail Trust and relates to the former Wendel to Alturas line of the Southern Pacific, defined as MP 360.1 near Wendel to MP 445.6 near Alturas in Modoc and Lassen Counties CA, a distance of 85.5 miles. LLTT seeks to become the substitute trail sponsor for this former line of railroad pursuant to 49 C.F.R. 1152.29(f) and this filing. LLTT submits herewith (1) its "statement of willingness" and a map of the railbanked right of way for which it seeks to become substitute trail sponsor (Attachment A), and (2) joinder in this motion by the Bureau of Land Management (BLM) of the U.S. Department of the Interior (the extant trail sponsor) (Attachment B). This facility represents a key portion of a state-wide trail network to serve northeastern California.

Background. BLM has long supported the creation and development of a railbanked rail trail over the entire 85.5-mile right of way from Wendel to Alturas in Lassen and Modoc Counties, CA, encompassed in the above docket, practically since the inception of this proceeding in the 1990 as part of a much larger merger proceeding. On March 27, 1996, BLM filed a statement of willingness and requested issuance of a Notice of Interim Trail Use (NITU) for the entire 85.5-mile Wendel-Alturas Line in Lassen and Modoc Counties, California involved in AB 12 (Sub-no. 184X). On August 12, 1996, STB served a decision (# 20247) in F.D. 32760 announcing (slip op. at 215) issuance of NITU's in a number of merger-

related abandonment or abandonment exemption dockets, including AB 12 (Sub-no. 184X) (Wendel to Alturas). See also 61 FR 41826 (same date). The relevant NITU excerpt and Fed. Reg. notice are included in Attachment C. Between 1996 and 2008, BLM requested numerous extensions to negotiate an interim trail use/rail banking agreement. SP and later Union Pacific (UP) as its successor timely consented to all relevant extensions.¹

On February 20, 2008, BLM filed a final request to extend the negotiation period until September 3, 2008 (STB document # 221648). Attachment 2 to that request was a letter from UP specifically noting that the parties were arranging for UP to transfer title for railbanking purposes to LLTT. Consistent with those representations, STB granted the NITU extension by order served Feb. 28, 2008. This order is set forth in Attachment C (STB decision # 38842)². On September 18, 2008, UP filed a letter (Attachment D) with STB announcing that UP had consummated a trail use agreement with LLTT³, and that UP had conveyed the entire property to LLTT on September 5, 2008.⁴ LLTT and BLM have been working together to develop a suitable trail on the property since that date. The parties desire to continue to work together toward that end. The parties recently discovered that, by mistake or by oversight, they had failed to file documentation to substitute LLTT as interim trail manager pursuant to 49 C.F.R. 1152.29.

Motion. In order to correct the mistake or oversight, the parties are making this after-the fact request to reopen the abandonment exemption, vacate the existing NITU, and issue a replacement NITU, substituting LLTT for BLM as trail sponsor on this entire property. This relief is fully supported by the Board's recent decision in West Shore Railroad Corporation – Abandonment Exemption in Union and Northumberland Counties, PA, AB 1017X, served August 22, 2024. In that case, the parties had inadvertently failed to seek Board authority to change trail sponsorship and, in order to correct the situation after-the-fact, filed papers to vacate the prior NITU and to obtain issuance of a new NITU recognizing the substitute trail sponsor. The Board granted the relief sought.

¹ E.g., decision in multiple AB dockets including STB docket AB 12 (Sub-no. 184X), served August 4 1999.

² The order grants BLM's request to extend the negotiation period through September 3, 2008.

³ The trail sponsorship/use agreement between UP and LLTT was executed and dated as of June 27, 2008, well within the negotiation period specified in the order dated Feb. 20, 2008. The agreement recites that it is in accordance with and subject to 16 U.S.C. 1247(d) and relevant Decisions from 1996 to date.

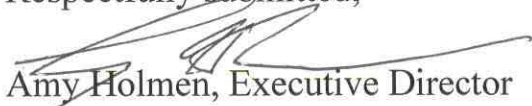
⁴ The deed from UP to LLTT was dated August 26, 2008. It was recorded on September 5, 2008.

The parties request that the responsibility for the right of way be transferred to the LLTT effective no later than the date of issuance of the substitute NITU or January 20, 2025.

Conclusion: for the reasons stated, LLTT and BLM by joinder request that the Board vacate the existing NITU and issue a substitute NITU recognizing LLTT as trail sponsor (user) for the Alturas to Wendel right-of-way.

Certificate of Service. By my signature below, I certify service on the date above by email attachment and by USPS, first class, postage pre-paid, on all parties listed as cc's.

Respectfully submitted,



Amy Holmen, Executive Director
Lassen Land and Trails Trust
601 Richmond Road
Susanville, CA 96130
Telephone number: 530-257-3252
Email: amy@lassenlandtrust.org

Attachments:

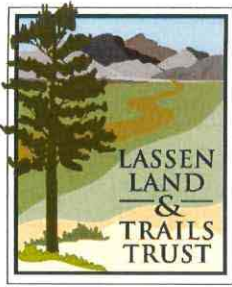
- A -- LLTT Statement of Willingness to Assume Financial Responsibility and Wendel-Alturas Railroad Map
- B -- BLM joinder letter
- C -- BLM extant NITU from 1996 [61 FR 41826 (Aug. 12, 1996); and relevant pages from merger decision (dec. # 20247, served Aug. 12, 1996, esp. p. 215), and most recent extension (dec. # 38842)
- D -- Union Pacific Sept. 18, 2008 letter as filed

cc. (all with attachments) Emily Ryan, Manager
BLM Eagle Lake Field Office
2550 Riverside Drive
Susanville, CA 96130 (esryan@blm.gov)

Tanya Spratt
Senior General Attorney
1400 Douglas Street, STOP 1580
Omaha, Nebraska 68179 (tspratt@up.com)

Attachment A

LLTT Statement of Willingness and Map



P.O. Box 1461
SUSANVILLE, CA 96130
PHONE: (530) 257-3252
www.lassenlandandtrailstrust.org

BEFORE THE SURFACE TRANSPORTATION BOARD

Southern Pacific Transportation Company –)
Abandonment Exemption --) AB 12 (Sub-no. 184X)
Wendel-Alturas Line in Modoc and Lassen Counties, CA)

Lassen Land and Trails Trust (LLTT) STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, Lassen Land and Trail Trust ("LLTT") (Interim Trail User) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way originally owned and operated by Southern Pacific Transportation Company and subsequently acquired by Union Pacific Railroad ("UP" or "Railroad") as a merger proceeding.¹ The property, known as the Modoc Line Rail

¹ The entire right-of-way was originally owned by Southern Pacific Transportation Company, which filed the above captioned merger-related abandonment proceeding. The property was acquired by Union Pacific pursuant to this Board's authority granted in a merger proceeding (F.D. 32760).

Trail extends from railroad milepost 360.1 near Wendel, California, to railroad milepost 445.6 near Alturas, California. The right-of-way is part of a line of railroad originally proposed for abandonment in Docket No. STB AB-12 (Sub-No. 184-X).

A map of the property depicting the right-of-way is attached. LLTT (as the interim trail user) acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the STB.



Amy Holmen, Executive Director
Lassen Land and Trails Trust
601 Richmond Road
Susanville, CA 96130
Telephone: 530-257-3252
Email: amy@lassenlandtrust.org

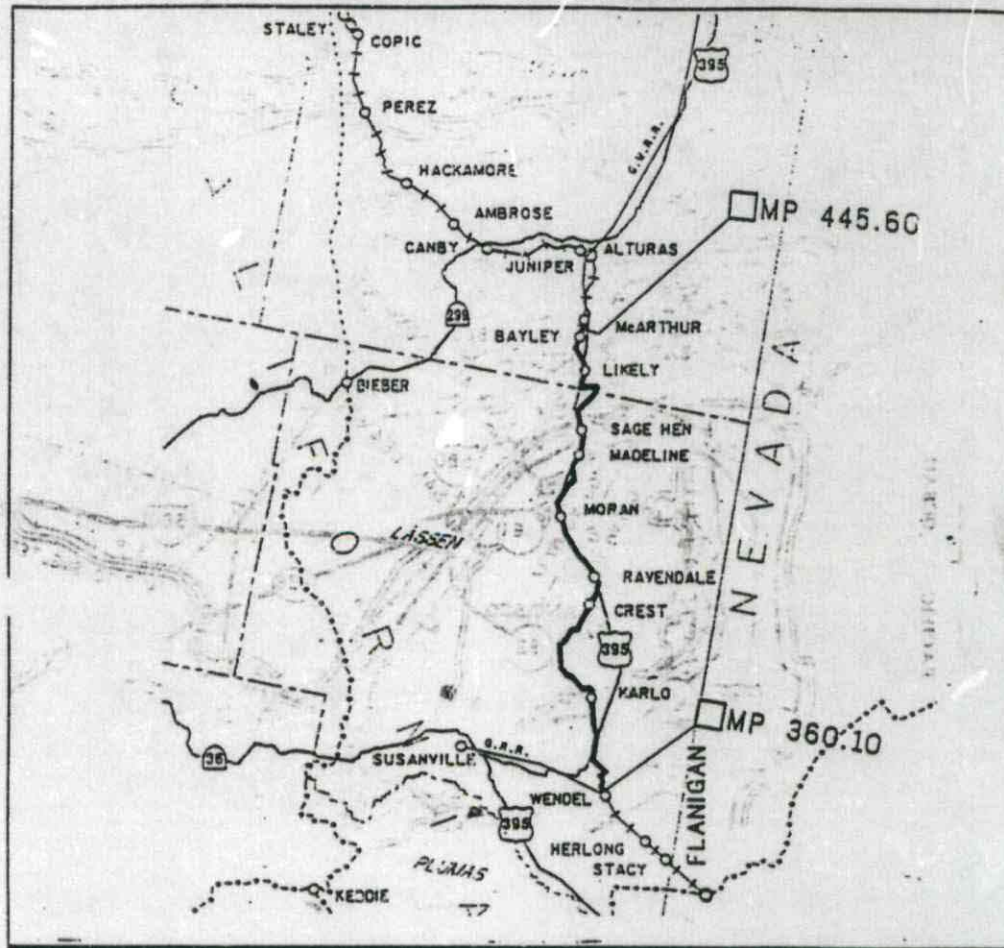
Attachments:

Wendel-Alturas Railroad Map

Cc (w/att.) Tanya Spratt
Senior General Attorney
1400 Douglas Street, STOP 1580
Omaha, Nebraska 68179

Emily Ryan, Manager
BLM Eagle Lake Field Office
2550 Riverside Drive
Susanville, CA 96130

Figure 4A Overview of Proposed Abandonment: Alturas - Wendel, California



Attachment B

BLM Joinder



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Eagle Lake Field Office
2550 Riverside Drive
Susanville, CA 96130
www.blm.gov/ca/eagle-lake



December 19, 2024

Cynthia T. Brown,
Chief, Section on Administration
U.S. Surface Transportation Board
395 E Street, NW
Washington, DC 20423-0001

Re: Southern Pacific Transp. Co. – Ab. Ex. AB-12 (Sub-no. 184X)--
Wendel-Alturas Line in Lassen and Modoc Counties, CA, Bureau of Land
Management joinder in and support of Motion by Lassen Land and Trail
Trust to be Substitute Interim Trail User pursuant to 49 C.F.R. 1152.29(f)

Dear Ms. Brown:

This letter is on behalf of the Bureau of Land Management (BLM) of the U.S. Department of the Interior (the original trail sponsor) for the railbanked line in the above-captioned proceeding, more specifically described as the Wendel to Alturas line of the Southern Pacific, defined as MP 360.1 near Wendel to MP 445.6 near Alturas in Modoc and Lassen Counties CA, a distance of 85.5 miles.¹ Lassen Land and Trail Trust (LLTT) seeks to become the substitute trail sponsor for this former line of railroad pursuant to 49 C.F.R. 1152.29(f). LLTT has submitted its letter motion, in which BLM hereby joins, and a “statement of willingness” and a map of the railbanked right of way for which it seeks to become substitute trail sponsor. This railbanked trail is an important part of a state-wide trail network to serve northeastern California, including federal lands adjacent to the trail. BLM has supported the establishment and preservation of this railbanked since the inception of this proceeding in or about 1995, at which time BLM first expressed interest and support, and filed its original “statement of willingness.” BLM

¹ STB docket AB -12 (Sub-no. 184X) is a merger-related abandonment proceeding. Union Pacific acquired the Southern Pacific’s interests in the line pursuant to a merger authorized by STB in STB docket 32760.

requests that STB issue the substitute Notice of Interim Trail Use as soon as practicable.

Thank you for your assistance in this matter.

Respectfully submitted,

EMILY
RYAN

Digitally signed
by EMILY RYAN
Date: 2024.12.18
14:59:57 -08'00'

Emily Ryan, Manager
BLM Eagle Lake Field Office
2550 Riverside Drive
Susanville, CA 96130

cc. Amy Holmen, Executive Director
Lassen Land and Trails Trust
601 Richmond Road
Susanville, CA 96130

Tanya Spratt
Senior General Attorney
1400 Douglas Street, STOP 1580
Omaha, Nebraska 68179
(for Union Pacific)

Attachment C

61 Fed. Reg. 41826 (August 12, 1996)

F.D. 32760 (excerpts containing NITU)

AB 12 (Sub-no. 184X), served

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 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. The notice is subject to environmental conditions as set forth in Appendix G in Decision No. 44, served on August 12, 1996, in Finance Docket No. 32760.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 11, 1996, unless stayed pending reconsideration. Petitions to stay, formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 CFR 1152.29⁵ must be filed by August 22, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 3, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Robert T. Opal, General Attorney, 1416 Dodge Street, Room 830, Omaha, NE 68179.

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

Public use or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: August 6, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,
Secretary.

[FR Doc. 96-20479 Filed 8-9-96; 8:45 am]

BILLING CODE 4915-00-P

⁴ See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

⁵ The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

Surface Transportation Board¹

[Docket No. AB-12 (Sub-No. 184X)]²

Southern Pacific Transportation Company—Abandonment Exemption—Wendel-Alturas Line in Modoc and Lassen Counties, CA

AGENCY: Surface Transportation Board.
ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903-04 the abandonment by Southern Pacific Transportation Company of its 85.5-mile rail line between milepost 360.1 near Wendel and milepost 445.6, near Alturas, in Modoc and Lassen Counties, CA, subject to standard labor protective conditions, environmental and historic preservation conditions, a 180-day trail use condition, and a 180-day public use condition, all of which are set forth in Decision No. 44, served on August 12, 1996, in Finance Docket No. 32760.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on September 11, 1996. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2)³ and additional requests for trail use/rail banking under 49 U.S.C. 1152.29 must be filed by August 22, 1996; petitions to stay must be filed by August 22, 1996; and petitions to reopen must be filed by September 3, 1996. Because the Board is imposing a 180-day public use condition in this proceeding, it is unnecessary to request this condition. **ADDRESSES:** Send pleadings referring to Docket No. AB-12 (Sub-No. 184X) to: (1) Surface Transportation Board, Office

¹ The ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to section 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

² This 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*.

³ See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Gary A. Laakso, General Attorney, Southern Pacific Building, One Market Plaza, Room 846, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 927-5352. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board's Decision No. 44 in Finance Docket No. 32760. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: August 6, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,
Secretary.

[FR Doc. 96-20472 Filed 8-9-96; 8:45 am]

BILLING CODE 4915-00-P

Surface Transportation Board¹

[Docket No. AB-12 (Sub-No. 185X)]

Southern Pacific Transportation Company—Abandonment Exemption—Suman-Bryan Line in Brazos and Robertson Counties, TX²

AGENCY: Surface Transportation Board.
ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10505, exempts from the prior approval

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to section 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

² Southern Pacific Transportation Company (SPT) originally petitioned to abandon the entire 16.2-mile Suman-Bryan Line in Brazos and Robertson Counties, TX. SPT later modified the petition by excluding the rail segment between milepost 105.7 and milepost 101.4 near Bryan, TX. Now, the line sought to be abandoned lies solely in Robertson County, TX. We are, however, for administrative convenience retaining the original title of this proceeding.

This decision will be included in the bound volumes of the STB printed reports at a later date.

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SERVICE DATE

AUG 12 1996

SURFACE TRANSPORTATION BOARD

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

Decision No. 44¹

Decided: August 6, 1996

The Board approves, with certain conditions, the common control and merger of the rail carriers controlled by Union Pacific Corporation (Union Pacific Railroad Company and Missouri Pacific Railroad Company) and the rail carriers controlled by Southern Pacific Rail Corporation (Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company).²

¹ This decision covers the Finance Docket No. 32760 lead proceeding and the embraced proceedings listed in Appendix A.

² The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the Act), enacted December 29, 1995, and effective January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC at the time of its termination that involve functions transferred to the Board pursuant to the Act shall be decided (1) by the Board, and (2) under the law in effect prior to January 1, 1996. The Finance Docket No. 32760 lead proceeding, the Finance Docket No. 32760 (Sub-Nos. 1 to 9) embraced proceedings, and the 17 embraced abandonment and 4 embraced discontinuance proceedings were pending with the ICC at the time of its termination. The Finance Docket No. 32760 (Sub-Nos. 10, 11, 12, 13, 14, 16, and 17) embraced proceedings were not then pending but will be considered as if they had been because responsive applications that seek to invoke the conditioning power of old 49 U.S.C. 11344(c) have never been regarded as independent applications. See Burlington Northern Inc. and Burlington Northern Railroad Company--Control and Merger--Santa Fe Pacific Corporation and The Atchison, Topeka and Santa Fe Railway Company, Finance Docket No. 32549, Decision No. 38 (ICC served Aug. 23, 1995) (BN/SF) (slip op. at 55 n.76). Except as noted in the next two paragraphs, all of the proceedings addressed in this decision involve functions that are subject to our jurisdiction pursuant to new 49 U.S.C. 11323-27 (control/merger transactions), new 49 U.S.C. 11102 (terminal facilities), and new 49 U.S.C. 10903-05 (abandonments), and we will therefore decide these proceedings under the law in effect prior to January 1, 1996.

The Finance Docket No. 32760 (Sub-No. 8) proceeding, wherein applicants seek an exemption from the trucking company acquisition requirements of old 49 U.S.C. 11343-44, involves a
(continued...)

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²(...continued)

effect on and after January 1, 1996. We will nevertheless decide this proceeding, and decide it under the law in effect prior to January 1, 1996, in accordance with the special transition rule provided by section 204(b)(3)(C) of the Act (any proceeding involving the "merger" of a motor carrier of property, that was pending before the ICC at the time of its termination, shall be decided by the Board under the law in effect prior to January 1, 1996). The transactions at issue in Finance Docket No. 32760 (Sub-No. 8) are not, in the technical sense, mergers, but prior practice suggests that the word "merger," as used in section 204(b)(3)(C), should be read broadly. See, e.g., Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company--Control--Chicago and North Western Transportation Company and Chicago and North Western Railway Company, Finance Docket No. 32133, Decision No. 25 (ICC served Mar. 7, 1995); (UP/CNW) (slip op. at 56 n.52) (in the context of old 49 U.S.C. 11343-44, the words "merger" and "transaction" have been used almost interchangeably).

Section 204(b)(3)(A) of the Act provides, in general, that in the case of a proceeding under a provision of law repealed and not reenacted by the Act, such proceeding shall be terminated. The Finance Docket No. 32760 lead proceeding includes, among other things, a request that certain securities matters be approved under or exempted from the requirements of old 49 U.S.C. 11301. Because the referenced securities requirements were repealed and not reenacted, the described portion of the Finance Docket No. 32760 lead proceeding was terminated, by force of law, effective January 1, 1996.

As used in this decision, the term "new law" refers to the law in effect on and after January 1, 1996, and the term "old law" refers to the law in effect prior to January 1, 1996. All further references in this decision, except as otherwise specifically indicated, will be to the applicable provisions of the old law.

Public Interest Conditions.

Trail Use. Requests for issuance of certificates or notices of interim trail use (CITUs or NITUs) to acquire rights-of-way under the National Trails System Act, 16 U.S.C. 1247(d), were filed in 10 proceedings: Docket Nos. AB-3 (Sub-No. 130, 131, and 133X), AB-33 (Sub-Nos. 96, 97X, 98X, and 99X), and AB-12 (Sub-No. 184X, 188, and 189X). We will not issue a CITU or NITU in the two Tennessee Pass Line proceedings, Docket Nos. AB-12 (Sub-Nos. 188 and 189X), because we are denying the requested abandonments and are issuing only discontinuance authority. No trail use or public use conditions may be imposed where only discontinuances are being granted. Southern Pacific Transportation Company--Discontinuance of Service Exemption--In Ventura County, CA, Docket No. AB-12 (Sub-No. 143X) (ICC served Nov. 20, 1992).

We will issue a CITU or NITU in the other eight proceedings.²⁵² The criteria for imposing trail use and rail banking have been met. The parties have submitted statements of willingness to assume financial responsibility for the rights-of-way and acknowledged that use of the rights-of-way are subject to future reactivation for rail service in compliance with 49 CFR 1152.29. Applicants have indicated their willingness to negotiate trail use agreements.²⁵³

The parties may negotiate an agreement during the 180-period prescribed below. If the parties reach a mutually acceptable final agreement, further Board approval is not necessary. If no agreement is reached within 180 days, applicants may fully abandon the line, provided the conditions imposed in the applicable proceeding are met. 49 CFR 1152.29(c) and (d). Use of the rights-of-way for trail purposes is subject to restoration for railroad purposes.

Our issuance of the NITUs does not preclude other parties from filing interim trail use requests within 10 days after publication of the notice of exemption in the Federal Register. If, within the 10-day period following publication of the notices of exemption, additional trail use requests are filed, applicants are directed to respond to them within 10 days.

The parties should note that operation of the trail use procedures could be delayed, or even foreclosed, by the financial assistance process under 49 U.S.C. 10905. As stated in Rail Abandonments--Use of Rights-of-Ways as Trails, 2 I.C.C.2d 591 (1986) (Trails), offers of financial assistance (OFAs) to acquire rail lines for continued rail service or to subsidize rail operations take priority over interim trail use/rail banking and

²⁵² The CITUs will be issued within 45 days of the service of this decision if no offer of financial assistance is timely made. The NITUs are being issued as part of this decision.

²⁵³ Applicants state that, for non-Colorado lines proposed for abandonment, they are willing to negotiate trail use with any or all of the parties that have made requests. For Colorado abandonments, applicants are willing to negotiate trail use with the State or any of its designees. They are also willing to negotiate with other parties requesting trail use for Colorado abandonments so long as the State of Colorado is agreeable. Applicants have also submitted letters in various proceedings indicating their willingness to negotiate trail use.

public use.²⁵⁴ Accordingly, the effective date of the decisions may be postponed during the OFA process. See 49 CFR 1152.27(c), (e) and (f). Finally, if the line is sold under the OFA procedures, the abandonment application or the petition for abandonment exemption will be dismissed and trail use precluded. Alternatively, if a sale under the OFA procedures does not occur, trail use may proceed.

Public Use. Various parties in eight proceedings have sought public use conditions under 49 U.S.C. 10906. They have met the criteria for imposing a public use condition by specifying: (1) the condition sought; (2) the public importance of the condition; (3) the period of time for which the condition would be effective; and (4) justification for the time period. 49 CFR 1152.28(a)(2). Accordingly, a 180-day public use condition will be imposed in Docket Nos. AB-3 (Sub-No. 133X), AB-12 (Sub-Nos. 184X), and AB-33 (Sub-Nos. 96, 98X, and 99X). A 90-day public use condition, as parties have requested, will be issued in Docket Nos. AB-3 (Sub-No. 134X) and AB-12 (Sub-Nos. 185X and 187X).

Madison County Transit and RTC ask that we impose Trails Act and public use conditions for a period of 180 days after the carrier consummates the abandonment. We will deny these requests. In issuing the NITUs and CITUs and imposing the public use conditions, we will follow our usual practice and have the 180-day Trails Act period run from the service date of the decision, while the public use condition will run from the effective date of the decision.

Continued operation of the line will not preclude the negotiation of an agreement for interim trail use. Our jurisdiction to issue rail banking or other appropriate orders will not terminate until an abandonment has finally been consummated. The maximum period that a public use condition can extend under 49 U.S.C. 10906 is 180 days from the effective date of the order authorizing abandonment. Even if applicants continue to operate during that 180-day period, this will not preclude a public use agreement from being negotiated and finalized during that statutory period.

Persons may file for both trail use and public use conditions. If a trail use agreement is reached on a portion of the right-of-way, applicants must keep the remaining right-of-way intact for the remainder of the 180-day period to permit public use negotiations. Also, we note that a public use condition is not imposed for the benefit of any one potential purchaser, but rather to provide an opportunity for any interested person to acquire a right-of-way that has been found suitable for public purposes, including trail use. Therefore, with respect to the public use condition, applicants are not required to deal exclusively with parties who have filed requests but may engage in negotiations with other interested persons. Additional public use requests are unnecessary where the full 180-day period has been imposed.

Other Conditions Requested. We now turn to other conditions requested in the various abandonments proceedings.

²⁵⁴ The statement in Trails that section 10905 does not apply to abandonment exemptions has since been superseded by adoption of rules allowing for the use of OFAs in exemption proceedings. See 49 CFR 1152.27.

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DO

SERVICE DATE – FEBRUARY 28, 2008

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB-12 (Sub-No. 184X)

SOUTHERN PACIFIC TRANSPORTATION COMPANY–ABANDONMENT
EXEMPTION–WENDEL-ALTURAS LINE IN MODOC AND LASSEN
COUNTIES, CA

Decided: February 27, 2008

Southern Pacific Transportation Company (SP) filed a petition for exemption under 49 U.S.C. 10505 [now 49 U.S.C. 10502] from the prior approval requirements of 49 U.S.C. 10903-04 [now 49 U.S.C. 10903] to abandon an 85.5-mile line between milepost 360.1, near Wendel, and milepost 445.6, near Alturas, in Modoc and Lassen Counties, CA. A decision and notice of interim trail use or abandonment (NITU) was served and published in the Federal Register on August 12, 1996 (61 FR 41823-30), authorizing, among other things, a 180-day period for SP to negotiate an interim trail use/rail banking agreement with various parties and governmental agencies for the line.¹ The negotiating period under the NITU was extended several times; the latest decision, served on October 1, 2007, extended the negotiation period until March 3, 2008.

On February 20, 2008, the U.S. Department of the Interior, Bureau of Land Management (BLM), with the consent of UP, filed a request to extend the negotiation period under the NITU until September 3, 2008. BLM states that it and the Lassen Land and Trails Trust and the Sierra Nevada Conservancy have cooperated in funding a Phase 1 Environmental Site Assessment and that the assessment found no evidence of hazardous material conditions warranting further environmental investigation at this time. BLM states that the California Department of Fish and Game submitted a proposal for funding to the California State Wildlife Conservation Board (Board), but a vote on the request has been delayed until the May meeting of the Board. BLM further states that it fully expects that the requested extension would be sufficient for completion of the proposed acquisition of the line for trail purposes.

¹ This proceeding 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 (UP/SP). The common control authorized in UP/SP (see Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996)), was consummated on September 11, 1996. SP was subsequently merged into Union Pacific Railroad Company (UP).

Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended. An extension of the negotiating period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended to September 3, 2008. Given the time that has elapsed since abandonment was authorized, the parties are again urged to conclude their negotiations. Based upon BLM's representation, no further extension of the negotiating should be necessary.

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

It is ordered:

1. BLM's request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended to September 3, 2008.
3. This decision is effective on its date of service.

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

Anne K. Quinlan
Acting Secretary

Attachment D

UP Letter Sept. 18, 2008 (Trail Use Agreement Reached)

(document 223630)



Gabriel S Meyer
Assistant General Attorney

223630

September 18, 2008

Via Electronic Filing

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Docket No. AB-12 (Sub-No. 184-X); Abandonment Exemption—Wendel-Alturas Line in Modoc and Lassen Counties, CA

Dear Secretary Quinlan.

This letter is to advise the Board that on June 27, 2008, Union Pacific Railroad Company ("UP") and the Lassen Land and Trails Trust ("LLTT") entered into a trail use agreement to transfer the rail line right-of-way in the above-referenced matter from UP to the LLTT¹. The actual conveyance of the right-of-way pursuant to the National Trail System Act, 16 U S C 1247(d) occurred on September 5, 2008.

Please do not hesitate to contact me if you have any questions.

Sincerely,


Gabriel S Meyer

cc T Burke, Bureau of Land Management (via first class mail)
J Hanson, Lassen County Board of Supervisors (via first class mail)
D Bradshaw, Modoc County Board of Supervisors (via first class mail)
J Branham, Sierra Nevada Conservancy (via email)
L. Hansen, Sierra Nevada Conservancy (via email)
K O'Toole, American Land Conservancy (via first class mail)
M. Sayles, Lassen Land and Trails Trust (via first class mail)

¹ In reaching the agreement with UP, the LLTT acted in cooperation with the Bureau of Land Management and the Sierra Nevada Conservancy.