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BEFORE THE SURFACE TRANSPORTATION BOARD

PETITION OF JOSEPH R. FOX

FOR DECLARATORY ORDER

FINANCE DOCKET NO. AB-35(SUB-NO. 3)

FD-35161



FILED

JUN 20 2008

Joseph R. Fox
1149 East 1630 South
Spanish Fork, Utah 84660
1-801-358-0846
Email: jf@irontonsuit.com

**SURFACE
TRANSPORTATION BOARD**

Petitioner

FEE RECEIVED

JUN 20 2008

Steven T. Densely
Union Pacific Railroad Company
Law Department
280 South 400 West
Suite 250
Salt Lake City, Utah 84101
1-801-212-3985

**SURFACE
TRANSPORTATION BOARD**

Attorney for Respondent

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Public Record

BEFORE THE SURFACE TRANSPORTATION BOARD

**PETITION OF JOSEPH R. FOX
FOR DECLARATORY ORDER
FINANCE DOCKET NO. AB-35(SUB-NO. 3)**

Introduction

Petitioner, Joseph R. Fox, hereby petitions the Surface Transportation Board (STB) pursuant to 5 U.S.C. 554(c) and 49 U.S.C. 721 (b) (4) for a declaratory order to terminate a controversy, and or to remove uncertainty, as to the abandonment status of a railroad right of way and track between mile post 0 00 and mile post 1 87, known as the Iron-ton Branch, Provo, Utah, currently owned by the Union Pacific Railroad Company (UPRC).

Petitioner is the owner of a parcel of land burdened by the Iron-ton Branch track and right of way, and in August 2007 commenced a civil action in the Fourth District Court, Utah County, Utah, Civil No. 070103208, naming UPRC as defendant, for removal of the track on the grounds that the track is a nuisance and has been abandoned by the UPRC.

In the course of the state court litigation, the UPRC has asserted that the Iron-ton Branch has not been abandoned and that subject matter jurisdiction of the state court is pre-empted by the federal jurisdiction of the STB. The Petitioner contends that the STB does not have jurisdiction over the Iron-ton

Branch as a result of previous abandonment proceedings before the Interstate Commerce Commission (ICC) See ICC docket no AB-35 (Sub-No 3)

Undisputed Facts

1 Ironton Branch right of way runs approximately north and south in the southeast portion of Provo City, Utah County, Utah The Ironton Branch right of way extends from mile post 0 00 to mile post 1 87, a distance of 1 87 miles, and was created by various and sundry private grants for railroad purposes during the 1920's The purpose for the Ironton Branch was to service the Ironton Steel Mill which closed down about 1968

2 The Petitioner is the owner of a parcel of land located at 1922 East Ironton Blvd , Provo, Utah 84606, further described as Lot 2, Plat A, Birka Pointe Subdivision The Ironton Branch right of way lies on the western boundary of the Petitioner's land. The actual boundary of the Petitioner's land runs approximately down the middle of the tracks

3 On or about July 3, 1977, the Los Angeles & Salt Lake Railroad Company, Union Pacific Railroad Company, and the Denver & Rio Grande Western Railroad Company, then owners of the Ironton Branch, filed with the ICC a Notice of Intent to Physically Abandon and to Discontinue Service Over the Ironton Branch under ICC docket No AB-35 (Sub-No. 3). See Exhibit A hereto which is incorporated herein by this reference The notice stated: "The reasons for the proposed abandonment is that there has been no traffic over this line since 1969 and there is no prospect of future traffic over the line "

4 The notice further stated "This line of railroad has not appeared on the Denver & Rio Grande Western Railroad Company system diagram because the Denver & Rio Grande Western Railroad Company Considers this line as an industrial spur, not a branch line "

5 On or about October 6, 1977, under Docket No. AB-35 (Sub-No. 3), the ICC issued its Certificate and Order authorizing abandonment of the Ironton Branch See Exhibit B attached hereto which is incorporated herein by this reference.

6 The ICC order was published in the Federal Register on October 20, 1977. See Exhibit C attached hereto which is incorporated herein by this reference. The publication referred to the order as "administratively final".

7 In December 1977, the UPRC consummated its authority to abandon the Ironton Branch and in a letter dated December 15, 1977 notified the ICC that some track had been retired and that the remaining track was reclassified as "Yard Track" See Exhibit D attached hereto which is incorporated herein by this reference.

8. Further, the switch and track segments joining the Ironton Branch to the national rail network were removed from the right of way sometime around the year 2006, disconnecting the Ironton Branch from the national rail network.

Law

Abandonment

When a track is abandoned, the ICC/STB jurisdiction ceases, and, in the usual case, reversionary interests in the rail corridor become effective

Preseault v ICC, 494 U S 1, 5-7, 110 S Ct 914, Birt v STB, 90 F 3d 580, 582-83 (D C Cir 1996).

Indicia of Abandonment

Whether a line has been fully abandoned (i.e. whether consummation has taken place) is a question of the carrier's intent. Indicia of intent to consummate that have been identified include whether a certificate of public convenience and necessity has been issued, whether operations have ceased, whether tariffs have been canceled, whether a letter has been filed with the ICC or the Board that the abandonment has been consummated, and whether track and ties have been salvaged. The courts, the ICC, and the Board have also made it clear that a determination of consummation must be made on a case-by-case basis after a review of the facts, and that a particular finding on one or more of the elements is not necessarily dispositive of the issue. (Citations omitted). Burlington Northern Railroad Company—Abandonment—Grays Harbor County, WA, (1997) STB Docket No. AB-6 (Sub-No 378X)

Continued Services not inconsistent with abandonment

A railroad carrier may fully abandon a line and still provide contract services thereover. *Id.* See also Consolidated Rail Corp.—Petition for Declaratory Order, 1 I.C.C. 2d 284, 285 (1984). A common carrier can provide contract service over a line it has abandoned, or it can provide service over a spur line not subject to ICC or Board Jurisdiction. The Boeing Company—Acquisition and Operation Exemption—Chehalis

Western Railway Company, Finance Docket No. 31916 (ICC served Oct 24, 1991), as cited in Burlington Northern Railroad Company, supra.

Notice of Consummation

Notice of consummation is conclusive on the issue of abandonment, if there are no legal or regulatory barriers to consummation Burlington Northern and Santa Fe Railway Company—Abandonment—Exemption—In Washington county, Or., STB Docket No. AB-6 (Sub-No 383X), decided December 21, 2001.

Abandonment Conditions

The board may not exercise its exemption authority to relieve a carrier of its statutory obligation to protect the interests of its employees.

Accordingly, as a condition to granting an exemption, the board will impose the employee protective conditions set forth in OSL BNSF Railway company-discontinuance of Trackage Rights Exemption-In Cook County, ILL., STB Docket No AB-6 (Sub-No 462X), Decided April 29, 2008

Unless the Commission attaches post abandonment conditions to a certificate of abandonment, the Commission's authorization for an abandonment brings its regulatory mission to an end. Hayfield Northern Railroad Co., Inc., et al v. Chicago & North Western Transportation Co., 104 S Ct 2610, 467 U S 622 (U.S. 1984). Lucas v Township of Bethel, 319 F 3d 595, 602 (3d Cir. 2003); Friends of the Atglen-Susquehanna Trail, Inc v STB, 252 F.3d 246, 262 (3d Cir 2001)

Post abandonment conditions are conditions that permit continued regulation by a federal agency... Lucas v Township of Bethel, 319 F 3d 595, 602 (3d Cir 2003)

Where authorization for abandonment is conditional, the ICC retains jurisdiction over a railroad right of way until it has been abandoned pursuant to the conditions imposed by the agency Preseault v ICC, 494 U S , at 5 n. 3

Where the abandonment is conditional, the agency also retains jurisdiction to determine whether there has been an abandonment sufficient to terminate its jurisdiction. Baros v Texas Mexican Railway Company, 400 F 3d 228 (5th Cir. 2005); See also, Lucas v Township of Bethel , 319 F. 3d 595, at 603 (citing Friends of Atglen-Susquehanna Trail, 252 F 3d at 262).

Yard Track

In 1977, yard track was outside the jurisdiction of the ICC Texas & Pacific Railway Company v Gulf, Colorado & Santa Fe Railway Company, 270 U S 266, 278 (U S Supreme Court 1926). See Also, Jerry K Nicholson v Interstate Commerce Commission et al , 711 F 2d 364, 367 (D.C. Cir 1983)

Disconnection

After consummation of abandonment, severance of the track from the interstate rail network works a de facto abandonment of the track

RLTD Railway Corp. v. Surface Transportation Board, 166 F. 3d 808 (6th Cir. 1999)

A determination of whether abandonment authority has been consummated depends on a case-by-case evaluation of all the facts and circumstances to determine the line owner's intent. Specifically, the Board looks for a physical act which shows a clear intention on the part of the rail line owner to remove the line from the national rail system and relinquish the property interests Beaufort Railroad Co. Inc. —Modified Rail Certificate, Finance Docket No. 34943, decision served March 19, 2008

Argument

The grounds on which the Board may issue its declaratory order that the Ironton Branch is no longer under federal authority are

1 Sufficient indicia of abandonment are present in this case that the UPRC consummated its abandonment authority over the Ironton Branch,

2 No conditions to abandonment that might have preserved federal jurisdiction over the Ironton Branch were satisfied prior to, or after, the UPRC's letter to the ICC consummating its authority to abandon the Ironton Branch,

Indicia of Abandonment

The STB has discretionary authority to issue a declaratory order to eliminate or terminate controversies or to remove uncertainty. Uncertainty and controversy exist in this matter concerning the Board's jurisdiction over, and abandonment status of, the section of track and right of way known as the Ironton Branch. Therefore, this is an appropriate case for the Board to issue a

declaratory order to the effect that the ICC's 1977 Certificate and Order, and the UPRC's consummation of its authority to abandon the Ironton Branch, terminated federal jurisdiction over the Ironton Branch

In 1977, as an owner of the Ironton Branch, the UPRC took steps to obtain abandonment authority over the Ironton Branch from the ICC. The purpose for seeking abandonment authority was to retire certain track of the Ironton Branch and to reclassify the remaining track as "Yard Track", yard track being at that time outside the jurisdiction of the ICC. The basis for abandonment was that there were no more customers for carrier services along the Ironton Branch and that there were no rail service customers in the future. The UPRC represented that the reclassified yard track would be used for the storage of railroad cars.

On September 27, 1977, the ICC issued its Certificate and Order granting abandonment authority to the UPRC. Notice of the ICC's action was published in the Federal Register on October 20, 1977. The published notice stated that the order was "administratively final"

In compliance with the ICC's order, the UPRC notified the ICC on or about December 15, 1977, that on December 5, 1977, certain track portions of the Ironton Branch were abandoned and that the remaining track would be reclassified as yard track during the month.

Indicia of the UPRC's intent to abandon the Ironton Branch are present in this case. The UPRC sought and obtained a certificate of public convenience and necessity from the ICC, common carrier operations over the Ironton Branch had ceased, and the UPRC sent a letter to the ICC that the abandonment has

been consummated. Furthermore, Ironton Branch track, switches, ties, and ballast were salvaged, and finally, the entire Ironton Branch has now been disconnected from the national rail network, making it impossible to use the track for the movement of railroad cars and equipment.

Therefore, in the presence of these indicia of the UPRC's intent to abandon the Ironton Branch, the Board may now issue its declaratory order that the Ironton Branch has been abandoned and federal regulation over the Ironton Branch has been terminated.

Abandonment Conditions

No conditions to abandonment, that might have preserved federal jurisdiction over the Ironton Branch, arose prior to, or after, the UPRC's letter to the ICC consummating its authority to abandon the Ironton Branch.

The 1977 Certificate and Order expressly states that: "I further order that actual abandonment may be effected by the applicant after the effective date of this certificate and order provided no offer for continued rail operations is received. This authority to abandon is subject to the employee conditions set forth above."

The order further states: "If the authority granted in this certificate and order is not exercised within one year from its effective date, it shall be of no further force and effect."

The order provided that the effective date was 45 days from the date of publication in the Federal Register. The order was published in the Federal Register on October 20, 1977, making the effective date December 5, 1977. The

UPRC consummated its abandonment authority during the month of December 1977, within one year of the effective of the ICC's certificate and order

There is no record that an offer of continued rail operations was received nor that railroad employee rights were not protected prior to the UPRC's letter consummating the abandonment dated December 15, 1977, or since

Therefore, the Board may issue its declaratory order that the conditions to abandonment that might have preserved federal jurisdiction over the Branch did not arise prior to the UPRC's consummation of its authority to abandon the Ironton Branch

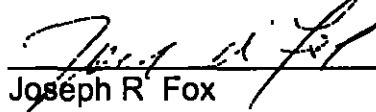
Conclusion

The Ironton Branch right of way has been abandoned because (1) the indicia evidencing an intent to abandon the Ironton Branch right of way are present in this case, and (2) the 1977 ICC Order authorizing abandonment was administratively final and conditions for continued federal regulation were not satisfied, and (3) the Ironton Branch has now been disconnected from the national rail network

Therefore, the Petitioner respectfully requests the Board institute a declaratory order proceeding to terminate the controversy of whether the Ironton Branch is under the Board's jurisdiction

Dated June 19, 2008

Respectfully Submitted,



Joseph R Fox
Petitioner

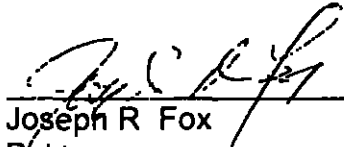
I, Joseph R Fox, declare under penalty of perjury that the foregoing is true and correct Further, I certify that I am qualified and authorized to file this pleading Executed on June 19, 2008



Joseph R Fox
Declarant

I hereby certify that I have served all parties of record in this proceeding with this document by United States express mail

Dated June 19, 2008



Joseph R Fox
Petitioner

NO. AB-35 (SUB-NO. 3)
NO. AB-8 (SUB-NO. 3)

JUL 1977

JUL 1977

NOTICE OF INTENT TO PHYSICALLY ABANDON
AND TO DISCONTINUE SERVICE OVER
THE IRONTON BRANCH

RAILROAD SERVICES
MAIL UNIT

Los Angeles & Salt Lake Railroad Company, Union Pacific Railroad Company, and The Denver & Rio Grande Western Railroad Company hereby give notice that on or about August 4, 1977, they intend to file with the Interstate Commerce Commission, Washington, D.C. 20423, an application for a certificate of public convenience and necessity permitting physical abandonment and discontinuance of operations over a portion of a line of railroad known as the Ironton Branch, extending from railroad milepost 0.00 to railroad milepost 1.87 near Ironton, a distance of 1.87 miles in Utah County, Utah. There are no stations located on this line. If abandonment is authorized, the line between mileposts 0.64 and 0.71 will be retired and removed. The portions of the line between milepost 0.00 and 0.64 and between mileposts 0.71 and 1.87 will be left in place and will be reclassified as yard track.

The reasons for the proposed abandonment is that there has been no traffic over this line since 1969 and there is no prospect of future traffic over the line. The proposed abandonment will have no effect whatsoever on the movement of products to and from this area because there is no traffic to move over the line. The line now is being utilized for storage of rail cars.

Exhibit A

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DATE 11-15-2000
BY 577547

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Z5115-1000 110000
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This line of railroad has appeared on the Los Angeles & Salt Lake Railroad Company system diagram as a Category I line since April 29, 1977. This line of railroad has not appeared on The Denver & Rio Grande Western Railroad Company system diagram because the Denver & Rio Grande Western Railroad Company considers this line as an industrial spur, not a branch line.

The interest of railroad employees will be protected by the Amtrak Conditions.

Any interested person, in response to this notice, is entitled to take either of the following actions.

1. File with the Interstate Commerce Commission written comments containing:

- (a) Exact name and address of the commenting party;
- (b) Brief statement of interest in the abandonment or discontinuance proceeding;
- (c) Specific statement of position and summary of evidence with regard to any or all of the following:
 - (1) Intent to offer financial assistance;
 - (2) Environmental impact;
 - (3) Impact on rural and community development;
 - (4) Suitability of the properties for other public purposes; and
 - (5) Recommended provisions for protection of the interests of employees.

Written comments will be considered by the Commission in all proceedings in developing conditions and in determining whether to conduct an investigation on its own motion. In

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DATE 11/15/01 BY 1043 WJW

event an investigation is conducted, then the commenting
ty may participate in the proceeding as its interests may
ear.

2. File with the Interstate Commerce Commission
a petition requesting that the application and proposed
abandonment and discontinuance be investigated.

The petition to investigate shall be in the form
of a verified statement, and at minimum, contain:

- (a) Identification of petitioner including
its name, address, and business;
- (b) Statement of petitioner's interest in the
abandonment or discontinuance proceeding;
whether petitioner uses the involved service;
and if it does not, information with respect
to the group or public interest it repre-
sents;
- (c) Specific reason(s) for requesting the
institution of an investigation, including
information with respect to petitioner's
reliance on the involved service, with
allegations of fact supported by an affidavit
of personal knowledge of the facts;
- (d) Any rebuttal of information or material
submitted by applicant; and
- (e) Request for oral hearing and reasons
therefor if desired.

Upon receipt of a petition to investigate, the
Commission shall determine the extent of the investigation
to be instituted. Those parties filing petitions to investi-
gate should be prepared to participate actively in either
oral hearings or via the submission of additional material

the form of verified statements. Parties seeking information concerning the filing of petitions should refer to 49 C.F.R. 1121.36.

Petitions to investigate and written comments should indicate the proceeding designation, No. AB-35 (Sub-No. 3) and AB-8 (Sub-No. 3), and should be filed with the Interstate Commerce Commission, Washington, D.C. 20423, no later than September 8, 1977. Interested persons may file either a written comment or a petition to investigate with the Commission to become a party to this abandonment and discontinuance proceeding. A copy of each petition to investigate or written comment shall be served upon the representatives of the applicants: Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, Nebraska 68179, and John S. Walker, The Denver & Rio Grande Western Railroad Company, P. O. Box 5482, Denver, Colorado 80217. Replies to comments or petitions, the latter shall be in the form of a verified statement, shall be filed with the Commission no later than September 19, 1977, and shall be served on all commenting parties and petitioners. The original and 2 copies of all petitions, comments and replies shall be filed with the Commission together with a certificate of service.

In the event a petition to investigate prepared in accordance with the above instructions is filed, then the

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Commission will conduct an investigation of the abandonment and discontinuance. Written comments filed with the Commission will be considered by the Commission in all proceedings in developing conditions and in determining whether the Commission should conduct an investigation on its own motion in the event no petition to investigate is filed. Additionally, if an investigation is conducted then parties filing comments may participate in the investigation as their interests may appear.

Persons desiring further information concerning abandonment procedures may contact the Interstate Commerce Commission's Section of Finance, Office of Proceedings, or refer to the full abandonment and discontinuance regulations at 49 C.F.R. Part 1121. Persons desiring information concerning financial assistance for the continued operation or acquisition of the involved line should contact the Commission's Rail Services Planning Office. The carriers' representatives to whom inquiries may be made is Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, Nebraska 68179, and John S. Walker, The Denver & Rio Grande Western Railroad Company, P. O. Box 5482, Denver, Colorado 80217. A copy of the application will be available for public inspection on or after August 4, 1977, at the Union Pacific Railroad Company station at Provo, Utah, and at The Denver & Rio Grande Western Railroad Company station at

27
7-215-0004-0004
01:00:00

Provo, Utah. The business hours of the Union Pacific Railroad Company station are from 8:00 A.M. to 4:30 P.M., Monday through Friday. The business hours for The Denver & Rio Grande Western Railroad Company station are 8:00 a.m. to 4:30 p.m. The carriers shall furnish a copy of the application to any interested person proposing to file a written comment or petition to investigate, upon request.

LOS ANGELES & SALT LAKE RAILROAD COMPANY
UNION PACIFIC RAILROAD COMPANY
THE DENVER AND RIO GRANDE WESTERN RAIL-
ROAD COMPANY

Dated: July 1, 1977

CERTIFICATE AND ORDER
INTERSTATE COMMERCE COMMISSION

SERVICE DATE

OCT 6 1977

No. IR-35 (San No. 3)

LOS ANGELES & SALT LAKE RAILROAD COMPANY, UNION PACIFIC RAILROAD COMPANY
DENVER & RIO GRANDE WESTERN RAILROAD COMPANY--ABANDONMENT PORTION
OF THE "IRONTON BRANCH" IN UTAH COUNTY, UTAH

JOHN T. WILSON MAE BROWN, Commissioner, to whom the matter which is the subject
of this certificate and order has been referred for action.

On August 4, 1977, the Los Angeles & Salt Lake Railroad Company (LA&SL), the Union
Pacific Railroad (UP), and The Denver & Rio Grande Western Railroad Company (Rio Grande),
collectively as applicants, jointly filed an application under section 1a of the Interstate
Commerce Act, for a certificate of public convenience and necessity authorizing the LA&SL
& Rio Grande to physically abandon and the UP and Rio Grande to abandon operations over a
certain line of railroad known as the Ironton Branch, which extends from milepost 0.90 to
milepost 1.37 near Ironton in Utah County, Utah.

Since no petition to investigate has been filed as provided in section 1a(3) of the Act and
pursuant 49 C.F.R. section 112.30(a)(1), this proceeding may be disposed of on the record as
submitted. Although the line is shown as a category I line on the LA&SL System Diagram filed
with the Commission on April 29, 1977, since there has been no objection to the proposed abandon-
ment by any interested party, state or political subdivision, the proceeding need not be delayed for
the 3 month period following the date upon which the system diagram was filed. Section 1a(5)(b)
of the Act.

If the abandonment is authorized, applicants intend to remove and retire portions of the
line between mileposts 0.64 and 0.71. The remainder of the track will remain in place and be
reclassified as yardtrack. There are no remaining shippers located on the Ironton Branch.
Therefore, abandonment of this portion will have no effect on the movement of products to
and from the area by rail.

It is, therefore, found, that the present and future public convenience can adequately permit
the physical abandonment of the Ironton Branch by the Los Angeles & Salt Lake Railroad Company
and the Denver & Rio Grande Western Railroad Company, and the continuance of operations
by the Union Pacific Railroad Company and the Denver & Rio Grande Railroad Company over
the Ironton Branch line of railroad. This finding is subject to the condition that employees shall
be entitled to the protection provided in and by law, pursuant to section 105 of the
Passenger Service Act (45 USC 505) as amended, or that the LA&SL abandon the
Carson 354 (C.R. 76 (1977)). Further find that the discontinuance of operations on the Ironton
Branch line will not result in a serious adverse impact on or retard economic development
and that this decision is not a major Federal action significantly affecting the quality of the human
environment within the meaning of the National Environmental Policy Act of 1969.

It is also, ordered, that the Secretary of the Department of Transportation shall, within 10 days after the date of the filing of this certificate and order, publish notice of the proposed abandonment in the
Federal Register and shall also publish notice of the proposed abandonment in the Federal Register
within 10 days after the date of the filing of this certificate and order. Within 10 days after receiving notice that an
offer of financial assistance is being considered, applicants shall comply with the information

Exhibit B

requirements of section 121, D.C. Code, Reg. 1.121.

All correspondence to the Commission regarding effect of the final decision on the proposed operations or acquisition of the Ironston branch line shall refer to this proceeding. All-RSCP shall be typed on the lower left-hand corner of envelopes containing such correspondence.

It is ordered that final abandonment may be effected by the applicant after the effective date of this certificate and order provided no offer of continued rail operations is received. This authority to abandon is subject to the employee conditions set forth above.

If the abandonment is effected, tariffs applicable to the Ironston branch line may be cancelled. Pursuant to section 6 of the Interstate Commerce Act, the Commission is given not less than 90 days notice. Applicants shall refer to this certificate and order by date and docket number when filing schedules which cancel tariffs applicable to the Ironston branch line.

If the authority granted in this certificate and order is not exercised within one year from its effective date, it shall be of no further force and effect.

This certificate and order shall be effective 45 days from the date of publication of notice in the Federal Register unless otherwise ordered by this Commission.

Dated at Washington, D.C., on the 27th day of September, 1977.

By the Commission, Commissioner Brown.

H.G. HOMME, JR.
Acting Secretary

(SEAL)

THURSDAY, OCTOBER 20, 1977



highlights

NEW FEDERAL REGISTER PHONE NUMBERS

Several frequently called phone numbers in the Office of the Federal Register have been changed. Please use the numbers on page iii of this issue and disregard all previous listings.

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for November are being accepted for the free Wednesday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Frank's, 202-523-3517.

OUT OF TOWN WORKSHOPS PREVIOUSLY ANNOUNCED

Baton Rouge, Louisiana, 10-26-77

(Details: 42 FR 49351, 9-28-77)

For reservations call: Mrs. Jen Shread at (504) 344-7679

Houston, Texas, 10-27-77

(Details: 42 FR 49351, 9-28-77)

For reservations call: Tony Williams at (713) 226-5787

SUNSHINE ACT MEETINGS ... 55985

DEBENTURE INTEREST RATES

HUD/FHA provides for increase applicable to all home and project mortgages and loans under the National Housing Act; effective 7-1-77 55333

SURFACE MINING CONTROL AND RECLAMATION

Interior/SIRE establishes provisions for monitoring and enforcing financial interest restrictions of State and Federal employees; effective 11-21-77 (Part V of this issue) 56050

RESOURCE CONSERVATION AND RECOVERY ACT OF 1976

EPA issues interim regulations; comments by 12-1-77; effective 10-20-77 (Part IV of this issue) 56050

CONTINUED INSIDE

Exhibit C

will be added to the Chesapeake and Ohio Railway Company based on the above-described finding of abandonment. \$6,157, after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (other than a government entity) has offered to provide assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would (a) cover the difference between the revenue, which are attributable to such line of railroad and the available cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon receipt from the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the *Federal Register* on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

(Docket No. AM-35 (Sub-No. 3))

LOS ANGELES & SALT LAKE RAILROAD COMPANY, UNION PACIFIC RAILROAD COMPANY AND THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY ABANDONMENT OF PORTION OF THE "IRON HORSE BRANCH" IN UTAH COUNTY, UTAH

CITIZEN OF FINLAND

Notice is hereby given pursuant to Section 14 of the Interstate Commerce Act (45 U.S.C. 14) that by an Certificate and Order dated September 27, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees, prescribed by the Commission in Oregon Short Line R. Co.—Abandonment—Decision 334 ICC 76 (1977), and those provided pursuant to Section 405 of the Rail Passenger Service Act (15 U.S.C. 365), the present and future public convenience and necessity permit the Los

Angeles & Salt Lake Railroad Co. and Rio Grande Western Railroad Co. to physically abandon and the Union Pacific Railroad Co. and the Denver & Rio Grande Western Railroad Co. to abandon operations over a branch line of railroad known as the Iron Horse Branch, which extends from milepost 0.60 to milepost 1.87 near Ironton in Utah County, Utah. A certificate of public convenience and necessity permitting abandonment was issued to the Los Angeles & Salt Lake Railroad Co., Union Pacific Railroad Co. and the Denver & Rio Grande Western Railroad Co. Since no investigation was instituted, the requirement of section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the *Federal Register* be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit Y (see 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to section 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

MOTOR CARRIER ALTERNATE ROUTES/DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rule—Motor Carrier of Property (49 CFR 1042.4(c) (11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this *Federal Register* notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIER OF PROPERTY

No. MC 108440 (Deviation No. 8), INDIANHEAD TRUCK LINE, INC., Box 3355, St. Paul, Minn. 55185, filed October 7, 1977. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 18 and Interstate Highway 90 near Madison, Wis., over Interstate Highway 90 to Janesville, Wis., thence over U.S. Highway 14 to junction Illinois Highway 23,

thence over Illinois Highway 23 to Marquette, Ill., thence over U.S. Highway 20 to junction U.S. Highway 41 at Chicago, Ill., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Madison, Wis., over U.S. Highway 18 to Milwaukee, Wis., thence over U.S. Highway 41 to Chicago, Ill., and return over the same route.

MOTOR CARRIER INTERSTATE APPLICATIONS

The following application(s) for motor common carrier authority to operate in interstate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 205(a) (6) of the Interstate Commerce Act. These applications are governed by special rule 345 of the Commission's General Rules of Practice (49 CFR 1100.345), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Florida Docket No. 770729-CCT, filed September 21, 1977. Applicant: G & C CARTAGE COMPANY, INC., 634 North Edgewood Ave., Jacksonville, Fla. 32205. Applicant's representative: O. C. Beaker, 1409 Barnett Bank Building, Jacksonville, Fla. 32202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of: General commodities, between points in Jacksonville and its suburban territory (except points in Nassau County). Restricted against the transportation of household goods, articles of unusual value (including armored car service, and cash letters), classes A & B explosives, commodities in bulk, cement, commodities which because of size or weight require the use of special equipment, beer containers and cures therefor, building and construction materials on flatbed trailers, and traffic both originating at and destined to U.S. Naval U.S. facilities. Intrastate, interstate, and foreign commerce authority sought. Hearing, date, time, and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, 760 South Adams St., Tallahassee, Fla. 32302, and should not be directed to the Interstate Commerce Commission.

Kansas Docket No. 75320, M. Route No. 7C81, filed September 7, 1977. Applicant: ROSS TRUCK LINE, INC., 903 North Pearl St., Paola, Kans. Applicant's representative: Floyd E. Gehrt, P.O. Box 5186, Topeka, Kans. 66605. Certificate of Public Convenience and Necessity sought to a freight service as follows: Transportation of: General commodities, except

UNION PACIFIC RAILROAD COMPANY

1416 DOW STREET



OMAHA, NEBRASKA

BARRY SCHAFER
Vice President and Western General Counsel
WILLIAM P. HIGGINS
General Counsel
HARRY JUSTGARTEN JR.
Solicitor
L.D. DONAHUE
Contract Counsel
JEROME GIVEN
General Trial Counsel
VALENTINE W. SCOTT
General Planning Counsel

ROBERT S. BAKER
General Counsel
ALFRED R. ROOF JR.
General Counsel
ROBERT A. WEATHERBEE
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JOHN J. CLARK
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JOHN J. CLARK

MICHAEL P. REYNOLDS
THOMAS W. REYNOLDS
ALAN R. POST

December 15, 1977

AB-35(3)

Mr. H. G. Homme, Jr.
Acting Secretary
Interstate Commerce Commission
Washington, D.C. 20423

FILE IN DOCKET

Re: AB-35 (Sub-No. 3) - Abandonment of
Portion of Ironton Branch Between
M.P. 0.00 and 1.87 in Utah County,
Utah.

Dear Mr. Homme:

Pursuant to the Commission's order served
October 6, 1977, the segment of the Ironton Branch
between Mileposts 0.64 and 0.71 was abandoned on
December 5, 1977. The remaining segment of the line
authorized for abandonment will remain in place and
will be reclassified during December 1977.

Yours very truly,

Joseph D. Anthofer

INTERSTATE
COMMERCE COMMISSION
WASHINGTON, D.C.
RECEIVED
DEC 16 1977

Exhibit D

DECLASSIFIED
DATE 10-17-87
BY 100-871547

THE UNIVERSITY OF CHICAGO

UNION PACIFIC RAILROAD COMPANY

ACCOUNTING DEPARTMENT TRANSFER ENTRY

Department	1977	1978	1979	1980
...	...	...	...	...

The following entries should be made in the accounts for the month of

19

EXPLANATION – DESCRIPTION

[illegible]

2019-2020

Decu-ber 28, 1977

1992