

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[STB Docket No. AB-33 (Sub-No. 206X)]

**Union Pacific Railroad Company—
Abandonment Exemption—in Polk and
Story Counties, IA**

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon a 14.0-mile line of railroad, known as the Ankeny Subdivision, extending from milepost 10.7 near Ankeny to milepost 341.1 (Equation: 23.20 = 339.60) near Slater, in Polk and Story Counties, IA. The line traverses United States Postal Service Zip Codes 50015, 50021, 50244.

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 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 September 4, 2003, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA

¹ 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 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.

under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 15, 2003. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 25, 2003, with: Surface Transportation Board, 1925 K Street, NW., 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, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

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. SEA will issue an environmental assessment (EA) by August 8, 2003. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 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 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 August 5, 2004, 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 Web site at <http://www.stb.dot.gov>.

Decided: July 29, 2003.

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

Vernon A. Williams,
Secretary.

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² Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the
Currency**

[Docket No. 03-17]

Preemption Determination and Order

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is issuing this Determination and Order, attached as an appendix to this Notice, in response to a request from National City Bank, National City Bank of Indiana, and their operating subsidiaries, National City Mortgage Company and First Franklin Financial Company (referred to collectively herein as National City). The request asks the OCC to determine whether the Georgia Fair Lending Act (GFLA)¹ applies to the banks and their operating subsidiaries, and to issue an appropriate order. National City asserts that the GFLA is preempted under various provisions of Federal law and that, accordingly, the OCC should conclude that the Georgia law does not apply to it. For the reasons summarized here and described in detail in the appendix, the OCC has concluded that the provisions of the GFLA affecting national banks' real estate lending are preempted by Federal law. Therefore, we are issuing an order providing that the GFLA does not apply to National City or to any other national bank or national bank operating subsidiary that engages in real estate lending activities in Georgia.

FOR FURTHER INFORMATION CONTACT: Michele Meyer, Counsel, or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874-5090.

SUPPLEMENTARY INFORMATION: In brief, the reasons supporting our Determination and Order are as follows:

- National banks' authority to engage in real estate lending activities derives exclusively from Federal law. Under applicable Federal preemption principles, based on the Supremacy Clause of the U.S. Constitution and articulated by the U.S. Supreme Court, a state law may not modify a Congressional grant of power to national banks by limiting, conditioning, or otherwise impermissibly affecting a national bank's exercise of that power.

- The Federal statute that authorizes national banks' real estate lending activities, 12 U.S.C. 371, precludes

¹ The GFLA codified at GA Code. Ann §§ 7-6A-1 *et seq.*