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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35109]

#### Arizona Eastern Railway, Inc.— Acquisition and Operation Exemption— Union Pacific Railroad Company

Arizona Eastern Railway, Inc. (AZER), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Union Pacific Railroad Company (UP) and operate a 67.7-mile line of railroad known as the Clifton Subdivision, extending between milepost 1150.00 at Lordsburg, NM, and milepost 1217.70 at Clifton, AZ.<sup>1</sup>

The transaction is expected to be consummated on or after February 1, 2008.

AZER certifies that its projected annual revenues as a result of the transaction will not result in AZER becoming a Class II or Class I rail carrier. However, because its projected annual revenues will exceed \$5 million, AZER also has certified to the Board on December 3, 2007, that it has complied with the employee notice requirements of 49 CFR 1150.42(e). Pursuant to that provision, the exemption may not become effective until 60 days from the date of certification to the Board, which would be February 1, 2008.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by January 25, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35109, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, John D. Heffner, PLLC, 1750 K Street, NW., Suite 350, Washington, DC 20006.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 10, 2007.

<sup>1</sup> Iowa Pacific Holdings LLC owns AZER through its wholly owned subsidiary Permian Basin Railways, Inc.

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

Vernon A. Williams,

Secretary.

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-290 (Sub- No. 271X)]

#### Norfolk Southern Railway Company— Abandonment Exemption—in Wyoming and Genesee Counties, NY

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a 4.50-mile line of railroad extending between milepost UG 360.20 at Alexander and milepost UG 364.70 at Attica, in Wyoming and Genesee Counties, NY. The line traverses United States Postal Service Zip Codes 14005 and 14011, and includes the stations of Alexander and Attica.

NSR 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 or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 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 January 17, 2008, unless stayed pending reconsideration.<sup>1</sup> Petitions to stay that

<sup>1</sup> By letter dated November 29, 2007, BP Rail Corporation D/B/A BP Rail (BPR) advised the Board of its intent to file an offer of financial assistance

do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 28, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 7, 2008, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

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

NSR has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 21, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305.

[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), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If

(OFA) to purchase the 4.50-mile line proposed for abandonment. In the November 29 letter, BPR also requested that NSR provide certain information regarding the line, including the required minimum purchase price. BPR also requested that the Board toll the 30-day period for submitting OFAs for an additional 60 days in order to provide the offeror with an adequate opportunity to receive, review and analyze the material provided by NSR and submit its OFA. These requests will be handled in a separate decision.

<sup>2</sup> 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.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).