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SERVICE DATE - JANUARY 16, 2004

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-444 (Sub-No. 1X)]

Lamoille Valley Railroad Company—Abandonment and Discontinuance of Trackage Rights Exemption—in Caledonia, Washington, Orleans, Lamoille, and Franklin Counties, VT

Lamoille Valley Railroad Company (LVRC) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuance of Service and Trackage Rights to abandon approximately 96.78 miles of rail line in Caledonia, Washington, Orleans, Lamoille, and Franklin Counties, VT. The rail lines to be abandoned are: (1) between approximately milepost 0.057 (SJLC valuation station 3+00) in St. Johnsbury, VT, and approximately milepost 95.324 (SJLC valuation station 5033+10) in Swanton, VT, a distance of approximately 95.26 miles; and (2) the Hardwick and Woodbury Connecting Track (H&W) between approximately H&W valuation station 0+00 (Granite Junction) and approximately H&W valuation station 80+48 (Buffalo Road), a distance of approximately 1.52 miles, in Hardwick, VT (collectively, the line).¹

¹ The line is owned by the State of Vermont (State) by and through the State of Vermont Agency of Transportation (VTrans). See Lamoille County Railroad, Inc. and Vermont Transportation Authority, Acquisition and Operation Between St. Johnsbury and Swanton, VT, Finance Docket No. 27494, et al. (ICC served Apr. 22, 1974). LVRC holds a leasehold interest in the line, pursuant to a lease agreement by and between LVRC and the State dated December 31, 1977.

LVRC also seeks to discontinue trackage rights over the former Central Vermont Railway, Inc. (CVR) line between approximately milepost 9.9 at the north abutment of the Missisquoi River Bridge at Sheldon Junction and approximately milepost 27.4 at Richford (the Richford Subdivision),² in Franklin County, VT. The line traverses United States Postal Service Zip Codes 05819, 05828, 05873, 05647, 05873, 05836, 05843, 05842, 05860, 05661, 05655, 05656, 05464, 05444, 05441, 05455, and 05488. The Richford Subdivision traverses United States Postal Service Zip Codes 05483, 05450, 05447, and 05476.

LVRC has certified that: (1) no local traffic has moved over the line or the Richford Subdivision for at least 2 years; (2) there is no overhead traffic on the line or the Richford Subdivision; (3) no formal complaint filed by a user of rail service on the line or the Richford Subdivision (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

² LVRC states that CVR filed a notice of exemption to abandon the Richford Subdivision in The Central Vermont Railway, Inc.—Abandonment Exemption—in Franklin County, VT, Docket No. AB-174 (Sub-No. 3X) (ICC served Feb. 27, 1992), which became effective on March 28, 1992, but it did not consummate the abandonment. Instead it sold the Richford Subdivision to, and entered into a trail use agreement with, VTrans. LVRC states that it did not seek authority to discontinue its trackage rights at the time that CVR initiated its abandonment proceeding. LVRC, in cooperation with VTrans, is now seeking an exemption to discontinue trackage rights on the Richford Subdivision that has not been used since 1989. VTrans still owns and manages a trail on the Richford Subdivision. See The Central Vermont Railway, Inc.—Abandonment Exemption—in Franklin County, VT, Docket No. AB-174 (Sub-No. 3X) (ICC served Oct. 8, 1992).

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 and discontinuance 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 February 17, 2004,³ unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,⁴ formal expressions of intent to file an OFA under 49 CFR

³ LVRC states that it intends to relinquish its leasehold interest and enter into a trail use agreement with VTrans for the line, and intends to consummate discontinuance of its trackage rights over the Richford Subdivision soon after the notice of exemption becomes effective. It should be noted that, because LVRC plans to enter into a trail use agreement for the line, it may never consummate the abandonment. However, pursuant to 49 CFR 1150.50(d)(2), the earliest possible consummation date for the discontinuance, based on the December 29, 2003 filing date, is February 17, 2004.

⁴ 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.

1152.27(c)(2),⁵ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 26, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 5, 2004, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.⁶

A copy of any petition filed with the Board should be sent to LVRC's representative: Edward J. Fishman, Kirkpatrick & Lockhart, LLP, 1800 Massachusetts Avenue, Second Floor, Washington, DC 20036.

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

LVRC has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by January 23, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board,

⁵ Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

⁶ On November 10, 2003, Timothy D. Phelps filed a letter expressing his concerns regarding the then-anticipated abandonment proposal and requesting that the Board disallow the sought exemption authority. Mr. Phelps alleges that, despite documented interest by shippers for rail service, LVRC has made no attempt to operate rail freight service on the line since at least 1994. Mr. Phelps states that LVRC abandoned several bridges on the line, dismantled several sections of track, paved over grade crossings along the line, and pursued non-rail uses for the right-of-way. He asserts that these actions communicated a message to the public that there was no intent or possibility that rail service would ever be provided again. Mr. Phelps may file a petition for stay or for other relief within the deadlines established in the notice being issued today.

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), LVRC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line and discontinued service over the Richford Subdivision. If consummation has not been effected by LVRC's filing of a notice of consummation by January 16, 2005, 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 website at
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Decided: January 12, 2004.

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

Vernon A. Williams

Secretary