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SERVICE DATE – DECEMBER 21, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-398 (Sub-No. 9X)]

San Joaquin Valley Railroad Company–Discontinuance Exemption–in Kern County, CA

[STB Docket No. AB-170 (Sub-No. 1X)]

Sunset Railway Company–Abandonment Exemption–in Kern County, CA

Sunset Railway Company (SRY) and San Joaquin Valley Railroad Company (SJVR)

(collectively, applicants) have filed a notice of exemption under 49 CFR 1152 Subpart

F–Exempt Abandonments and Discontinuances of Service¹ for SRY to abandon and for SJVR

¹ The verified notice of exemption was received by the Board on November 19, 2004, but was not docketed as filed until November 24, 2004, when the filing fee for SRY was received. Applicants did not include a consummation date in the notice. However, by letter filed on November 30, 2004, applicants indicated a consummation date of January 13, 2005. By letter filed on December 1, 2004, applicants requested to amend the notice to change the length of the line from 18.0 miles to 16.3 miles, extending between west of Levee, milepost 20.0, and Taft, milepost 36.3, in Kern County, CA. Upon consultation with applicants, December 1, 2004 is used as the actual filing date. Applicants also indicated a new consummation date of January 19, 2005. Under 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. The amended notice was filed on December 1, 2004. Therefore, the earliest possible date consummation date is January 20, 2005. By letter filed on December 13, 2004, applicants confirmed that the consummation date should be January 20, 2005. Applicants also indicated that, upon further review of their records and communication from Baker Petrolite Corporation (BPC), they have determined that BPC was an active shipper located at milepost 18.99, and have reduced the scope of the abandonment and discontinuance so as to continue to serve BPC. Applicants stated that, as per a December 1, 2004 conversation with BPC, the

(continued...)

to discontinue service over a 16.3-mile line of railroad, known as the Sunset Subdivision, extending between west of Levee, milepost 20.0, and Taft, milepost 36.3, in Kern County, CA. The line traverses United States Postal Service Zip Code 93268.

SRY and SJVR have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line in over 2 years and 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 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.²

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.

¹(...continued)

reduction in the scope of abandonment and discontinuance resolved BPC's concerns.

² In the December 13, 2004 letter, applicants certified that the certification contained in their verified notice of exemption filed on November 19, 2004, remains correct and accurate for the rail line between milepost 20.0 and milepost 36.3.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 20, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 30, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 10, 2005, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: Attorney for SRY—Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606; Attorneys for SJVR—Gary A. Laakso, Esq., Vice President Regulatory Counsel, RailAmerica, Inc., 5300 Broken Sound Boulevard N.W., Second Floor, Boca Raton, FL 33487, and Louis E. Gitomer, Esq., Of Counsel, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

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

³ 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.

Applicants have filed environmental and historic reports which address the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 23, 2004. 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), SJVR 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 SJVR's filing of a notice of consummation by December 21, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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“WWW.STB.DOT.GOV.”

Decided: December 14, 2004.

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

Vernon A. Williams

Secretary