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SERVICE DATE – AUGUST 7, 2015

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1032X]

Nebraska, Kansas & Colorado Railway, L.L.C.—Abandonment Exemption—in Decatur, Norton, and Phillips Counties, Kan., and Harlan County, Neb.

Nebraska, Kansas & Colorado Railway, L.L.C. (NKCR) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 57.31 miles of rail line between (1) milepost 3.35 near Orleans, Neb., and milepost 29.84 at Alma, Kan.; (2) milepost 47.23 at Reager, Kan., and milepost 78.05 at Oberlin, Kan.; and (3) the Norton Spur in Norton, Kan.¹ NKCR also seeks to discontinue overhead trackage rights over a 17.7-mile line of railroad owned by Kyle Railroad between milepost 29.6 at Alma and milepost 47.3 at Oronoque Junction, Kan. NKCR acquired the trackage rights by assignment from Burlington Northern Railroad Company. Neb., Kan. & Colo. Railnet—Acquis. & Operation Exemption—Lines of Burlington N.

¹ The notice was originally filed on June 12, 2015, and was supplemented on June 23 and 29, 2015. In the June 29, 2015 supplement, NKCR certifies that an Environmental Report and a transmittal letter were mailed, on June 29, 2015, to the National Geodetic Survey (NGS), as required by 49 C.F.R. § 1105.7 and 1105. 11. Because those documents were required to be served on NGS at least 20 days prior to filing the notice of exemption, see 49 C.F.R. 1105.7(b)(1), service and publication of this notice has been delayed to account for the 20 days of advanced notice that NGS should have received, and deadlines have been adjusted accordingly.

R.R., FD 33314, slip op. at 2 (STB served Dec. 24, 1996). The lines traverse United States Postal Service Zip Codes 68966, 67622, 67647, 67654, 67749 and 67653.

NKCR has certified that: (1) no local traffic has moved over the lines for at least two years; (2) any overhead traffic could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the lines (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the lines 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 two-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 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 Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 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 8, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),³ and

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in (continued . . .)

trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by August 17, 2015. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by August 27, 2015, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NKCR's representative: Karl Morell, Karl Morell & Associates, 655 Fifteenth Street, N.W., Suite 225, Washington, DC 20005.

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

NKCR has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by August 14, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (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.

(. . . continued)

its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. 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.

³ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NKCR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the lines. If consummation has not been effected by NKCR's filing of a notice of consummation by August 7, 2016, 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
“WWW.STB.DOT.GOV.”

Decided: August 4, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.