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SERVICE DATE - SEPTEMBER 24, 2001

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-592 (Sub-No. 1X)]

Fredonia Valley Railroad, Inc.—Abandonment Exemption—in Caldwell County, KY

Fredonia Valley Railroad, Inc. (FVRR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a segment of railroad line between milepost 90.00 and the end of the line at milepost 87.60, near Fredonia, a distance of approximately 2.40 miles in Caldwell County, KY (line).¹ The line traverses United States Postal Service Zip Code 42411.

Applicant has certified that: (1) no local or overhead traffic has moved over the line in more than 2 years' time; (2) any overhead traffic that might have moved on the line 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 agency acting on behalf of such user) regarding cessation of service over the line is either pending with the Surface Transportation Board (Board) or 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

¹ FVRR acquired an approximate 9.65-mile rail line in Fredonia Valley Railroad, Inc.—Acquisition and Operation—in Caldwell County, KY, STB Finance Docket No. 33695 (STB served Jan. 6, 1999). FVRR states that the tracks and ties of the line proposed for abandonment are not intended to be removed; rather, following its abandonment, the line simply will change from a common carrier line to a proprietary line serving the one potential shipper situated on it. Counsel for FVRR has certified that a copy of the verified notice of exemption was served on the shipper on the line.

(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 these exemptions, 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, these exemptions will be effective on October 24, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 4, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 15, 2001, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001.

² 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 exemptions' 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 exemptions' effective date.

³ Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to applicant's representative: Fritz R. Kahn, Esq., 1920 N Street, N.W. (8th floor), Washington, DC 20036-1601. If the verified notices contain false or misleading information, the exemptions are void ab initio.

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by October 1, 2001. 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) 565-1545. 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), FVRR 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 FVRR's filing of a notice of consummation by September 24, 2002, 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: September 12, 2001.

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

Vernon A. Williams

Secretary