

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-857X

GREAT WESTERN RAILWAY OF COLORADO, LLC—ABANDONMENT EXEMPTION—
IN WELD COUNTY, CO

Decided: December 1, 2003

Great Western Railway of Colorado, LLC (GWRC) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its Eaton Subdivision located between milepost 30.8 near Windsor, and milepost 42.5 near Eaton, totaling approximately 11.7 miles, in Weld County, CO. Notice of the exemption was served and published in the Federal Register on November 10, 2003 (68 FR 63846-47).¹

The exemption was scheduled to become effective on December 10, 2003. On November 14, 2003, however, a formal expression of intent to file an offer of financial assistance (OFA) was timely filed by the Windsor, Severance & Eaton Railroad, LLC (WS&E) to purchase all or a portion of the Eaton Subdivision, which had the effect of automatically staying the effective date of the exemption for 10 days, until December 20, 2003. WS&E simultaneously requested that GWRC provide it with the information prescribed in 49 CFR 1152.27(a), including the minimum purchase price required to acquire the line, GWRC's most recent report on the physical condition of the line, and traffic, revenue, and other data necessary to determine the line's net liquidation value (together with supporting data). Also, WS&E requested the Board to toll the time period for submitting its OFA for an additional 30 days. WS&E states that additional time is needed to obtain the necessary information from GWRC and to have an adequate opportunity to review and analyze the requested material. WS&E states that it is unlikely that GWRC will be able to provide the requested information prior to November 20, 2003.²

¹ By decision served on November 24, 2003, the proceeding was reopened and two environmental conditions were imposed requiring GWRC to: (1) notify the National Geodetic Survey 90 days prior to any salvage activities in order to plan for the relocation of two geodetic station markers; and (2) retain its interest in and take no steps to alter the historic integrity of the property until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

² To the extent WS&E may be under the impression that its OFA was due 10 days from the
(continued...)

By letter filed on November 24, 2003, GWRC states that it is currently assembling the requested information and expects to forward the information to WS&E by December 1, 2003. GWRC further states that, because the OFA is not due until December 10, 2003, it opposes the request to toll the time period for submission of the OFA.

Good cause has not been shown to grant WS&E's request to toll. GWRC opposes the request and it appears that WS&E has sufficient time to prepare and submit its OFA by the December 10, 2003 due date. Accordingly, WS&E's request will be denied.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. WS&E's request to toll the time period for submitting its OFA is denied.
2. WS&E's OFA remains due by December 10, 2003. (The exemption is currently scheduled to become effective on December 20, 2003.)
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

²(...continued)

November 10, 2003 publication date, or by November 20, that is not the case. For notices of exemption, formal expressions of intent to file an OFA must be submitted by the 10th day after publication (here November 20) and OFAs must be submitted by the 30th day after publication (here December 10).