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SERVICE DATE – DECEMBER 26, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-448 (Sub-No. 2X)

SF&L RAILWAY, INC.–ABANDONMENT EXEMPTION–IN HANCOCK, MCDONOUGH,
FULTON AND PEORIA COUNTIES, IL

Decided: December 24, 2002

On December 23, 2002, Keokuk Junction Railway Company (KJRY) petitioned the Board under 49 U.S.C. 10502 and 49 CFR 1152.27(c)(1)(i)(C) to toll the deadlines of 49 U.S.C. 10904(c) and 49 CFR 1152.27(b)(2) for filing an offer of financial assistance (OFA) in this proceeding. KJRY contends that the OFA deadline is December 31, 2002. KJRY seeks tolling of the deadline to 10 days after (1) the Board decides who is the proper petitioner in this proceeding, and who has the rights sought to be abandoned, and (2) petitioner responds to KJRY's request for information about the value of the line. This decision clarifies when an OFA is due.

SF&L Railway, Inc. (SF&L), acquired the operating easement over, and the rail, ties, and certain improvements on, a 71.5-mile rail line between milepost 194.5 at La Harpe and milepost 123.0 at Peoria, IL (La Harpe Line or Line) from Toledo, Peoria and Western Railway Corporation (TP&W), under a class exemption invoked in STB Finance Docket No. 33995, SF&L Railway, Inc.–Acquisition and Operation Exemption–Toledo, Peoria and Western Railway Corporation (served and published at 66 FR 9411 on Feb. 7, 2001).¹ On September 3, 2002, SF&L filed a petition for exemption in STB Docket No. AB-448 (Sub-No. 2X) to abandon the La Harpe Line, claiming that there was not enough traffic to justify the Line's continued operation and maintenance and that adequate transportation alternatives were available. Subsequently, in a decision served in STB Finance Docket Nos. 33995 and 33996 on October 17, 2002 (SF&L-La Harpe), the Board revoked the acquisition and continuance in control exemptions, ordered SF&L to reconvey its interest in the La Harpe Line to TP&W, and stated that a decision would soon be issued dismissing as moot SF&L's petition for exemption in this proceeding.

¹ A related notice of exemption in STB Finance Docket No. 33996 (served and published at 66 FR 9410 on Feb. 7, 2001), concerned authority to control SF&L after it became a rail carrier.

In anticipation of the reconveyance, TP&W on October 30, 2002, filed a motion to substitute itself for SF&L in this petition for exemption. On December 13, 2002, however, SF&L and certain parties aligned with it filed a petition to reconsider the SF&L-La Harpe decision. In a decision in this proceeding and STB Finance Docket Nos. 33995 and 33996 served December 20, 2002, the Board deferred action in STB Docket No. AB-448 (Sub-No. 2X) until January 21, 2003, to allow the Board to address SF&L's petition to reconsider the SF&L-La Harpe decision. The decision indicated that it was premature to dismiss as moot SF&L's petition for exemption, or to rule on TP&W's motion to substitute itself for SF&L, in the abandonment proceeding while the Board was considering SF&L's petition to reconsider the decision in SF&L-La Harpe.

In its December 23 petition, KJRY acknowledges that the Board's December 20 decision deferred action in this proceeding for 30 days, but, "out of an abundance of caution," filed its petition to assure that the OFA deadline was tolled. In light of the December 20 decision, it is unnecessary to consider KJRY's petition. That decision deferred action on SF&L's petition for exemption and TP&W's substitution request. Accordingly, the time for filing an OFA in this proceeding is tolled pending further order of the Board, but in no case would it be sooner than 10 days after service of any decision that would allow abandonment of the La Harpe Line.

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

It is ordered:

1. The time for filing an OFA in this proceeding is tolled pending further order of the Board.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary