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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1229X]

Denver Regional Transportation District—Abandonment Exemption—in Denver and Jefferson Counties, CO

The Denver Regional Transportation District (RTD) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 5.7-mile line of railroad between milepost 0.60 and milepost 6.3 in Denver and Jefferson Counties, CO. The line traverses United States Postal Service Zip Codes 80204, 80214, and 80215.¹

RTD has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) although no overhead traffic has moved over the line for at least 2 years, any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the 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 of 49 CFR 1105.7 (environmental reports), 49 CFR

¹ RTD originally filed its verified notice of exemption on May 7, 2007. However, the notice did not contain all of the information required under 49 CFR 1152.50. At the request of Board staff, on May 18, 2007, RTD filed a supplement to its notice. For purposes of this proceeding, the filing date will be considered to have been May 18, 2007, the date upon which the verified notice was complete.

1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 48 CFR 1105.12 (newspaper publication), and 49 CFR 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 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,² this exemption will be effective on July 7, 2007, unless stayed pending reconsideration.³ Petitions to stay that do not involve environmental issues,⁴ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁵ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 18, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be

² RTD seeks exemption from 49 U.S.C. 10904 (OFA procedures). The Board will address this request in a subsequent decision.

³ The earliest this transaction may be consummated is July 7, 2007. RTD originally indicated a consummation date of June 25, 2007. RTD has been informed by a Board staff member that consummation may not take place until July 7, 2007.

⁴ 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.

⁵ Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

filed by June 27, 2007, with: 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 RTD's representative: Charles A. Spitulnik, Kaplan Kirsch & Rockwell LLP, 1001 Connecticut Avenue, N.W., Suite 905, Washington, DC 20036.

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

RTD has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by June 12, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [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), RTD 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 RTD's filing of a notice of consummation by June 7, 2008, 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: May 31, 2007.

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

Vernon A. Williams

Secretary