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SEC

SERVICE DATE - FEBRUARY 26, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33956

KERN VALLEY RAILROAD COMPANY—ACQUISITION AND OPERATION  
EXEMPTION—TRINIDAD RAILWAY, INC.

Decided: February 22, 2001

On November 6, 2000, Kern Valley Railroad Company (KVR), a noncarrier, filed a verified notice of exemption under 49 CFR 1150.31 to acquire the railroad lines and other assets (line) of Trinidad Railway, Inc. (Trinidad), and to assume Trinidad's rail common carrier obligation pending the line's abandonment.<sup>1</sup> The line extends from milepost 2.0 at Jensen, to the end of the line at milepost 30.0, at the former New Elk Mine, east of Stonewall, in Las Animas County, CO, a distance of approximately 30 miles. Notice of the exemption was served and published in the Federal Register (65 FR 69991-92) on November 21, 2000.

On November 28, 2000, Rails to Trails Conservancy (RTC) filed a petition to revoke the exemption.<sup>2</sup> On December 4, 2000, KVR replied. On December 5, 2000, Rail Ventures, Inc., (Rail Ventures) also filed a petition to revoke the exemption.<sup>3</sup>

The petitions to revoke raise issues that require further consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. 10502(d) to consider the petitions. As required by section 10502(d), the proceeding will be completed within 9 months. At this time, there does not appear to be a need for the parties to submit additional evidence.

It is ordered:

1. Under 49 U.S.C. 10502(d), a proceeding is instituted to consider RTC's and Rail Ventures' petitions to revoke.

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<sup>1</sup> The line is the subject of a notice of exemption for abandonment in Trinidad Railway, Inc.—Abandonment Exemption—In Las Animas County, CO, STB Docket No. AB-573X.

<sup>2</sup> RTC's pleading embraced an alternative request for dismissal of the related abandonment exemption proceeding, and to require KVR to initiate its own abandonment proceeding, presumably by application. That request will be dealt with in a separate decision.

<sup>3</sup> Rail Ventures' petition was filed in a document that also included an offer of financial assistance in the related abandonment exemption proceeding.

2. The proceeding will be completed by November 26, 2001.
3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary