

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1251X]

Southwestern Railroad, Inc.—Discontinuance of Service Exemption—in Curry, Roosevelt, Chaves, and Eddy Counties, N.M.

On January 17, 2017, Southwestern Railroad, Inc. (SWRR), filed with the Board a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to discontinue common carrier rail service over approximately 227.6 miles of rail lines consisting of the following segments (the Lines): (1) the Carlsbad Subdivision between milepost 0.5 at Clovis, N.M., and milepost 183.0 at Carlsbad, N.M.; (2) the Carlsbad Yard;¹ (3) the Carlsbad Industrial Spur between milepost 0.0 at Carlsbad, N.M., and milepost 20.0 near Carlsbad, N.M.; and (4) the Loving Industrial Spur between milepost 0.0 at Carlsbad, N.M., and milepost 20.0 at Loving, N.M. The Lines are owned by BNSF Railway Company (BNSF).

SWRR states it acquired authority to lease and operate the BNSF-owned Lines in 2004.² According to SWRR, BNSF notified SWRR in 2016 that it wished to resume operations over the Carlsbad Division prior to the termination of the current lease.

SWRR states that, after negotiations, SWRR and BNSF filed an amendment to the lease

¹ SWRR states that there are no mileposts associated with the approximately 5.1 miles of rail lines located in the Carlsbad Yard.

² See Sw. R.R.—Lease & Operation Exemption—Burlington N. & Sanfe Fe Ry., FD 34533 (STB served Oct. 22, 2004). SWRR states that SWRR and BNSF have amended the lease agreement five times since its inception.

agreement that allowed BNSF to resume operations over the Lines on January 17, 2017.³ SWRR explains that as of January 17, 2017, both SWRR and BNSF have a common carrier obligation to provide service over the Lines until such time that SWRR's discontinuance authority is granted. Additionally, SWRR states that, because shippers currently served by SWRR will also be served by BNSF during this discontinuance proceeding and will be served by BNSF after any SWRR discontinuance authority is granted, there will be no interruption of service and no shippers served by the Lines will be disadvantaged when and if SWRR ceases operations.

SWRR states that BNSF is the owner of the Lines, but based on information in SWRR's possession, the Lines do not contain federally granted rights-of-way. Any documentation in SWRR's possession will be made will be made available promptly to those requesting it.

SWRR asserts that, because it is terminating operations over its entire system,⁴ the employee protective conditions set forth in Oregon Short Line Railroad–Abandonment

³ See Sw. R.R. —Lease & Operation Exemption—Burlington N. & Sante Fe Ry., FD 34533 (Sub-No. 1) (STB served Aug. 12, 2016).

⁴ SWRR currently operates two divisions, the Carlsbad Division and the Whitewater Division. SWRR explains that it is discontinuing its operations pursuant to a lease over the Carlsbad Division in this proceeding and selling its Whitewater Division in an unrelated proceeding. See N.M. Cent. R.R.,—Acquis. & Operation Exemption—Sw. R.R. Whitewater Div., FD 36085 (Filed Dec. 17, 2016). SWRR states that upon consummation of the Carlsbad and Whitewater Divisions transactions, SWRR will cease to be a common carrier entity.

Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979), should not be imposed.⁵

Because this is a discontinuance proceeding and not an abandonment proceeding, trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during abandonment, this discontinuance does not require an environmental review.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by May 5, 2017.

Any offer of financial assistance (OFA) under 49 C.F.R. § 1152.27(b)(2) to subsidize continued rail service will be due no later than May 15, 2017, or 10 days after service of a decision granting the petition for exemption, whichever occurs first. Each OFA must be accompanied by a \$1,700 filing fee. See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2016 Update, EP 542 (Sub-No. 24) (STB served August 2, 2016).

All filings in response to this notice must refer to Docket No. AB 1251X and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) William A. Mullins and Crystal M. Zorbaugh, Baker and Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC, 20037. Replies to the petition are due on or before February 6, 2017.

⁵ See Wellsville, Addison & Galetton R.R.—Aban. of Entire Line in Potter & Tioga Ctys., Pa., 354 I.C.C. 744 (1978); and Northampton & Bath R.R.—Aban. near Northampton & Bath Junction in Northampton Cty., Pa., 354 I.C.C. 784 (1978).

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment or discontinuance regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our website at "WWW.STB.GOV."

Decided: February 1, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.