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SERVICE DATE - LATE RELEASE JULY 20, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-492 (Sub-No. 2X)

FILLMORE WESTERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
FILLMORE COUNTY, NE

Decided: July 20, 2001

Fillmore Western Railway, L.L.C. (FWRY) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances to abandon a line of railroad between: (a) milepost 1.7 near Fairmont and milepost 10.0 near Geneva, NE; and (b) milepost 8.1 near Fairmont, NE, and milepost 23.0, near Milligan, NE, a distance of approximately 23.2 miles in Fillmore County, NE. Notice of the exemption was served and published in the Federal Register on June 27, 2001 (63 FR 34328-29).

The exemption was scheduled to become effective on July 27, 2001, but a formal expression of intent to file an offer of financial assistance (OFA) to purchase the portion of the rail line between milepost 8.1 near Fairmont and milepost 23.0 near Milligan (Milligan Segment), a distance of approximately 14.9 miles in Fillmore County filed by Provident Industries, LLC (PI) effectively stayed the effective date of the exemption for 10 days until August 6, 2001.¹ PI simultaneously requested that FWRY provide it with the financial data and information prescribed in 49 CFR 1152.27(a). On July 18, 2001, PI filed a petition to toll the period for submitting an OFA until August 27, 2001, or until 20 days after PI's receipt of the information required to be furnished by FWRY under 49 CFR 1152.27(a). PI states that its OFA will encompass trackage rights, if any, that permit FWRY to operate over trackage of The Burlington Northern and Santa Fe Railway Company (BNSF) at or near Fairmont for the purpose of effective interchange between FWRY and BNSF of traffic originating or terminating on the Milligan Segment. PI further states that counsel for FWRY has authorized it to state that FWRY does not oppose the requested tolling of the period for submitting OFAs. Because offeror needs additional time to obtain necessary information from FWRY, the request of PI will be granted. As a result, an OFA will be due on August 27, 2001, or 20 days after PI's receipt of the required information, whichever is later, and the effective date will be extended to September 5, 2001, or 30 days after PI's receipt of the required information, whichever is later.²

¹ See 49 CFR 1152.27(c)(2)(i).

² Because this extension grant is not date specific, FWRY is requested to notify the Board when it has furnished the requested information to PI so that the due dates to file OFAs and the effective date of the exemption can be determined for the record.

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

It is ordered:

1. The time period for PI to file an OFA is tolled until August 27, 2001, or until 20 days after PI's receipt of the required information, whichever is later, and the effective date of the exemption is further postponed until September 5, 2001, or 30 days after PI's receipt of the required information, whichever is later.

2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary