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SERVICE DATE - LATE RELEASE JULY 16, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-573X

TRINIDAD RAILWAY, INC.—ABANDONMENT EXEMPTION—
IN LAS ANIMAS COUNTY, CO

IN THE MATTER OF A REQUEST TO SET TERMS AND CONDITIONS

Decided: July 16, 2002

On September 1, 2000, Trinidad Railway, Inc. (Trinidad) invoked the class exemption procedures for out-of-service rail lines at 49 CFR 1152.50 to abandon a 28-mile segment of rail line in Las Animas County, CO, between milepost 2.0 at Jansen and the end of the Trinidad line at milepost 30.0 (the Line). Notice of the exemption was served and published in the Federal Register on September 21, 2000 at 65 FR 57239. Before the notice went into effect, however, Rail Ventures, Inc. (Rail Ventures) timely filed a notice of its intent to invoke the Offer of Financial Assistance (OFA) provisions of 49 U.S.C. 10904 in order to acquire the line for continued rail service. That filing, and subsequent extensions, stayed the effective date of the abandonment exemption covered by the notice. On December 5, 2000, Rail Ventures timely filed its OFA, offering to purchase the Line.

Shortly before that, however, on October 31, 2000, after having received notice of Rail Ventures' forthcoming OFA, Trinidad sold its entire 30-mile line (including the 28-mile segment for which it sought abandonment authority in this proceeding) to Kern Valley Railroad Company (Kern Valley), which subsequently invoked the class exemption procedures at 49 CFR 1150.31 to obtain authorization for the purchase. Kern Valley Railroad Company—Acquisition and Operation Exemption—Trinidad Railway, Inc., STB Finance Docket No. 33956 (notice served and published Nov. 21, 2000). Kern Valley stated that it did not acquire the line segment to provide rail service but, rather, to salvage the rail property once it was abandoned. Kern Valley also acknowledged that the line remained subject to the section 10904 process, a request for issuance of a NITU, and other conditions imposed on the notice of abandonment exemption.

The parties were unable to reach an agreement on the terms and conditions for sale of the Line under the OFA process. Accordingly, Rail Ventures asked the Board to set the terms and conditions of sale and, in a decision served on April 17, 2002, the Board set the purchase price for the Line at \$3,830,697 (the net liquidation value of the Line), and terms for transfer of the Line were established, including a condition that Rail Ventures maintain a rail weight suitable for unit-train coal traffic.

Consummation of the sale was set to occur no later than 90 days after the date of service, i.e., by July 16, 2002.

Rail Ventures accepted the terms and conditions. By a decision served on May 15, 2002, the Board authorized Rail Ventures to acquire the line and dismissed the notice of abandonment exemption, effective on the date the sale is consummated.

On July 16, 2002, the deadline for consummation of the sale, Rail Ventures filed a petition for clarification of the Board's April 17 order setting the terms and conditions. In the petition, Rail Ventures essentially asks the Board to determine whether two structures are included in the line sale. To give the Board time to resolve the matters raised in the petition before the deadline expires, Rail Ventures also requests a stay pending resolution of its petition.

In reply, Kern Valley states that it opposes the petition but, in any event, asks the Board to require that closing occur no later than July 26, 2002.

In light of these filings, the consummation date for sale of the line will be extended for 10 days from the service date of this decision, or until July 26, 2002.

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

It is ordered:

1. The consummation date for sale of the line is extended until July 26, 2002.
2. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary