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SERVICE DATE - JANUARY 5, 2004

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-167 (Sub-No. 1184X)]

Consolidated Rail Corporation—Abandonment Exemption—in Middlesex County, NJ

Consolidated Rail Corporation (Conrail) has filed a notice of exemption<sup>1</sup> under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a portion of a line of railroad known as the Sayreville Running Track, between milepost 10.85± and milepost 11.31± in the Township of North Brunswick, Middlesex County, NJ, a distance of 0.46± miles. The line traverses United States Postal Service Zip Code 08903.

Conrail has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years; (3) no formal

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<sup>1</sup> By decision served in this proceeding on December 5, 2003, the Board rejected Conrail's notice of exemption filed on November 21, 2003, for Conrail's failure to comply with the environmental requirements of 49 CFR 1105.7(b) and 49 CFR 1105.8(c). On December 16, 2003, Conrail requested the Board to reinstate the notice of exemption. Conrail submitted, as Exhibit A, a copy of its letter indicating that copies of the environmental and historic report (report) were sent to the specified agencies on October 16, 2003, in compliance with 49 CFR 1105.7 and 1105.8. Conrail stated that it updated its report based on responses it received between October 16, 2003, and November 20, 2003, but erred by not stating in the notice that it had sent the report to the required agencies on October 16, 2003, and on November 20, 2003. Conrail acknowledged that it inadvertently failed to serve a copy of the report on the National Geodetic Survey (NGS). It attached, as Exhibit B, a copy of its letter dated December 15, 2003, to NGS. Based on the information received from Conrail, the notice of exemption is now accepted.

complaint filed by a user of rail service on the line (or by 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 at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 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, this exemption will be effective on February 4, 2004,<sup>2</sup> unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 CFR

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<sup>2</sup> In its notice, Conrail indicated January 20, 2004, as the proposed consummation date of the abandonment. Conrail now states that it understands that the effective date of its notice will have to be adjusted to allow NGS an opportunity to comment on the proposed abandonment and to allow the Board's Section of Environmental Analysis (SEA) to issue its environmental assessment (EA).

<sup>3</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by 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  
(continued...)

1152.27(c)(2),<sup>4</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 15, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 26, 2004, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to Conrail's representative: John K. Enright, Associate General Counsel, Consolidated Rail Corporation, 2001 Market Street, 16th Floor, Philadelphia, PA 19103.

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

Conrail has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an EA by January 9, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [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.

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<sup>3</sup>(...continued)  
appropriate action before the exemption's effective date.

<sup>4</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

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), Conrail 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 Conrail's filing of a notice of consummation by January 5, 2005, 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: December 23, 2003.

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

Vernon A. Williams

Secretary