

40820

SERVICE DATE – JUNE 8, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 117 (Sub-No. 7X)]

Elgin, Joliet & Eastern Railway Company—Abandonment Exemption—in Lake County, Ind.

Elgin, Joliet & Eastern Railway Company (EJ&E) filed a verified notice of exemption under 49 C.F.R. § 1152 Subpart F—Exempt Abandonments to abandon its line of railroad between milepost 46.10 and milepost 48.28, a distance of 2.18 miles, in Hammond, Lake County, Ind. The line traverses United States Postal Service Zip Code 46320.

EJ&E has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (3) no formal 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 C.F.R. § 1105.7 (environmental report), 49 C.F.R. § 1105.8 (historic report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 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 Railroad and The Union Pacific Railroad Co.—Abandonment Portion Goshen Branch Between Firth and Ammon, In Bingham and Bonneville Counties, Idaho, 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 July 8, 2010, unless stayed pending reconsideration.<sup>1</sup> Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 11152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by June 18, 2010. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by June 28, 2010, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to EJ&E's representative: Thomas J. Healey, 17641 S. Ashland Avenue, Homewood, IL 60430.

---

<sup>1</sup> Pursuant to 49 C.F.R. § 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before an abandonment or discontinuance is to be consummated. EJ&E has indicated a proposed consummation date of July 6, 2010, but, because the verified notice was filed on May 19, 2010, the earliest this transaction may be consummated is July 8, 2010.

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (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 appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 C.F.R. § 1002.2(f)(25).

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

EJ&E has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by June 11, 2010. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [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.

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 C.F.R. § 1152.29(e)(2), EJ&E 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 EJ&E's filing of a notice of consummation by June 8, 2011, 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: June 2, 2010.

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