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SERVICE DATE – NOVEMBER 3, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-391 (Sub-No. 10X)]

Red River Valley & Western Railroad Company—Abandonment Exemption—in Foster and Wells Counties, ND

Red River Valley & Western Railroad Company (RRVW) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 27.76 miles of rail line from approximately milepost 21.4 in or near Carrington, ND, to the end of the line at approximately milepost 29.16 in or near Bowdon ND, in Foster and Wells Counties, ND. The line traverses United States Postal Service Zip Codes 58486, 58418 and 58421.

RRVW has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (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 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.¹

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 December 3, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 12, 2004. Petitions to reopen or

¹ RRVW states that it has used the subject line to store cars for off-line shippers during the preceding 2 years. RRVW points out that use of a rail line to store rail cars for the convenience of off-line shippers or the railroad is not traffic originating or terminating on the line within the meaning of 49 CFR 1152.50(b), citing, Union Pacific Railroad Company–Abandonment Exemption–in Ada County, ID, STB Docket No. AB-33 (Sub-No. 137X) (STB served Aug. 6, 1999).

² 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.

³ Each OFA must be accompanied by the filing fee, which increases to \$1,200, effective October 31, 2004. See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2004 Update, STB Ex Parte No. 542 (Sub-No. 11) (STB served Oct. 1, 2004). See 49 CFR 1002.2(f)(25).

requests for public use conditions under 49 CFR 1152.28 must be filed by November 23, 2004, with: Surface Transportation Board, 1925 K Street NW, Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Rose-Michele Weinryb, Weiner Brodsky Sidman Kider PC, 1300 19th Street NW, 5th Floor, Washington, DC 20036-1609.

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

RRVW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 28, 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.

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), RRVW 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 RRVW's filing of a notice of consummation by November 3, 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: October 27, 2004.

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

Vernon A. Williams

Secretary