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SERVICE DATE - FEBRUARY 12, 1998

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-167 (Sub-No. 1180X)]

Consolidated Rail Corporation--Discontinuance of Trackage Rights Exemption--
in Cincinnati, Hamilton County, OH

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Trackage Rights, for the discontinuance of trackage rights over Norfolk and Western Railway Company's entire Riverfront Running Track, extending from a Point A near the Oasis Block Station to Point B in the southern line of Front Street near its intersection with Smith Street, a distance of approximately 1.5 miles, in Cincinnati, Hamilton County, OH.¹ The line traverses United States Postal Service ZIP Codes 45202 and 45203. There are no stations on the line.²

Conrail has certified that: (1) no local traffic has moved over the line via Conrail pursuant to the trackage rights 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

¹ Conrail had acquired the trackage rights pursuant to the Final System Plan under the Regional Rail Reorganization Act of 1973.

² Concurrent filings were made in: STB Docket No. AB-290 (Sub-No. 184X), Norfolk and Western Railway Company--Abandonment Exemption--In Cincinnati, Hamilton County, OH; STB Docket No AB-532X, The Cincinnati Terminal Railway Company (Indiana & Ohio Railway Company, Successor)--Discontinuance of Service Exemption--In Cincinnati, Hamilton County, OH; and STB Docket No. AB-31 (Sub-No. 30), Grand Trunk Western Railroad Incorporated--Adverse Discontinuance of Trackage Rights Application--A Line of Norfolk and Western Railway Company in Cincinnati, Hamilton County, OH.

state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (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 of 49 CFR 1105.12 (newspaper notice) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.³

As a condition to this exemption, any employee adversely affected by the discontinuance 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) to subsidize continued rail service has been received, this exemption will be effective on March 14, 1998,⁴ unless stayed pending reconsideration. Petitions to stay that do not involve a formal expression of intent to file an OFA under 49 CFR 1152.27(c)(2),⁵ must be filed by February 23, 1998. Petitions to reopen must be filed by March 4, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

³ No environmental or historical documentation is required here, pursuant to 49 CFR 1105.6(b)(3).

⁴ Because this is a discontinuance proceeding and not an abandonment, there is no need to provide for trail use/rail banking or public use conditions routinely provided for in abandonment proceedings.

⁵ Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$900. See 49 CFR 1002.2(f)(25).

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A copy of any petition filed with the Board should be sent to applicant's representative: John J. Paylor, Consolidated Rail Corporation, 2001 Market Street, P. O. Box 41416, Philadelphia, PA 19101-1416.

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

Decided: February 6, 1998.

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

Vernon A. Williams

Secretary