

34330

SERVICE DATE - JANUARY 9, 2004

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-859X]

Pennsylvania Lines LLC—Abandonment Exemption—in Chester County, PA

Pennsylvania Lines LLC (PRR),¹ has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a .34-mile line of railroad, extending

¹ In CSX Corp. et al.—Control—Conrail Inc. et al., 3 S.T.B. 196 (1998), the Board approved both the acquisition, by CSX Corporation (CSXC) and Norfolk Southern Corporation (NSC), of control of Consolidated Rail Corporation (Conrail), and the division of the assets of Conrail by and between CSXC and NSC. Acquisition of control of Conrail was effected by CSXC and NSC on August 22, 1998. The division of the assets of Conrail by and between CSXC and NSC was effected on June 1, 1999, with the transfer of most of Conrail's assets to Conrail's wholly owned subsidiaries, New York Central Lines LLC (NYC) and Pennsylvania Lines LLC (PRR). The transfers to NYC and PRR were coupled with arrangements that gave CSXC and NSC exclusive authority to appoint the officers and directors of NYC and PRR, respectively, and were also coupled with arrangements that gave CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NSR), authority to operate the assets that had been transferred to NYC and PRR, respectively. Thus, the transfers to NYC and PRR effected the incorporation of the transferred assets into the rail systems controlled by CSXC and NSC, respectively.

from milepost 34.51 to milepost 34.85 at Coatesville, in Chester County, PA.² The line traverses United States Postal Service Zip Code 19320.

PRR 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 and overhead traffic, if there were any, could 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.

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.

² The .34-mile line of railroad that is the subject of PRR's notice of exemption was transferred from Conrail to PRR on June 1, 1999. Ordinarily, the abandonment of this line would involve both an abandonment by PRR and a discontinuance by NSR. However, PRR advises that, given the unusual circumstances with respect to this line (no service has been provided over this line since before June 1, 1999, and NSR has never provided or intended to provide service over this line), NSR believes that a separate notice of exemption for NSR to discontinue its operating rights over the segment is not required.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 8, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 20, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 29, 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 PRR's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

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

PRR 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 January 16, 2004. Interested persons may obtain a

³ 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.

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

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), PRR 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 PRR's filing of a notice of consummation by January 9, 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: January 6, 2004.

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

Vernon A. Williams

Secretary