

STATEMENT OF JOSEPH LEVIN  
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STB Docket No. AB-863X

CITY OF VENICE—ABANDONMENT EXEMPTION—  
IN VENICE, IL AND ST. LOUIS, MO

The City of Venice, IL filed a notice of exemption under the Board's 2-year out-of-service exemption procedures at 49 CFR 1152 Subpart F, to abandon a 2-mile rail line that runs over the McKinley Bridge and its elevated rail approaches, spanning the Mississippi River between St. Louis, MO, and McKinley Junction, IL. The City claims that it is seeking to extinguish the common carrier obligation it acquired when it purchased the line in 1958. The City asserts further that the abandonment would facilitate plans to rehabilitate the McKinley Bridge, which was closed in October 2001. Madison County Transit District has filed a request for interim trail use and rail banking of the line under the Trails Act, and the City has agreed to negotiate for trail use/rail banking.

The Terminal Railroad Association of St. Louis filed comments, claiming that the City is not a railroad and that the notice of exemption should be rejected. The Terminal Railroad also opposes the Trails Act request, claiming that the elevated portions of the line running across its property are unsafe and need to be removed.

The City purchased the line from the former Illinois Terminal Railroad Company in 1958. The Board's predecessor, the ICC, reviewed the transaction in a decision that authorized Illinois Terminal to: (1) abandon its line over the McKinley Bridge and elevated rail approaches by sale to the City and (2) acquire from the City the right to use and operate as a rail carrier over the subject tracks and facilities on the bridge and elevated railroad approaches under a long-term lease agreement.

The Norfolk & Western Railway Company acquired Illinois Terminal in a transaction approved by the ICC in 1981. As part of that transaction, Norfolk & Western assumed Illinois Terminal's liability for the McKinley Bridge rent payments due to the City. In 1994, Norfolk & Western filed a notice of exemption to abandon the line and other lines in the vicinity as 2-year out-of-service rail lines. Madison County negotiated an interim trail use/rail banking agreement, which was finalized in 1997, for some of the other lines that Norfolk & Western proposed to abandon, but not for the line that is the subject of this proceeding.

The draft decision before you finds that the City did not acquire a rail common carrier obligation as a result of the 1958 decision. That decision authorized Illinois Terminal to abandon the line by sale to the City and then authorized Illinois Terminal to acquire and operate the abandoned line under the lease arrangement with the City. The decision did nothing more. The 1958 decision did not authorize the City to acquire the line or grant the City an operating certificate to provide rail service on the line. Those were the only vehicles available for noncarriers such as the City to become a carrier and acquire a common carrier obligation to

provide rail service. The draft decision, therefore, dismisses the City's notice of exemption for lack of jurisdiction.

The decision also determines that the City has no authority to consent to trail use on the line, because the line was abandoned by Norfolk & Western and not the City. Madison County's request to negotiate a trail use agreement with the City cannot, therefore, be granted.

We are available for any questions you may have.