



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 167 (Sub-No. 1191X)]

Consolidated Rail Corporation—Abandonment Exemption—in Philadelphia, Pa.

[Docket No. AB 55 (Sub-No. 710X)]

CSX Transportation, Inc.—Discontinuance of Service Exemption—in Philadelphia, Pa.

[Docket No. AB 290 (Sub-No. 552X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Philadelphia, Pa.

Consolidated Rail Corporation (Conrail), CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NSR) (collectively, applicants) jointly have filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for Conrail to abandon, and for CSXT and NSR to discontinue service over, a 2.98-mile line of railroad known as the Berks Street Industrial Track, extending from milepost 0.00_± to milepost 2.98_± in Philadelphia, Pa.¹ The line traverses United States Postal Service Zip Codes 19122, 19123 and 19134.

Applicants have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic that has moved or could move over the line can be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state

¹ Applicants state that Conrail has ownership of the line extending from milepost 2.70 to milepost 2.98 but only has operating rights from milepost 0.00 to milepost 2.70. The portion over which Conrail retains only operating rights was sold to the City of Philadelphia in 1978.

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 a complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 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 these exemptions, any employee adversely affected by the abandonment or discontinuances shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & 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, these exemptions will be effective on February 24, 2012, 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

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. See Exemption of Out-of-Serv. 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 exemptions' effective date.

1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 6, 2012. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 14, 2012, 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 applicants' representative: Benjamin C. Dunlap, Jr., Esquire, Nauman, Smith, Shissler and Hall, LLP, 200 North Third Street, 18th Floor, Harrisburg, PA 17101.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuances on the environment and historic resources. OEA will issue an environmental assessment (EA) by January 30, 2012. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA 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.

³ Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 CFR 1002.2(f)(25).

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), Conrail 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 Conrail's filing of a notice of consummation by January 25, 2013, 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 20, 2012.

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

Jeffrey Herzig

Clearance Clerk

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