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Office of Proceedings
March 13, 2024
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March 13, 2024

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: San Joaquin Valley Railroad Co.
– Discontinuance of Service Exemption –
in Kern County, CA
Docket No. AB 398 (Sub. No. 11X)

Dear Ms. Brown:

Enclosed for e-filing on behalf of the San Joaquin Valley Railroad Co. is a Notice for Exemption being filed in accordance with 49 CFR Part 1152 Subpart F.

The filing fee was paid using Pay.gov. Please let me know if there are any questions regarding this filing.

Sincerely,

Justin J. Marks
Counsel for San Joaquin Valley Railroad Co.

Enclosure

FILED
March 13, 2024
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
March 13, 2024
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-398 (Sub No. 11X)

SAN JOAQUIN VALLEY RAILROAD CO.
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN KERN COUNTY, CA

NOTICE OF EXEMPT DISCONTINUANCE

(color images included)

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Counsel for San Joaquin Valley Railroad Co.

Dated: March 13, 2024

Before the

SURFACE TRANSPORTATION BOARD

STB Docket No. AB-398 (Sub No. 11X)

**SAN JOAQUIN VALLEY RAILROAD CO.
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN KERN COUNTY, CA**

NOTICE OF EXEMPT DISCONTINUANCE

San Joaquin Valley Railroad Co. (“SJVR”), a Class III railroad common carrier, is filing this Notice of Exemption under the Board’s class exemption procedures at 49 C.F.R. Part 1152, Subpart F, seeking exemption authority for its discontinuance over an approximate 4.3-mile rail line between milepost 304.2 and milepost 308.5 (the “Subject Line”) in Kern County, California. The Subject Line traverses through United States Zip Code 93250. Two stations exist on the line. A map of the Subject Line is attached hereto as Exhibit A.

SJVR owns the track and track infrastructure and leases the underlying land from the Union Pacific Railroad Company (“UPRR”). SJVR intends to convert the Subject Line from common carrier to private track to utilize it for non-common carrier purposes. The lease of the underlying land is not being terminated. There has been no local or overhead freight service on the Subject Line since 2011.

This Notice of Exemption is being filed pursuant to the requirements of 49 C.F.R. part 1152 subpart F regarding exemptions for out of service rail lines. In accordance with such requirements, SJVR provides the following information in support of its request for a discontinuance exemption:

1. The exact name of Applicant is San Joaquin Valley Railroad Co.

2. Applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.

3. SJVR seeks to discontinue service on the Subject Line extending between milepost 304.2 and milepost 308.5 in Kern County, California.

4. A map of the Subject Line is attached hereto as Exhibit A.

5. The representative of SJVR to whom correspondence should be sent is:

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave., NW
Suite 1300 South
Washington, DC 20004
Tel: (202) 772-0916
jmarks@clarkhill.com

6. The Subject Line to be discontinued traverses through United States ZIP Code 93250.

7. The notice of exemption presented herein pertains to SJVR's proposal to discontinue (and not abandon) common carrier freight operations for the purpose of using the Subject Line as private track. Accordingly, trail use / rail banking and other public use conditions are not appropriate.¹

8. SJVR proposes to consummate the discontinuance on or after May 3, 2024.

¹ See *Norfolk Southern Railway Company – Discontinuance of Service Exemption – In St. Joseph and LaPorte Counties, IN*, STB Docket No. AB-290 (Sub-No. 307X) (served June 18, 2008); *Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA*, STB Docket No. AB-721X (served November 16, 2007); *Columbus and Greenville Railway Company – Discontinuance of Service Exemption – In Greenwood, MS*, STB Docket No. AB-297 (Sub-No. 103X) (served July 2, 2007).

9. SJVR certifies that:

a) No local or overhead traffic has moved over the Subject Line since 2011.

b) No formal complaint by a user of rail service on the Subject Line, or a state or local government entity acting on behalf of such user, regarding SJVR's cessation of service over the Subject Line, either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the last two years.

10. Although no employees of SJVR will be affected by the proposed discontinuance, SJVR recognizes that its discontinuance of the Subject Line will be made subject to the standard employee protective conditions as set forth in *Oregon Short Line Railroad Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

11. Because SJVR seeks only discontinuance and not abandonment authority, SJVR will not be disposing of or altering the Subject Line or any structures that are 50 years old or older. An environmental and historic report is not required for a discontinuance proceeding.²

12. SJVR published a notice of the proposed discontinuance on March 8, 2024, in the *Bakersfield Californian* in compliance with the legal (newspaper) notice requirements of 49 C.F.R. §§ 1105.7(c) and 1105.12.³ A copy of the form of notice and certification of publication are attached as Exhibit B.

² See *supra* note 1 and 49 C.F.R. §1105.6(c) and §1105.8(b).

³ In the legal notice published in the *Bakersfield Californian* and in the letter provided in accordance with 49 C.F.R. §1152.50(d)(1), SJVR mistakenly identified that it would be discontinuing 4.5 miles of the Subject Line extending from milepost 304 to milepost 308.5. As stated above, SJVR is in fact discontinuing 4.3 miles of the Subject Line extending from milepost 304.2 to milepost 308.5. This error is harmless because SJVR nevertheless adequately described the Subject Line since its error notified the public to a greater segment to be abandoned than is in fact the case. See generally *Transit America, LLC – Abandonment Exemption – in Buchanan County, MO* STB Docket No. AB-1019X, slip op. at 2 n. 1 (served Dec. 1, 2008); *S.P. Transp. Co. in Los Angeles County, CA*, 1993 WL 6450 (I.C.C.), *2 (served

13. SJVR certifies that it has complied with the notice requirements of 49 C.F.R. §1152.50(d)(1). A notice dated March 1, 2024, was sent to the required governmental agencies, and a copy is attached hereto as Exhibit C.⁴

For the reasons set forth above, SJVR respectfully requests that the Board issue the appropriate notice because the proposed discontinuance of service qualifies for the use of the Board's class exemption procedures at 49 C.F.R. part 1152 subpart F.

Respectfully submitted,



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Counsel for San Joaquin Valley Railroad Co.

Dated: March 13, 2024

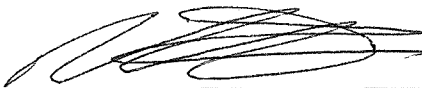
Jan. 15, 1993). The change in the beginning milepost was made because SJVR confirmed that the segment between milepost 295.2 and milepost 304.2 was abandoned as part of the line abandoned in 1998 in Docket No. AB 398 (Sub-No. 5X).

⁴ *Id.*

VERIFICATION

I hereby verify on behalf of San Joaquin Valley Railroad Co., under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on March 11, 2024

A handwritten signature in black ink, appearing to read 'David Franklin', written over a horizontal line.

David Franklin, President

EXHIBIT A

MAP

EXHIBIT B

NEWSPAPER NOTICE

Certificate of Newspaper Publication

49 C.F.R. § 1105.7(c) – Newspaper Notice

I certify that a “Notice of Intent to Discontinue Rail Service” was published in the form prescribed by the Board for abandonment or discontinuance notices of exemption at 49 C.F.R. § 1105.12. The notice was published on March 8, 2024, in the *Bakersfield Californian*, a newspaper of general circulation in Kern County, California.

March 13, 2024



Justin J. Marks
*Attorney for San Joaquin Valley
Railroad Co.*

NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE

San Joaquin Valley Railroad Co. (SJVR) issues this notice that on or about March 13, 2024, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a notice of exemption under 49 CFR Part 1152 Subpart F – *Exempt Abandonments and Discontinuances of Service and Trackage Rights* to permit SJVR to discontinue service over approximately 4.5 miles of the line of railroad between milepost 304 and milepost 308.5 in Kern County, California (the Line). The Line traverses through United States ZIP Code 93250. The SJVR proceeding will be docketed as STB Docket No. AB-398 (Sub. No. 11X).

Because the proposed action entails the discontinuance of service over the Line, rather than abandonment, no environmental or historic documentation is required under 49 CFR 1105.6 and 1105.8. Appropriate offers of financial assistance to subsidize rail service can be filed with the STB. Trail use / rail banking and public use condition requests are not appropriate in discontinuance proceedings.

An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance to subsidize rail service) must be filed directly with the STB's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423-0001 [see 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [see 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the STB's Office of Public Assistance, Governmental Affairs and Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on SJVR's representative: Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W. Suite 1300 South, Washington, DC 20004; jmarks@clarkhill.com; 202-772-0916.

March 8, 2024
314303

EXHIBIT C

10-DAY NOTICES



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March 1, 2024

ALL PARTIES ON THE ATTACHED SERVICE LIST

Re: San Joaquin Valley Railroad Co.
– Discontinuance of Service Exemption –
in Kern County, California
Docket No. AB-398 (Sub No. 11X)

Dear Sir or Madam:

This letter is being sent to you pursuant to the requirements of 49 C.F.R. § 1152.50(d), to advise you that San Joaquin Valley Railroad Co. ("SJVR") plans to seek authorization from the Surface Transportation Board ("STB") to discontinue service over the line of railroad described below, by filing a notice of exemption pursuant to the class exemption provisions of 49 CFR § 1152.50 in the above-referenced STB docket. SJVR expects to file the notice of exemption with the STB on or about March 13, 2024.

SJVR will invoke the STB's class exemption procedures to discontinue service of the line of railroad known as the North Joint Subdivision, between milepost 304 and milepost 308.5, a distance of approximately 4.5 miles in Kern County, California (the Line). The Line has not been used for common carrier service since 2011 and SJVR is discontinuing the line for non-common carrier use.

The Line traverses through United States Zip Code 93250. A map of the Line is enclosed with this letter.

Because this proceeding would involve the discontinuance of common carrier service and not abandonment of the Line, SJVR understands that the question of whether the Line contains federally granted rights-of-way is inapplicable, and that the Line would not be suitable at this time for alternative public use. Any pertinent documentation in the railroad's possession will be made available promptly to those requesting it.

SJVR will not salvage any track along the Line as a result of this discontinuance.

Sincerely,

A handwritten signature in blue ink that reads 'Justin J. Marks'.

Justin J. Marks
Counsel to San Joaquin Valley Railroad Co.

Enclosure



Service List for STB Docket No. AB-398 (Sub No. 11X)

U.S. Department of the Interior - National Park Service RTCA Program 1849 C Street, NW Washington, DC 20240	Office of Chief of Forest Service U.S. Department of Agriculture 1400 Independence Ave., SW Washington, DC 20250-1111
United States Department of the Army Military Surface Deployment and Distribution Command Transportation Engineering Agency ATTN: SDTE-SA (Railroads for National Defense) 1 Soldier Way, Building 1900W Scott AFB, IL 62225	California Public Utilities Commission 505 Van Ness Avenue San Francisco, CA 94102

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Notice for Exempt Discontinuance was served on the persons shown on the attached list by email and/or first-class mail, postage prepaid.

U.S. Department of the Interior -
National Park Service
RTCA Program
1849 C Street, NW
Washington, DC 20240

United States Department of the Army
Military Surface Deployment and Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National
Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

Office of Chief of Forest Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250-1111

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102



Justin J. Marks

Dated: March 13, 2024