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January 17, 2017

242471

BY HAND DELIVERY

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

ENTERED
Office of Proceedings
January 17, 2017
Part of
Public Record

Re: Southwestern Railroad, Inc. – Discontinuance of Service Exemption – In Curry, Roosevelt, Chaves, and Eddy, Counties, New Mexico, AB-1251X

Dear Ms. Brown:

Enclosed please find an original and eleven copies of a petition for exemption by Southwestern Railroad, Inc. to discontinue rail service over an approximately 227.6 mile rail Lines known as the Carlsbad Division in Curry, Roosevelt, Chaves, and Eddy, Counties, New Mexico. Please date stamp the extra copy and return it to my courier. This submission also includes an electronic copy of the entire petition and a separate electronic file of the draft Federal Register notice pursuant to 49 C.F.R. § 1152.60(c) for the Board's use.

Finally, pursuant to 49 C.F.R. § 1002.2(f)(21)(iii), I have enclosed a filing fee check in the amount of \$6,900.00. If there are any questions about this matter, please contact me directly or Crystal M. Zorbaugh, who can be reached at (202) 663-7831 or by e-mail at czorbaugh@bakerandmiller.com.

Respectfully submitted,



William A. Mullins

Enclosures

FEE RECEIVED
January 17, 2017
SURFACE
TRANSPORTATION BOARD

FILED
January 17, 2017
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1251X

**SOUTHWESTERN RAILROAD, INC.
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN CURRY, ROOSEVELT, CHAVES, AND EDDY, COUNTIES, NEW MEXICO**

PETITION FOR EXEMPTION

**William A. Mullins
Crystal M. Zorbaugh
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Tel: (202) 663-7820
E-mail: wmullins@bakerandmiller.com**

January 17, 2017

**Attorneys for Southwestern Railroad,
Inc.**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1251X

**SOUTHWESTERN RAILROAD, INC.
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN CURRY, ROOSEVELT, CHAVES, AND EDDY, COUNTIES, NEW MEXICO**

PETITION FOR EXEMPTION

INTRODUCTION

Pursuant to 49 U.S.C. § 10502 and rules applicable thereto at 49 C.F.R. Parts 1121 and 1152.60, Southwestern Railroad, Inc. (“SWRR”), a Class III common carrier by railroad, files this petition (the “Petition”) seeking an exemption from the provisions of 49 U.S.C. § 10903 to discontinue its common carrier service obligation over approximately 227.6 miles of BNSF Railway (“BNSF”) owned rail lines that SWRR operates over as the SWRR Carlsbad Division. SWRR seeks to discontinue its service over the following lines: (1) the Carlsbad Subdivision between milepost 0.5, at Clovis, New Mexico, and milepost 183.0, at Carlsbad, New Mexico; (2) the Carlsbad Yard;¹ (3) the Carlsbad Industrial Spur between milepost 0.0, at Carlsbad, New Mexico, and milepost 20.0, near Carlsbad, New Mexico; and (4) the Loving Industrial Spur between milepost 0.0, at Carlsbad, New Mexico, and milepost 20.0, at Loving, New Mexico

¹ There are no mileposts associated with the approximately 5.1 miles of rail lines located in the Carlsbad Yard.

(hereinafter, collectively known as the “Lines” or “Carlsbad Division”).² The Lines are located in Curry, Roosevelt, Chaves, and Eddy Counties, New Mexico.

The Lines traverse United States Postal Zip Code territories 88101, 88116, 88130, 88201, 88203, 88210, 88220, 88230, 88232, 88253, 88254, 88256. Based on information in SWRR’s possession, the Lines do not contain federally granted rights-of-way. The Lines are actually owned by BNSF. Regardless, any documentation in SWRR’s possession will be made available promptly to those requesting it.

FACTUAL BACKGROUND

SWRR acquired authority to lease and operate the BNSF owned Lines in 2004.³ SWRR operates the Lines as the Carlsbad Division. In mid-2016, BNSF notified SWRR that it wished to resume operations over the Carlsbad Division prior to the termination of the current lease. Over the past year, SWRR and BNSF thoroughly discussed all options and ultimately decided to transition the Carlsbad Division from SWRR back to BNSF. As a result of these negotiations, SWRR and BNSF filed an amendment to the lease agreement that allowed BNSF to resume operations over the Lines on January 17, 2017.⁴ SWRR is now filing to discontinue its operations pursuant to the terms of the amended lease. Accordingly, as of January 17, 2017,

² SWRR currently operates two divisions – the Carlsbad Division and the Whitewater Division. However, SWRR is discontinuing its operations pursuant to a lease over the Carlsbad Division in this proceeding and selling its Whitewater Division in an unrelated proceeding. See New Mexico Central Railroad, LLC, Acquisition and Operation Exemption – Southwestern Railroad Whitewater Division, FD 36085 (Filed December 17, 2016)(“New Mexico Central Acquisition”). Upon consummation of the Carlsbad and Whitewater Divisions transactions, SWRR will cease to be a common carrier/Board-regulated entity.

³ SWRR first entered into a lease agreement (“Original Agreement”) with BNSF to operate over the Lines in 2004. See Southwestern Railroad Company, Inc. – Lease and Operation Exemption – The Burlington Northern and Santa Fe Railway Company, FD 34533 (STB served Oct. 22, 2004). SWRR and BNSF have amended the lease agreement five times since its inception.

⁴ See Southwestern Railroad, Inc. – Amended Lease and Operation Exemption – BNSF Railway Company, FD 34533 (Sub-No. 1) (STB served August 12, 2016).

both SWRR and BNSF will have a common carrier obligation to provide service over the Lines until such time that SWRR's discontinuance authority is granted. Because shippers currently served by SWRR will also be served by BNSF during the pendency of this discontinuance proceeding and will be served by BNSF after any SWRR discontinuance authority is granted, there will be no interruption of service and no shippers served by the Lines will be disadvantaged when and if SWRR ceases operations.

In sum, the requested exemption should be granted because –

- in keeping with the standards of section 10502 – (a) application of the Board's formal discontinuance process is unnecessary to carry out the Rail Transportation Policy ("RTP") of 49 U.S.C. § 10502; (b) the proposed action is of limited scope; and (c) regulation is not necessary to protect shippers on the Lines from market power abuse.

Accordingly, SWRR's Petition should be granted in keeping with agency policy and precedent. To ensure that shippers have full knowledge of this proceeding, SWRR is serving the shippers located along the Lines a copy of this Petition.

MAPS AND EXHIBITS

A map of the Lines is attached as Exhibit A. A draft Federal Register notice is attached as Exhibit B, and the certifications of compliance with 49 C.F.R. §§ 1105.12 and 1152.60(d) are included as Exhibit C. Exhibit D consists of a verification of the facts stated herein as signed by Bruce Carswell, Vice President of Operations, Southwestern Railroad, Inc.

PETITIONER'S REPRESENTATIVE

SWRR is represented by William A. Mullins of Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW, Suite 300, Washington, DC 20037. Mr. Mullins can be reached at telephone: (202) 663-7820; facsimile: (202) 663-7849; and email: wmullins@bakerandmiller.com.

THE EXEMPTION STANDARDS HAVE BEEN MET

Under 49 U.S.C. § 10903, service over a rail line cannot be discontinued without prior Board approval. However, under 49 U.S.C. § 10502, the Board must exempt a transaction from application of section 10903 when it finds that – (1) regulation of the transaction is not necessary to carry out the RTP of 49 U.S.C. § 10101; and (2) either (a) the transaction is of limited scope, or (b) regulation is not needed to protect shippers from the abuse of market power. This proposed discontinuance meets all of section 10502’s statutory requirements.

A. Regulation Is Not Necessary To Carry Out The Rail Transportation Policy

The RTP obviates the need for detailed Board scrutiny under 49 U.S.C. § 10903 in this instance. Granting SWRR’s Petition – rather than requiring it to incur the substantial costs and potential delays involved in submitting a full-blown application – promotes a fair and expeditious regulatory decision-making process; reduces regulatory barriers to exit from the industry; assures that railroads operate transportation facilities and equipment without detriment to the public health and safety; encourages honest and efficient management of railroads; and provides for the expeditious handling and resolution of proceedings required or permitted to be brought under this part. See 49 U.S.C. §§ 10101(2), (7), (8), (9), and (15).

For these reasons, the Board need not, and should not, require SWRR to use the formal discontinuance application procedures in order to carry out the RTP. Indeed, the proposed discontinuance and SWRR’s use of the Board’s exemption procedures is consistent with that policy.

B. The Transaction Is Of Limited Scope

The proposed transaction is of limited scope. SWRR seeks to discontinue its operations over approximately 227.6 miles of rail lines; however, prior to the effective date of SWRR's discontinuance, BNSF will resume operations over the very same lines, which it owns.

Although the transaction involves 227.6 miles of rail line, the length of the track involved in a proposed discontinuance is not dispositive of whether the transaction or service is limited in scope.⁵ Rather the Board looks at a number of factors in deciding whether a transaction is of limited scope – the Board's focus is to determine whether and how many shippers, if any, would be adversely affected and to what degree. For example, the Board has specifically held that transactions are of limited scope when customers will be served by a new carrier.⁶ Because BNSF will resume operations over the Lines prior to the effective date of SWRR's discontinuance, not one shipper will lose service or otherwise be adversely affected by SWRR's discontinuance of operations. Thus, the discontinuance should be found to be limited in scope:

C. Regulation Of The Discontinuance Is Not Necessary To Protect Shippers From Market Power Abuse

Because shippers currently served by SWRR will continue to be served by BNSF once SWRR is granted discontinuance authority, the proposed discontinuance will not result in an

⁵ Norfolk and Western Ry. Co. – Purchase – Illinois Terminal R. Co., 363 I.C.C. 882, 895 (1981) (abandonment of overhead trackage rights on Lines segments totaling more than 200 miles found to be of limited scope); see also Southern Railway Company and Norfolk Southern Corporation - Purchase - Illinois Central Railroad Company Lines Between Fulton, KY And Haleyville, AL - And Trackage Rights - Illinois Central Railroad Company Lines Between Fulton, KY and Centralia, IL; Illinois Central Railroad Company - Exemption - Discontinuance of Trackage Rights Between Haleyville and Birmingham, AL, FD 31088; AB-43 (Sub-No. 148X), 1988 ICC LEXIS 158, at *11 (STB served 9, 1988) (indicating that transaction was in limited scope in part because “shippers on the Lines will continue to be served by the railroads which own the trackage.”)

⁶ Southern Ry. Co. – Discontinuance of Trackage Rights Operations Between Greenwood and Piedmont, South Carolina (STB served June 20, 1990).

interruption of service and no shippers served by the Lines will be disadvantaged when SWRR ceases operations. The rail carrier that provides service to the shippers will change, but no shipper will lose any service. Indeed, SWRR's most-recent notice of exemption filed on July 29, 2016 to amend the lease agreement provided notice to the shipping community that BNSF would be resume service over the Lines on January 17, 2017. Since that filing, no shipper has filed any comments expressing any concern that it would be subjected to market abuse or undue market power when BNSF resumes operations over the Lines or that the loss of SWRR service would result in an abuse of market power.

In similar circumstances as these, the Board has found that regulation is not necessary to protect shippers from an abuse of market power when a Class I terminates a lease and resumes operations over a Lines that it owns, so long as no shipper will be without service. See Perry County Port Authority D/B/A Hoosier Southern Railroad – Discontinuance Exemption – In Spencer County, IN, AB-554X (STB served October 19, 1998); see also Gateway Western R. Co. – Discontinuance of Service Exemption - In Jackson County, MO, AB-566X, slip op. at 2 (STB served July 21, 2000) (“Because service is being continued by the owner of the Lines, regulation is not necessary to protect shippers from the abuse of market power.”). Put simply, Board regulation is not necessary to protect shippers from an abuse of market power in this proceeding because consistent with sound precedent, one rail carrier is being replaced by another, in the case the Lines’ owner, BNSF, who will continue to provide service over the Lines once SWRR’s discontinuance is granted.⁷

⁷ Missouri & Valley Park Railroad Corp. – Discontinuance of Service Exemption – In St. Louis County, Mo., AB-1057X (STB served June 15, 2010) (“MVPR Discontinuance”).

PUBLIC INTEREST FACTORS

Because this is a petition for exemption filed under 49 U.S.C. §10502, SWRR need not discuss the public interest factors applicable to a discontinuance filed under 49 U.S.C. §10903. Nonetheless, SWRR asserts that the public interest would not be harmed and thus there is no need to require SWRR to follow the application process so as to protect the public interest. Clearly, based on the factual circumstances, there is simply no basis to presume that SWRR's decision to seek discontinuance authority is driven by any consideration aside from BNSF's desire to resume operations over its own Lines. Moreover, there is no reason to believe that the discontinuance will adversely impact any shipper on the Lines. In fact, the proposed discontinuance actually promotes the public interest because existing shippers along the Lines will continue to be provided service.

LABOR PROTECTIVE CONDITIONS

As previously stated, SWRR currently operates two divisions – the Carlsbad Division and the Whitewater Division. SWRR is selling the entirety of its Whitewater Division, which will occur significantly before the effective date of this discontinuance. See New Mexico Central Acquisition. Pursuant to this petition, SWRR seeks to discontinue its operations over the Carlsbad Division. By the time SWRR obtains discontinuance authority, the Carlsbad Division will be the only remaining operating SWRR operations. Accordingly, upon consummation of the SWRR discontinuance, SWRR will cease to be a common carrier/Board-regulated entity. As previously stated, SWRR is discontinuing its operations because BNSF seeks to resume operations over the Carlsbad Division.

Because SWRR is selling its Whitewater Division and discontinuing its operations over the Carlsbad Division, SWRR is terminating operations over its entire system. Under the

anticipated consummation schedule, SWRR will not discontinue its operations until after the sale of Whitewater Division; thus, at the time the Board (hopefully) grants this discontinuance, SWRR's common carrier rights to operate over the Lines will be SWRR's entire operating system. If the discontinuance is granted, SWRR will have terminated operations over its entire system. When a carrier seeks to terminate operations (by abandonment or discontinuance) over an entire system, the Board and its predecessor, the Interstate Commerce Commission, have declined, except in unusual circumstances which are not present here,⁸ to impose labor conditions.⁹ In this case, BNSF, not a corporate affiliate of SWRR, will continue providing rail service to shippers over the Lines. Because SWRR is ceasing operations over its entire system, employee protective conditions should not be imposed on SWRR's discontinuance of service based on decades – long precedent.¹⁰

⁸ The Board does not normally impose labor protections under 49 U.S.C. § 10502(g) in entire system abandonments and discontinuances. See Wellsville, Addison & Galetton R.R.— Aban. of Entire Lines in Potter and Tioga Counties, Pa., 354 I.C.C. 744 (1978); and Northampton and Bath R.R.--Aban. Near Northampton and Bath Junction in Northampton County, Pa., 354 I.C.C. 784 (1978).

⁹ See MVPR Discontinuance; Knox and Kane Railroad Company – Abandonment Exemption – McKean County, PA, AB-551 (Sub-No. 2X) (STB served July 24, 2015); Manufacturers Railway Company – Discontinuance Exemption – In St. Louis County, MO, AB-1075X (STB served February 6, 2013); Sierra Pacific Industries-Abandonment Exemption-in Amador County, CA; SierraPine-Discontinuance Exemption-in Amador County, CA, AB-512X, AB-880X) (STB served Feb. 25, 2005); Kiowa, Hardtner and Pacific Railroad Company--Abandonment Exemption--in Barber County, KS, AB-839 (Sub-No. 1X) (STB served Oct. 3, 2002).

¹⁰ SWRR is not unmindful of the impacts on its operating employees; all of which are non-union. Indeed, as a result of the lease amendment and in preparation for BNSF's renewed operations over the Lines on January 17, 2017, SWRR offered all of its operating employees a severance package, which every eligible employee has accepted. SWRR has also offered, to the extent there were positions available, to transfer employees to the Whitewater Division, which some employees have done.

ENVIRONMENTAL IMPACTS REVIEW

Here, the discontinuance is exempt from environmental reporting requirements under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b) because SWRR seeks only to discontinue service which does not normally require a carrier to prepare and submit for review a combined environmental and historic report.¹¹ Because SWRR does not own the Lines, SWRR has no plans to engage in any salvage activities, including the removal of any potentially historic structures (such as bridges) as a result of obtaining discontinuance authority. Further Board approval would be required for the Lines' owner, BNSF, to abandon service on the Lines. Accordingly, no environmental or historic report was prepared.

CONCLUSION

SWRR seeks an exemption from the provisions of 49 U.S.C. § 10903 to discontinue service over approximately 227.6 miles of rail lines known as the Carlsbad Division. For the reasons supplied herein, application of the Board's formal discontinuance procedures at section 10903 is not needed to carry out the RTP set forth at 49 U.S.C. § 10901. In fact, granting SWRR's Petition would promote many of the elements of that policy. Likewise, the proposed discontinuance is of limited scope, and no potential for abuse of market power would result from the requested exemption. Accordingly, SWRR urges prompt Board action to grant an exemption

¹¹ See, e.g., Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA, AB-271X slip op. at 2 n.2 (STB served Nov. 16, 2007) (“Because this is a discontinuance proceeding and not an abandonment, . . . no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively”); Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007) (same); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, AB-290 (Sub-No. 292X), slip op. at 2 n.2 (STB served March 15, 2007) (same); Chillicothe-Brunswick Rail Maintenance Authority—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO, AB-1001X, slip op at 2 n.3 (STB served Feb 23, 2007) (same).

for the proposed discontinuance of service over the Lines and to do so without imposing employee protective conditions.

Respectfully submitted,



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Dated: January 17, 2017

Attorneys for Southwestern Railroad, Inc.

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

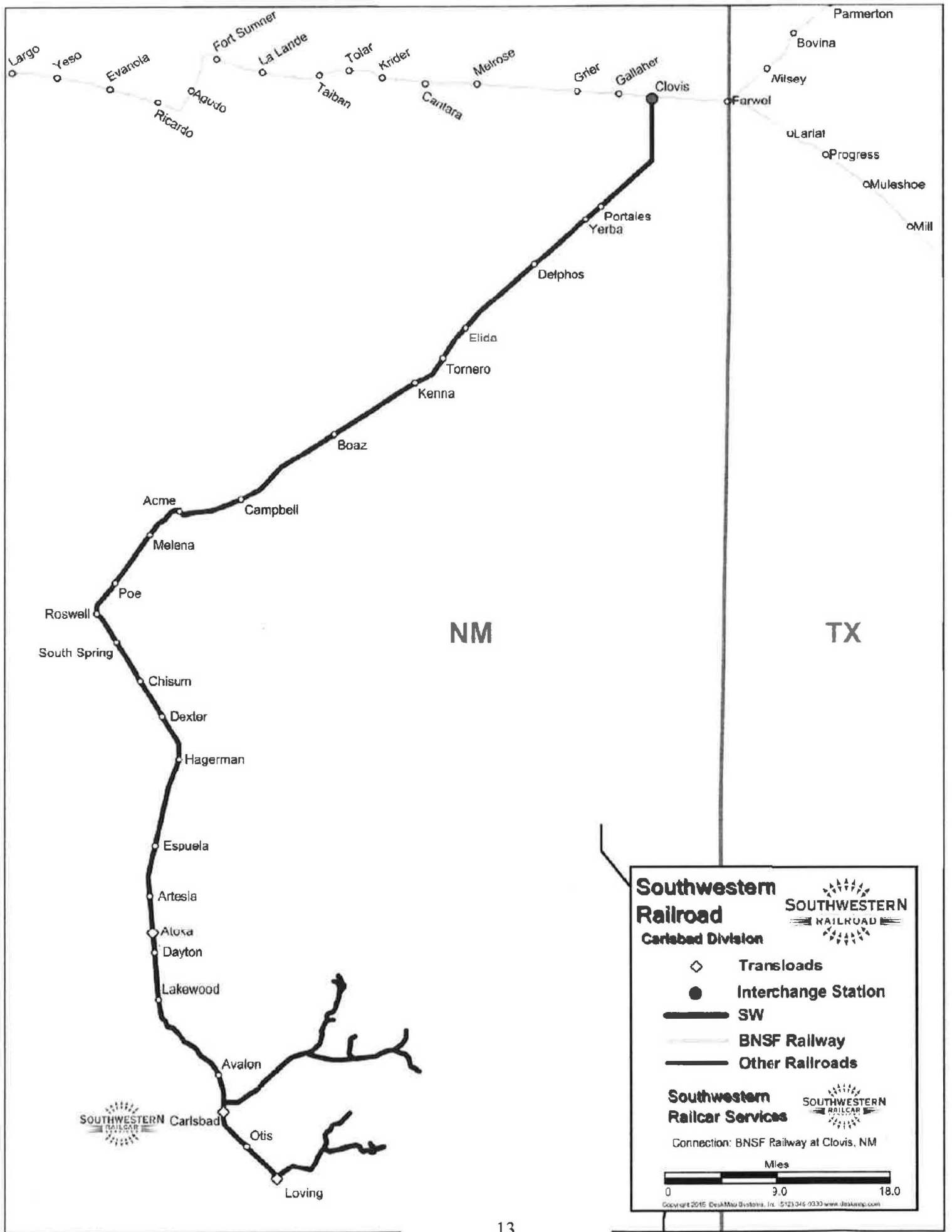
AB-1251X

**SOUTHWESTERN RAILROAD, INC.
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN CURRY, ROOSEVELT, CHAVES, AND EDDY, COUNTIES, NEW MEXICO**

PETITION FOR EXEMPTION

EXHIBIT A

MAP



**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1251X

**SOUTHWESTERN RAILROAD, INC.
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN CURRY, ROOSEVELT, CHAVES, AND EDDY, COUNTIES, NEW MEXICO**

PETITION FOR EXEMPTION

EXHIBIT B

DRAFT FEDERAL REGISTER NOTICE

Surface Transportation Board

[AB-1251X]

Southwestern Railroad, Inc. – Discontinuance of Service Exemption – In Curry, Roosevelt, Chaves, and Eddy, Counties, New Mexico

On January 17, 2017, Southwestern Railroad, Inc. (“SWRR”) filed with the Surface Transportation Board, an individual petition for exemption for the discontinuance of service over approximately 227.6 miles of BNSF Railway (“BNSF”) owned rail lines that SWRR operates over as the SWRR Carlsbad Division. SWRR seeks to discontinue its service over the following lines: (1) the Carlsbad Subdivision between milepost 0.5, at Clovis, New Mexico, and milepost 183.0, at Carlsbad, New Mexico; (2) the Carlsbad Yard; (3) the Carlsbad Industrial Spur between milepost 0.0, at Carlsbad, New Mexico, and milepost 20.0, near Carlsbad, New Mexico; and (4) the Loving Industrial Spur between milepost 0.0, at Carlsbad, New Mexico, and milepost 20.0, at Loving, New Mexico (hereinafter, collectively known as the “Lines” or “Carlsbad Division”).¹²

The Lines are located in Curry, Roosevelt, Chaves, and Eddy Counties, New Mexico, which traverses United States Postal Service ZIP Codes territories 88101, 88116, 88130, 88201, 88203, 88210, 88220, 88230, 88232, 88253, 88254, 88256. The Lines for which the discontinuance exemption request was filed includes the stations of (and approximate mileposts (“MP”)): Loving (MP 195.3); Otis (MP 189.1); Carlsbad (MP 183.0); Avalon (MP 177.5); Lakewood (MP 165.2); Dayton (MP 157.7); Atoka (MP 155.1); Artesia (MP 149.9); Espuela

¹² SWRR currently operates two divisions – the Carlsbad Division and the Whitewater Division. However, SWRR is discontinuing its operations pursuant to a lease over the Carlsbad Division in this proceeding and selling its Whitewater Division in an unrelated proceeding. See New Mexico Central Railroad, LLC, Acquisition and Operation Exemption – Southwestern Railroad Whitewater Division, FD 36085 (Filed December 17, 2016) (“New Mexico Central Acquisition”). Upon consummation of the Carlsbad and Whitewater Divisions transactions, SWRR will cease to be a common carrier/Board-regulated entity.

(MP 143.8); Hagerman (MP 130.5); Dexter (MP 124.2); Chisum (MP 118.8); South Springs (MP 112.6); Roswell (MP 107.8); Poe (MP 103.0); Melena (MP 94.9); Campbell (MP 82.2); Boaz (MP 65.5); Kenna (MP 52.5); Tornero (MP 47.6); Elida (MP 42.2); Kermit (MP 37.2); Delphos (MP 29.8); Yerba (MP 20.9); Portales (MP 17.6); and Clovis (MP 0.0).

Based on information in SWRR's possession, the Lines does not contain federally-granted rights-of-way. However, the Lines is actually owned by BNSF. Regardless, any documentation in the railroad's possession will be made available promptly to those requesting it.

Because SWRR is terminating operations over its entire system, consistent with prior precedent, SWRR has requested that it be relieved from the imposition of any employee protective conditions.¹³ Effective January 17, 2017,¹⁴ BNSF, as the owner of the Lines, began providing rail service to shippers over the Lines and will continue to do so if the SWRR discontinuance is granted.

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

Persons seeking further information concerning the Board's discontinuance procedures may contact the Surface Transportation Board or refer to the full abandonment and

¹³ See Wellsville, Addison & Galetton R.R. – Aban. of Entire Lines in Potter and Tioga Counties, Pa., 354 I.C.C. 744 (1978); and Northampton and Bath R.R. – Aban. Near Northampton and Bath Junction in Northampton County, Pa., 354 I.C.C. 784 (1978); Knox and Kane Railroad Company – Abandonment Exemption – McKean County, PA, AB-551 (Sub-No. 2X) (STB served July 24, 2015); Manufacturers Railway Company – Discontinuance Exemption – In St. Louis County, MO, AB-1075X (STB served February 6, 2013); Sierra Pacific Industries-Abandonment Exemption-in Amador County, CA; SierraPine-Discontinuance Exemption-in Amador County, CA, AB-512X, AB-880X) (STB served Feb. 25, 2005); and Kiowa, Hardtner and Pacific Railroad Company--Abandonment Exemption--in Barber County, KS, AB-839 (Sub-No. 1X) (STB served Oct. 3, 2002).

¹⁴ See Southwestern Railroad, Inc. – Amended Lease and Operation Exemption – BNSF Railway Company, FD 34533 (Sub-No. 1) (STB served August 12, 2016).

discontinuance regulations at 49 CFR Part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0295.

An environmental assessment (EA) or environmental impact statement (EIS), if necessary, will be prepared by the Office of Environmental Analysis and will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of any EA (or EIS), if one is prepared, may contact the Board's Office of Environmental Analysis. EA's (or EIS's) in discontinuance proceedings are not normally prepared, but if one is prepared, it will be made available within 60 days of the filing of the petition. The deadlines for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: _____.

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

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1251X

**SOUTHWESTERN RAILROAD, INC.
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN CURRY, ROOSEVELT, CHAVES, AND EDDY, COUNTIES, NEW MEXICO**

PETITION FOR EXEMPTION

EXHIBIT C

CERTIFICATIONS OF SERVICE/PUBLICATION

Certificate of Service

49 C.F.R. § 1152.60(d) – Notice

I certify that, in keeping with 49 C.F.R. § 1152.60(d), I caused the following parties to be served with a copy of Southwestern Railroad, Inc.'s foregoing discontinuance petition for exemption:

David Dorfman
Headquarters Military Surface Deployment and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA
Railroads for National Defense Program
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

Thomas L. Tidwell, Chief
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street SW
Washington, DC 20024

Charlie Stockman
National Park Service
Rivers and Trails Conversation Program
1201 Eye Street, NW, 9th Floor (Org. Code 2220)
Washington, DC 20005

New Mexico Department of Transportation HQ
1120 Cerrillos Road
Santa Fe, NM 87504-1149

New Mexico Public Regulation Commission
1120 Paseo De Peralta
PERA Building
P.O. Box 1269
Santa Fe, NM 87504

In addition, I also hereby certify that I have served the users of the subject rail Lines with a copy of the foregoing discontinuance petition for exemption:

January 17, 2017



William A. Mullins

Attorney for Southwestern Railroad, Inc.

Certificate of Newspaper Publication

49 C.F.R. § 1105.12 – Newspaper Notice

I hereby certify that a “Notice of Intent to Discontinue Rail Service” was published in the form prescribed by the Board for a Petition for Exemption (49 C.F.R. § 1105.12). The notice was published on Saturday, January 14, 2017 in The Albuquerque Journal, a paper of general circulation in Curry, Roosevelt, Chaves, and Eddy Counties, New Mexico.

January 17, 2017



William A. Mullins

Attorney for Southwestern Railroad, Inc.

**BEFORE THE
SURFACE BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1251X

**SOUTHWESTERN RAILROAD, INC.
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN CURRY, ROOSEVELT, CHAVES, AND EDDY, COUNTIES, NEW MEXICO**

PETITION FOR EXEMPTION

EXHIBIT D

**VERIFICATION OF BRUCE CARSWELL, VICE PRESIDENT OF
OPERATIONS, SOUTHWESTERN RAILROAD, INC.**

VERIFICATION

I, Bruce Carswell, verify under penalty of perjury that I am the Vice President of Operations for Southwestern Railroad, Inc., that I have read the foregoing petition for exemption, know its contents, and that the same is true and correct to the best of my knowledge and belief.

Executed on January 13, 2017.

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

**Bruce Carswell
Vice President of Operations
Southwestern Railroad, Inc.**