

41992

SERVICE DATE – NOVEMBER 16, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1076X]

Caddo Valley Railroad Company—Abandonment Exemption—in Clark, Pike, and Montgomery Counties, Ark.

Caddo Valley Railroad Company (CVRR) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon the portion of the Norman Branch Line extending between milepost 447, near Antoine, to milepost 479.2, at the end of the line near Birds Mill, a distance of 32.2 miles, in Clark, Pike, and Montgomery Counties, Ark. (the line).¹ The line traverses United States Postal Service Zip Codes 71921, 71922, 71940, and 71943.

CVRR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) the line is stub-ended and not capable of handling overhead traffic; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local

¹ On November 9, 2011, CVRR filed a letter with the Board attaching a letter dated October 7, 2011, from counsel for Arkansas Midland Railroad Company, Inc. (AKMD). AKMD notes that CVRR acquired the Norman Branch, which includes the line at issue here, from AKMD under the Board's feeder line statute at 49 U.S.C. § 10907. See Caddo Antoine & Little Mo. R.R.—Feeder Line Acquis.—Ark. Midland R.R. Co. Line Between Gurdon & Birds Mill, Ark., 4 S.T.B. 326 (1999). AKMD further states that on September 29, 2011, AKMD reacquired from CVRR the segment of the Norman Branch between milepost 426.88 in Gurdon and milepost 429.45 north of Gurdon and, as part of the same transaction, waived its statutory right of first refusal with respect to the rest of the Norman Branch. See 49 U.S.C. § 10907(h).

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 complainant within the 2-year period. CVRR has further certified that the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 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 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, this exemption will be effective on December 16, 2011, unless stayed pending reconsideration.² Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),⁴ and

² CVRR indicated a proposed consummation date of December 12, 2011. The earliest this transaction may be consummated is December 16, 2011. See 49 C.F.R. § 1152.50(d)(2).

³ 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 exemption's effective date. See (continued . . .)

trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by November 28, 2011. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by December 6, 2011, 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 CVRR's representative: Richard H. Streeter, 5255 Partridge Lane, N.W., Washington, DC 20016.

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

CVRR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by November 21, 2011. 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 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.

(. . . continued)

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 exemption's effective date.

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 C.F.R. § 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 C.F.R. § 1152.29(e)(2), CVRR 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 CVRR's filing of a notice of consummation by November 16, 2012, 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: November 10, 2011.

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