

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-418 (Sub-No. 1X)]

Cooperstown and Charlotte Valley Railway Corporation—Abandonment Exemption—in Otsego County, NY

Cooperstown and Charlotte Valley Railway Corporation (CCV), a subsidiary of Delaware Otsego Corporation, has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its entire 15.49-mile line of railroad, between milepost 16.0, at Cooperstown Junction, and milepost 0.51, at Cooperstown, in Otsego County, NY.

CCV has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 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.

In its verified notice, applicant said that it "recognizes that this abandonment will be made subject to the customary employee protective conditions imposed by the Commission." Where, as here, however, a railroad proposes to abandon its entire line of railroad, employee protective conditions are normally not imposed. Thus, consistent with Commission precedent, employee protective conditions will not be imposed here.¹

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 9, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,²

¹ The Commission will only consider imposing employee protective conditions in the context of an entire line abandonment when the evidence of record demonstrates the existence of: (1) a corporate affiliate that will continue substantially similar rail operations; or (2) a corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations by its subsidiary railroad. See *Northampton and Bath R. Co.—Abandonment*, 354 I.C.C. 784 (1978).

² A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's

formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29⁴ must be filed by June 19, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 29, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Nathan R. Fenno, Cooperstown and Charlotte Valley Railway Corporation, 1 Railroad Ave., Cooperstown, NY 13326.

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

CCV has filed an environmental report which addresses the effects of the abandonment, if any, on the environment and historic resources. The Commission's Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by June 14, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: June 2, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

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Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request prior to the effective date of this exemption.

³ See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

⁴ The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Docket Nos. AB-427X; AB-428X]

Crystal City Railroad, Inc.— Abandonment Exemption—in LaSalle, Zavala, and Dimmit Counties, TX; and Texas Railroad Switching, Inc.— Discontinuance of Service Exemption—in LaSalle, Zavala, and Dimmit Counties, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemptions.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by Crystal City Railroad, Inc., and discontinuance of service by Texas Railroad Switching, Inc., of 51.55 miles of rail line consisting of: (1) A 40.4-mile portion of the Crystal City branch line between milepost 107.0 west of Gardendale and milepost 147.4 near Crystal City; and (2) the 11.15-mile Carrizo Springs branch line between milepost 145.2 near Crystal City and milepost 156.35 near Carrizo Springs, in LaSalle, Zavala, and Dimmit Counties, TX, subject to standard labor protective conditions, an environmental condition, and a public use condition.¹

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 9, 1995. Formal expressions of intent to file an offer² of financial assistance under 49 CFR 1152.27(c)(2) must be filed by June 19, 1995; petitions to stay must be filed by June 26, 1995; requests for a public use condition must be filed by June 29, 1995; and petitions to reopen must be filed by July 5, 1995.

ADDRESSES: Send pleadings referring to Docket Nos. AB-427X and AB-428X to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, NW., Washington, DC 20423; and (2) Thomas F. McFarland, Jr., 20 North Wacker Drive, Suite 3118, Chicago, IL 60606-3101.

FOR FURTHER INFORMATION CONTACT:

Joseph H. Dettmar, (202) 927-5660.

[TDD for the hearing impaired: (202) 927-5721.]

SUMMARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic

¹ CCR will retain the 1.86-mile portion of the Crystal City branch line between milepost 105.14 and milepost 107.0 near Gardendale, TX.

² See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).