

addition, the braking imbalance can affect the stability of the towing vehicle, which can result in a loss-of-control of the vehicle combination.

The compliance testing by the petitioner resulted in seven of eight sample hose assemblies experiencing hose separation from the end fittings at from 224 to 317 pounds. This represents a noncompliance margin of from 45 percent to 2 percent, respectively, compared to the requirement of 325 pounds, over a total population of 24,622 hose assemblies. NHTSA believes that a noncompliance margin of up to 45 percent presents a serious safety concern.

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance it describes is inconsequential to motor vehicle safety. Accordingly, its petition is hereby denied. Coupled Products must now fulfill its obligation to notify and remedy under 49 U.S.C. 30118 (d) and 30120(h).

Authority: (49 U.S.C. 30118(d) and 30120(h); delegations of authority at CFR 1.50 and 501.8)

Issued on: December 15, 2004.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-398 (Sub-No. 9X)]

San Joaquin Valley Railroad Company—Discontinuance Exemption—in Kern County, CA

[STB Docket No. AB-170 (Sub-No. 1X)]

Sunset Railway Company—Abandonment Exemption—in Kern County, CA

Sunset Railway Company (SRY) and San Joaquin Valley Railroad Company (SJVR) (collectively, applicants) have filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances of Service*¹ for SRY to abandon and for

SJVR to discontinue service over a 16.3-mile line of railroad, known as the Sunset Subdivision, extending between west of Levee, milepost 20.0, and Taft, milepost 36.3, in Kern County, CA. The line traverses United States Postal Service Zip Code 93268.

SRY and SJVR have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line in over 2 years and any overhead traffic can be rerouted over other lines; (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 Surface Transportation Board or with any U.S. District Court or has been decided in favor of 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.²

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 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 January 20, 2005, unless stayed pending reconsideration. Petitions to stay that do

Upon consultation with applicants, December 1, 2004 is used as the actual filing date. Applicants also indicated a new consummation date of January 19, 2005. Under 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. The amended notice was filed on December 1, 2004. Therefore, the earliest possible date consummation date is January 20, 2005. By letter filed on December 13, 2004, applicants confirmed that the consummation date should be January 20, 2005. Applicants also indicated that, upon further review of their records and communication from Baker Petrolite Corporation (BPC), they have determined that BPC was an active shipper located at milepost 18.99, and have reduced the scope of the abandonment and discontinuance so as to continue to serve BPC. Applicants stated that, as per a December 1, 2004 conversation with BPC, the reduction in the scope of abandonment and discontinuance resolved BPC's concerns.

² In the December 13, 2004 letter, applicants certified that the certification contained in their verified notice of exemption filed on November 19, 2004, remains correct and accurate for the rail line between milepost 20.0 and milepost 36.3.

not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 30, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 10, 2005, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: Attorney for SRY—Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606; Attorneys for SJVR—Gary A. Laakso, Esq., Vice President Regulatory Counsel, RailAmerica, Inc., 5300 Broken Sound Boulevard NW., Second Floor, Boca Raton, FL 33487, and Louis E. Gitomer, Esq., Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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

Applicants have filed environmental and historic reports which address the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 23, 2004.

Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [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.

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), SJVR 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 SJVR's filing of a notice of

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service 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.

¹ The verified notice of exemption was received by the Board on November 19, 2004, but was not docketed as filed until November 24, 2004, when the filing fee for SRY was received. Applicants did not include a consummation date in the notice. However, by letter filed on November 30, 2004, applicants indicated a consummation date of January 13, 2005. By letter filed on December 1, 2004, applicants requested to amend the notice to change the length of the line from 18.0 miles to 16.3 miles, extending between west of Levee, milepost 20.0, and Taft, milepost 36.3, in Kern County, CA.

consummation by December 21, 2005, 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 Web site at <http://www.stb.dot.gov>.

Decided: December 14, 2004.

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

Vernon A. Williams,
Secretary.

[FR Doc. 04-27857 Filed 12-20-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34632]

The Ohio and Pennsylvania Railroad—Acquisition and Operation Exemption—Rail Lines of Columbiana County Port Authority in Mahoning and Columbiana Counties, OH, and Beaver County, PA

The Ohio and Pennsylvania Railroad (O&P), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire (by lease) approximately 36 miles of rail line owned by the Columbiana County Port Authority (CCPA), between milepost 0.0 at or near Youngstown, OH, and milepost 35.7 at or near Darlington, PA.

The Central Columbiana and Pennsylvania Railway Company (CCPR) currently serves as the line's operator pursuant to a track lease and operating agreement with CCPA. On June 14, 2004, CCPR filed for bankruptcy protection before the U.S. Bankruptcy Court for the Eastern District of Arkansas, Little Rock Division (Case No. 4:04-bk-16887 M, Chapter 11) (bankruptcy court). Pursuant to an agreement between CCPA, O&P, and the bankruptcy trustee for CCPR, O&P will acquire and operate the line by assuming CCPR's rights, duties, and obligations under CCPR's track lease and operating agreement with CCPA (including CCPR's option to purchase the line in March 2006). The agreement is pending final approval from the bankruptcy court, which O&P expects will be granted before December 31, 2004.¹

The transaction is scheduled to be consummated on or after December 15,

¹ To ensure the continued availability of rail service to shippers on the line, the bankruptcy court, by a December 3, 2004 order, has approved an interim agreement between O&P and CCPR's bankruptcy trustee, which would allow O&P to assume immediate operational control of the line.

2004. O&P certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier.

This transaction is related to STB Docket No. AB-556 (Sub-No. 2X), *Railroad Ventures, Inc.—Abandonment Exemption—Between Youngstown, OH, and Darlington, PA, in Mahoning and Columbiana Counties, OH, and Beaver County, PA*, which involves the purchase of the line by CCPA pursuant to the offer of financial assistance provisions of 49 U.S.C. 10904 and 49 CFR 1152.27.

If this notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34632, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 14, 2004.

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

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34618]

East Penn Railway, Inc.—Modified Rail Certificate

On November 22, 2004, East Penn Railway, Inc. (East Penn), a Class III rail carrier, filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, subpart C, *Modified Certificate of Public Convenience and Necessity*, to operate a portion of a rail line known as the Octoraro Branch (also referred to as Line 142), extending for approximately 27.51 miles between milepost 26.98 at Chadds Ford Junction, PA, and milepost 54.49 at the Pennsylvania/Maryland state line near Sylmar, MD.

The Octoraro Branch was previously owned by the Penn Central

Transportation Company (Penn Central), and is currently owned by the Southeastern Pennsylvania Transportation Authority (SEPTA). The Octoraro Branch was not included in the final system plan at the time the Consolidated Rail Corporation was formed and, as such, was authorized to be abandoned without further regulatory approval pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law No. 94-210. SEPTA acquired the Octoraro Branch from the trustees of Penn Central after it was abandoned in 1976.

East Penn states that, until recently, the line was operated by the Morristown & Erie Railway, Inc. (M&E), under an interim operating agreement that terminated on November 19, 2004, and that it proposes to replace M&E as the interim operator. *See Morristown & Erie Railway, Inc.—Modified Rail Certificate*, STB Finance Docket No. 34369 (STB served July 24, 2003). On November 18, 2004, SEPTA and East Penn entered into an interim license agreement commencing on November 19, 2004. Under the operating agreement, East Penn will provide rail service over the Octoraro Branch from November 22, 2004, through approximately December 19, 2004, after which, East Penn plans to purchase the Octoraro Branch from SEPTA. The interim operating agreement will terminate at the transfer of ownership to East Penn.

East Penn will initially provide rail service on an as-needed basis, and will expand service as customers and traffic increases. East Penn states that the Octoraro Branch will connect with ISG Railways, Inc. (ISG), at Chadds Ford Junction, PA, in order to connect with Norfolk Southern Railway Company (NS) at Coatesville, PA. ISG's rail line also connects with the former Reading Railroad's Wilmington & Northern line at the Delaware/Pennsylvania state line, providing East Penn access to both NS and CSX Transportation, Inc., at Wilmington, DE.

The rail segment qualifies for a modified certificate of public convenience and necessity. *See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions*, Finance Docket No. 28990F (ICC served July 16, 1981).

East Penn indicates that: (1) There are no subsidizers; (2) there are no preconditions for shippers to meet to receive rail service; and (3) it has obtained liability insurance coverage.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of