

comprehensive review of design and operational factors that affect the safety of railroad tank car transportation of hazardous materials. In order to facilitate public involvement in this review, FRA and PHMSA held a public meeting on May 31 and June 1, 2006, and FRA has established a public docket to provide all interested parties with a central location to both send and review relevant information concerning improving the safety of railroad tank car transportation of hazardous materials. The docket established for this purpose is designated Docket No. FRA-2006-25169. A copy of the transcript of the May 31 and June 1, 2006 public meeting is available in the docket.

**ADDRESSES:** The public is invited to submit both relevant information and relevant comments to the docket. Written submissions should refer to the docket number of this notice (Docket No. FRA-2006-25169) and may be submitted by any of the following methods:

*Web site:* <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

*Fax:* 202-493-2251.

*Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

*Hand Delivery:* Docket Management Facility, Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**SUPPLEMENTARY INFORMATION:** The Secretary of Transportation (Secretary) has authority over all areas of railroad safety (49 U.S.C. 20101 *et seq.*), and has delegated this authority to FRA. FRA has issued a comprehensive set of Federal regulations governing the safety of all facets of freight and passenger railroad operations (49 CFR parts 200-244). FRA also conducts research and development to enhance railroad safety. The Secretary is also responsible for “prescrib[ing] regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce.” 49 U.S.C. 5103. The Secretary has delegated this authority to PHMSA. FRA inspects railroads and shippers for compliance with both FRA railroad safety regulations and PHMSA regulations governing the transportation of hazardous materials in commerce.

As detailed in PHMSA’s “Notice of public meeting” published on May 24,

2006 (71 FR 30019), in the last several years, there have been a number of railroad accidents which resulted in hazardous material releases from tank cars. 71 FR at 30020. As noted in the May 24, 2006 notice, some of these accidents are of particular concern because they involved materials that were poisonous or toxic by inhalation (TIH materials). *Id.* In addition, several other railroad accidents have occurred in recent years that, while not involving TIH materials, also involve the breach of railroad tank cars containing DOT regulated hazardous materials. These accidents include tank car failures at Eunice, LA (May 27, 2000), Council Bluffs, IA (October 8, 2004), Milford, UT (January 12, 2005), Creighton, PA (February 2, 2005) and Cleveland, OH (January 27, 2006). A primary causative factor of each of these accidents (those involving TIH materials and those involving other than TIH materials) was railroad operations, a failed tank structure, or a combination of the two.

FRA and PHMSA have initiated a comprehensive review of design and operational factors that affect the safety of railroad tank car transportation of hazardous materials. As noted in the May 24, 2006 notice, this review will not consider security issues. *Id.* PHMSA and FRA have been working closely with the Transportation Security Administration of the Department of Homeland Security, on developing proposed regulations to enhance the security of rail shipments of hazardous materials. These regulatory proposals will be issued in separate proceedings open to public comment as appropriate in the future.

In order to facilitate public involvement in DOT’s comprehensive review of the safety of railroad tank car transportation of hazardous materials, PHMSA and FRA invited interested persons to participate in a public meeting in Washington, DC on May 31 and June 1, 2006 to share concerns and comments related to the safe transportation of hazardous materials in tank cars. In order to facilitate further public involvement, FRA has established a docket to provide interested parties with a central location to both send and review relevant information concerning the safety of railroad tank car transportation of hazardous materials. The docket established for this purpose is designated Docket No. FRA-2006-25169. The information submitted to the docket will aid FRA and/or PHMSA in determining whether future rulemakings will be necessary to improve the safety of railroad tank car transportation of hazardous materials. A copy of the

transcript of the May 31 and June 1, 2006 public meeting is available for review in the docket. Also included in the docket is a copy of the June 13, 2006 written statement of the FRA Administrator before the House Subcommittee on Railroads concerning current issues in rail transportation of hazardous materials. The Administrator’s testimony discusses hazardous material releases and steps FRA is taking to improve the safety of the rail movement of hazardous materials. The public is invited to submit both information and comments relevant to DOT’s comprehensive review of the safety of railroad tank car transportation of hazardous materials to the docket identified in this notice.

#### Privacy

Anyone is able to search all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 665, Number 7, Pages 19477-78). The statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC on June 28, 2006.

**Jo Strang,**

*Associate Administrator for Safety.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-995X]

#### New Mexico Gateway Railroad Limited Liability Company—Discontinuance Exemption—in Dona Ana County, NM

New Mexico Gateway Railroad Limited Liability Company (NMGR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over approximately 3.5 miles of rail line at Santa Teresa, in Dona Ana County, NM, as follows: (1) A 4,412-foot spur identified as Track A; (2) a 3,375-foot spur identified as Track B; (3) a 3,884-foot spur identified as Track C; (4) a 4,338-foot spur identified as Track D; and (5) a 2,728-foot runaround track.<sup>1</sup> The line traverses

<sup>1</sup>NMGR was granted an exemption to operate the rail line in *New Mexico Gateway Railroad Limited*

United States Postal Service Zip Code 88008.

NMGR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) 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 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

In this proceeding, NMGR is proposing to discontinue service on a line that constitutes its entire rail system. When issuing discontinuance authority for a railroad line that constitutes the carrier's entire system, the Board does not impose labor protection, except in specifically enumerated circumstances. See *Northampton and Bath R. Co.—Abandonment*, 354 I.C.C. 784, 785–86 (1978) (*Northampton*). Because there is no evidence that one or more of the exceptions articulated in *Northampton* are present, no labor protective conditions will be imposed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 3, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),<sup>2</sup> must be filed by July 13, 2006.<sup>3</sup> Petitions to reopen must be filed by July 24, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NMGR's representative: John D. Heffner, 1920 N St., NW., Suite 800, Washington, DC 20036.

*Liability Company—Operation Exemption—Santa Teresa Limited Partnership*, STB Finance Docket No. 34103 (STB served Oct. 29, 2001).

<sup>2</sup> Each OFA must be accompanied by the filing fee which as of April 19, 2006, is set at \$1,300. See *Regulations Governing Fees for Service Performed in Connection With Licensing and Related Services—2006 Update*, STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006). See 49 CFR 1002.2(f)(25).

<sup>3</sup> Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

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

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

Decided: June 23, 2006.

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

**Vernon A. Williams**,  
Secretary.

[FR Doc. 06–5820 Filed 6–30–06; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB–167 (Sub-No. 1185X)]

#### Consolidated Rail Corporation— Abandonment Exemption—in Mercer County, NJ

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a portion of a line of railroad known as the Robbinsville Industrial Track, between milepost 32.20± and milepost 37.90± in the cities of Hamilton Township and Washington Township, Mercer County, NJ, a distance of 5.7 miles±. The line traverses United States Postal Service Zip Codes 08620 and 08520.

Conrail has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic that has or could move over the line can be rerouted; (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.<sup>1</sup>

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—*

<sup>1</sup> On June 19, 2006, C&A Trail Conservancy, filed a request for issuance of a notice of interim trail use (NITU) for the entire line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d), and for imposition of a public use condition. The Board will address C&A's trail use and public use requests and any others that may be filed in a subsequent decision.

*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 August 2, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 13, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 24, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Conrail's representative: John K. Enright, 1000 Howard Boulevard, 4th Floor, Mt. Laurel, NJ 08054.

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

Conrail has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 7, 2006. 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.

<sup>2</sup> 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.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See *Regulations Governing Fees for Service Performed in Connection With Licensing and Related Services—2006 Updates*, STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006). See 49 CFR 1002.2(f)(25).