

Street, N.W., Washington, DC 20423-0001; and (2) Karl Morell, Suite 225, 1455 F Street, N.W., Washington, DC 20005.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1545. [TDD for the hearing impaired is available at (202) 565-1695].

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: February 5, 1998.

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

**Vernon A. Williams,**

Secretary.

[FR Doc. 98-3546 Filed 2-11-98; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-532X]

#### **The Cincinnati Terminal Railway Co.<sup>1</sup> (Indiana & Ohio Railway Co., Successor)—Discontinuance of Service Exemption—In Cincinnati, Hamilton County, OH**

The Cincinnati Terminal Railway Company (CTER) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments and Discontinuances*, to discontinue service

<sup>1</sup> The Cincinnati Terminal Company was merged into IORY in a transaction that was the subject of a notice of exemption in *RailTex, Inc., Indiana & Ohio Rail Corp., Cincinnati Terminal Railway Company, Indiana and Ohio Railroad, Inc., Indiana & Ohio Railway Company and Indiana & Ohio Central Railroad, Inc.—Corporate Family Transaction Exemption*, STB Finance Docket No. 33530 (STB served Jan. 9, 1998). We have accepted the notice of exemption as filed with an amended caption to reflect CTER's merger into Indiana and Ohio Railway Company because no party will be prejudiced and because the lease had terminated while CTER was still the party in interest.

under a lease that has been terminated.<sup>2</sup> The lease was limited to certain overhead movements over a line of railroad owned by the Norfolk and Western Railway Company (NW) that traveled the entire Riverfront Running Track, extending between Survey Station 84+80± and Survey Station 4+20± (former milepost LM-119+1756 feet±), a distance of approximately 1.5 miles, in Cincinnati, Hamilton County, OH.<sup>3</sup> The line traverses United States Postal Service Zip Codes 45202 and 45203. There are no stations on the line.

CTER has certified that: (1) No local traffic has moved via CTER pursuant to the lease rights for at least 2 years; (2) any overhead traffic that previously moved over the line 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 (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 of 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.<sup>4</sup>

As a condition to this exemption, any employee adversely affected by the discontinuance 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) to subsidize continued rail service has been received, this exemption will be effective on March

<sup>2</sup> See *The Cincinnati Terminal Railway Co.—Lease Exemption—Norfolk and Western Railway Company*, Finance Docket No. 32519 (ICC served Aug. 31, 1994). The lease, dated June 24, 1994, became effective on July 1, 1994, and was later terminated by NW on May 31, 1996, effective July 1, 1996.

<sup>3</sup> Concurrent filings were made in: STB Docket No. AB-290 (Sub-No. 184X), *Norfolk and Western Railway Company—Abandonment Exemption—In Cincinnati, Hamilton County, OH*; STB Docket No. AB-167 (Sub-No. 1180X), *Consolidated Rail Corporation—Discontinuance of Trackage Rights Exemption—In Cincinnati, Hamilton County, OH*; and STB Docket No. AB-31 (Sub-No. 30), *Grand Trunk Western Railroad Incorporated—Adverse Discontinuance of Trackage Rights Application—A Line of Norfolk and Western Railway Company in Cincinnati, Hamilton County, OH*.

<sup>4</sup> No environmental or historical documentation is required here, pursuant to 49 CFR 1105.6(b)(3).

14, 1998,<sup>5</sup> unless stayed pending reconsideration. Petitions to stay that do not involve a formal expression of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>6</sup> must be filed by February 23, 1998. Petitions to reopen must be filed by March 4, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Karl Morrell, 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*.

Decided: February 6, 1998.

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

**Vernon A. Williams,**

Secretary.

[FR Doc. 98-3619 Filed 2-11-98; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-167 (Sub-No. 1180X)]

#### **Consolidated Rail Corporation—Discontinuance of Trackage Rights Exemption—In Cincinnati, Hamilton County, OH**

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Trackage Rights*, for the discontinuance of trackage rights over Norfolk and Western Railway Company's entire Riverfront Running Track, extending from a Point A near the Oasis Block Station to Point B in the southern line of Front Street near its intersection with Smith Street, a distance of approximately 1.5 miles, in Cincinnati, Hamilton County, OH.<sup>1</sup> The line traverses United States Postal Service ZIP Codes 45202 and 45203. There are no stations on the line.<sup>2</sup>

<sup>5</sup> Because this is a discontinuance proceeding and not an abandonment, there is no need to provide for trail use/rail banking or public use conditions.

<sup>6</sup> Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$900. See 49 CFR 1002.2(f)(25).

<sup>1</sup> Conrail had acquired the trackage rights pursuant to the Final System Plan under the Regional Rail Reorganization Act of 1973.

<sup>2</sup> Concurrent filings were made in: STB Docket No. AB-290 (Sub-No. 184X), *Norfolk and Western Railway Company—Abandonment Exemption—In Cincinnati, Hamilton County, OH*; STB Docket No. AB-532X, *The Cincinnati Terminal Railway Company (Indiana & Ohio Railway Company)*.

Continued

Conrail has certified that: (1) No local traffic has moved over the line via Conrail pursuant to the trackage rights 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 (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 of 49 CFR 1105.12 (newspaper notice) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.<sup>3</sup>

As a condition to this exemption, any employee adversely affected by the discontinuance 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) to subsidize continued rail service has been received, this exemption will be effective on March 14, 1998,<sup>4</sup> unless stayed pending reconsideration. Petitions to stay that do not involve a formal expression of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>5</sup> must be filed by February 23, 1998. Petitions to reopen must be filed by March 4, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: John J. Paylor, Consolidated Rail Corporation, 2001 Market Street, P.O. Box 41416, Philadelphia, PA 19101-1416.

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

Decided: February 6, 1998.

*Successor)—Discontinuance of Service Exemption—In Cincinnati, Hamilton County, OH; and STB Docket No. AB-31 (Sub-No. 30), Grand Trunk Western Railroad Incorporated—Adverse Discontinuance of Trackage Rights Application—A Line of Norfolk and Western Railway Company in Cincinnati, Hamilton County, OH.*

<sup>3</sup>No environmental or historical documentation is required here, pursuant to 49 CFR 1105.6(b)(3).

<sup>4</sup>Because this is a discontinuance proceeding and not an abandonment, there is no need to provide for trail use/rail banking or public use conditions routinely provided for in abandonment proceedings.

<sup>5</sup>Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$900. See 49 CFR 1002.2(f)(25).

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

**Vernon A. Williams,**  
Secretary.

[FR Doc. 98-3620 Filed 2-11-98; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-31 (Sub-No. 30)]

#### **Grand Trunk Western Railroad Incorporated—Adverse Discontinuance of Trackage Rights Application—A Line of Norfolk and Western Railway Company in Cincinnati, Hamilton County, OH**

On January 23, 1998, the Norfolk and Western Railway Company (NW) filed an application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (Board) order the discontinuance, or find that the public convenience and necessity require and permit the discontinuance, of the limited overhead trackage rights asserted to be held by Grand Trunk Western Railroad Incorporated (GTW) over the entire Riverfront Running Track, which is described in the agreement granting those rights, as "that portion of the line of NW through Cincinnati, OH, from the first switch west of Oasis Block Station to a connection with the Southern Railway in the vicinity of Front and Smith Streets \* \* \* a distance of 1.6 miles," in Cincinnati, Hamilton County, OH.<sup>1</sup> The line is about 1.6 miles and no more than 2.2 miles in length. The line has no stations, and traverses United States Postal Service ZIP Codes 45202 and 45203.<sup>2</sup>

NW states that the line is out of service, but that GTW declines to file or concur in a notice of exemption because it claims to have assigned its trackage right to Indiana & Ohio Railway

Company (IORY).<sup>3</sup> Applicant has asked the Board to expedite handling of the matter due to the fact that the line is out of service and due to NW's stated intent to transfer its interest in the line to the City of Cincinnati for public purposes.

NW has petitioned the Board to waive the informational or procedural requirements of discontinuance applications that do not apply to a notice of exemption. The waiver requests as to information will be granted in a separate decision to be served concurrently with this notice. The request for modification of the schedule for filing comments will be denied. NW also requests exemption from the provisions of 49 U.S.C. 10904 and 10905. Those exemption requests will be considered by the Board in the final decision on the merits of the application.

GTW filed a petition to reject the application. The petitioner argues that the application should be rejected as prematurely filed. GTW asserts that it has assigned the trackage rights to IORY. The petition to reject argues that a grant of this application would amount to an adjudication of the dispute between NW and GTW over whether it lawfully assigned the rights to IORY. GTW cites the trackage rights agreement, which provides for the resolution of disputes arising under the agreement by arbitration. The petitioner states that it has invoked arbitration.

In further support of its argument that the application is premature, GTW says that the application should not have been filed until the various petitions for waiver filed by NW had been acted upon. Finally, GTW argues that the NW application is defective.

The Board will address the relevance of and, if appropriate, the merits of GTW's and NW's arguments as to the assignment of the trackage rights in the decision on the application. In an application by a third party for a determination that the public convenience and necessity permits a line to be discontinued or abandoned, the issue before the Board is whether the public interest requires that the line in question be retained as part of the national rail system. The question of the ownership of the line is relevant chiefly as it pertains to the question of whether the public is better served by the maintenance or discontinuance of the rights and the service they afford.

By granting a third party application, the Board withdraws its primary jurisdiction over the line. Questions of

<sup>1</sup>GTW acquired its interest in the agreement through the automatic assignment to GTW, as successor to the Detroit, Toledo and Ironton Railroad Company. See *Norfolk & W. Ry. Co.—Control—Detroit, T. & I. R. Co.*, 360 I.C.C. 498 (1979) and 363 I.C.C. 122 (1980).

<sup>2</sup>Concurrent filings were made in: STB Docket No. AB-290 (Sub-No. 184X), *Norfolk and Western Railway Company—Abandonment Exemption—In Cincinnati, Hamilton County, OH*; STB Docket No. AB-532X, *The Cincinnati Terminal Railway Company (Indiana & Ohio Railway Company, Successor)—Discontinuance of Service Exemption—In Cincinnati, Hamilton County, OH*; and STB Docket No. AB-167 (Sub-No. 1180X), *Consolidated Rail Corporation—Discontinuance of Trackage Rights Exemption—in Cincinnati, Hamilton County, OH*.

<sup>3</sup>Because the real party of interest here is in question, both GTW and IORY are requested to participate in this proceeding.