

## DEPARTMENT OF TRANSPORTATION

## Surface Transportation Board

[Docket No. AB 1088X]

**Jackson, Gordonville and Delta Railroad Company—Abandonment Exemption—in Cape Girardeau County, MO**

Jackson, Gordonville and Delta Railroad Company (JGDR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon approximately 13.3 miles of rail line between its southern terminus at milepost 149.4 in the City of Delta and its northern terminus at milepost 157.9 near Gordonville, in Cape Girardeau County, Mo. (the line).<sup>1</sup> The line traverses United States Postal Service Zip Codes 63740, 63744, and 63752.

JGDR has certified that: (1) No local traffic has moved over the line for the past 2 years; (2) there is no overhead traffic on the line that has been, or would need to 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 (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(c) (environmental report), 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.

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 July 3, 2012, unless stayed pending reconsideration. Petitions to stay that do

<sup>1</sup> JGDR states that, due to the way the mileposts on the line historically were numbered, from milepost 149.4 at the City of Delta to milepost 147.0 at Allenville is approximately 2.4 miles, and from milepost 147.0 at Allenville to milepost 157.9 near Gordonville is 10.9 miles, for a total of approximately 13.3 miles.

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 June 11, 2012. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28<sup>4</sup> must be filed by June 21, 2012, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to JGDR's representative: W. Robert Alderson, Alderson, Alderson, Weiler, Conklin, Burghart & Crow, L.L.C., 2101 SW. 21st Street, Topeka, KS 66604.

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

JGDR 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 June 8, 2012. 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.

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), JGDR 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 JGDR's filing of a notice of consummation by June 1, 2013, and there are no legal or regulatory barriers

<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 Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See *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.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 CFR 1002.2(f)(25).

<sup>4</sup> JGDR states that it has undertaken no separate analysis to determine the line's suitability for use for other public purposes. It further states that it is unaware of any impediment or restriction of title that would bar the use of the line's right-of-way for other public purposes.

to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "[www.stb.dot.gov](http://www.stb.dot.gov)."

Decided: May 25, 2012.

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

**Derrick A. Gardner,**  
*Clearance Clerk.*

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## DEPARTMENT OF TRANSPORTATION

## Surface Transportation Board

[Docket No. FD 35631]

**Saratoga and North Creek Railway, LLC—Operation Exemption—Tahawus Line**

Saratoga and North Creek Railway, LLC (Saratoga),<sup>1</sup> a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate an approximately 29.71-mile line of railroad, known as the Tahawus Line.<sup>2</sup> The rail line extends between the existing connection with Saratoga at milepost NC 0.0 at North Creek and its terminus at milepost NC 29.71 at Newcomb. Saratoga states that it presently owns the line, which it had

<sup>1</sup> Saratoga is a limited liability company, wholly owned by San Luis & Rio Grande Railroad (SLRG). SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc. (Permian), which in turn is owned by Iowa Pacific Holdings, LLC (IPH). IPH and Permian formed Saratoga for the purpose of operating the entire rail line running between Newcomb, N.Y., on the north and Saratoga Springs, N.Y., on the south, interchanging traffic with the Delaware & Hudson Railway Company, Inc. d/b/a Canadian Pacific (CP) at Saratoga Springs. In two previous proceedings, the Board authorized Saratoga to operate between Saratoga Springs and Corinth, N.Y., and then between Corinth and North Creek, N.Y. See *Saratoga & N. Creek Ry.—Acquis. & Operation Exemption—Del. & Hudson Ry.*, FD 35500 (STB served June 1, 2011) and *Saratoga & N. Creek Ry.—Operation Exemption—Warren Cnty.*, N.Y., FD 35500 (Sub-No. 1) (STB served June 1, 2011).

<sup>2</sup> Saratoga previously filed a notice of exemption to operate the Tahawus Line in October 2011. The notice of exemption was served and published in the *Federal Register* on November 10, 2011. See *Saratoga & N. Creek Ry.—Operation Exemption—Tahawus Line*, FD 35559 (STB served Nov. 10, 2011). In a decision served on November 23, 2011 (November Decision), the Acting Director of the Office of Proceedings rejected the notice before it became effective. An appeal was filed by Saratoga to the November Decision and the appeal was denied by the Board in a decision served on May 14, 2012 (May 2012 Decision). In the May 2012 decision, the Board stated that subsequent filings have provided sufficient evidence to resolve concerns that led to the notice being rejected, and that now a new notice of exemption may be filed by the railroad. As a result of the May 2012 Decision, this new notice of exemption is being filed.