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SERVICE DATE - JANUARY 29, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1294X

EIGHTEEN THIRTY GROUP, LLC—ABANDONMENT EXEMPTION—
IN ALLEGANY COUNTY, MD.

Decided: January 28, 2021

On February 3, 2020, Eighteen Thirty Group, LLC (Eighteen Thirty), filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments and Discontinuances of Service to abandon an approximately 7.54-mile rail line between milepost BAI 26.00 in Moscow, and milepost BAI 18.46 in Shaft, in Allegany County, Md. (the Line).¹ Notice of the exemption was served and published in the Federal Register on February 21, 2020 (85 Fed. Reg. 10,203). The exemption became effective on March 22, 2020.

On December 10, 2020, Allegany County, Md. (the County), late-filed a request for a notice of interim trail use or abandonment (NITU) under the National Trails Systems Act, 16 U.S.C. § 1247(d), for the Line.² On January 5, 2021, Eighteen Thirty notified the Board that it is willing to negotiate an agreement for interim trail use with the County.

Under 49 C.F.R. § 1152.29(a), a NITU request must include: (1) a map depicting the right-of-way proposed to be acquired or used; (2) a statement indicating the trail sponsor's willingness to assume full responsibility for three things: (i) managing the right-of-way, (ii) any legal liability arising out of the transfer or use of the right-of-way (unless the trail sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability), and (iii) payment of all taxes that may be levied or assessed against the right-of-way; and (3) an acknowledgement that interim trail use is subject to the trail sponsor's continuing to meet its obligations under (2) and is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

Here, the County's NITU request does not fully comply with the requirements of 49 C.F.R. § 1152.29(a). Specifically, the County's statement of willingness lacks the required acknowledgement that interim trail use is subject to the trail sponsor's continuing to meet its

¹ In the same jointly-filed verified notice, Georges Creek Railway sought an exemption to discontinue service over the Line. See Georges Creek Ry.—Discontinuance Exemption—in Allegany Cty., Md., Docket No. AB 1293X.

² See Aban. & Discontinuance of Rail Lines & Transp. Under 49 U.S.C. § 10903, 1 S.T.B. 894 (1996) and 2 S.T.B. 311 (1997).

obligations and is subject to possible future reconstruction and reactivation of the right-of-way for rail service. See 49 C.F.R. § 1152.29(a)(3). If the County wishes to supplement its NITU request accordingly, it is directed to do so by February 12, 2021.

It is ordered:

1. If the County wishes to supplement its NITU request, it is directed to do so by February 12, 2021.
2. This decision is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.