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SERVICE DATE - FEBRUARY 18, 2021

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 1294X

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

Decided: February 17, 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 was willing to negotiate an agreement for interim trail use with the County. By decision served on January 29, 2021, the Board permitted the County to supplement its request to provide the required acknowledgement that interim trail use was subject to the trail sponsor's continuing to meet its obligations and was subject to possible future reconstruction and reactivation of the right-of-way for rail service.

On February 3, 2021, the County submitted a revised NITU request that conforms to the requirements of 49 C.F.R. § 1152.29. In a response filed on February 8, 2021, Eighteen Thirty again states that it is willing to negotiate for interim trail use with the County. Because the County's request complies with the requirements of § 1152.29 and Eighteen Thirty is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an agreement during the one-year period prescribed below. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2), (h). If no agreement is reached within one year, Eighteen Thirty may fully abandon the Line, subject to any outstanding conditions.

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 Cnty., 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).

See 49 C.F.R. § 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on February 21, 2020, exempting the abandonment of the Line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below to permit the parties to negotiate for trail use for the Line, for a period of one year from the service date of this decision and notice, until February 18, 2022.
3. If an interim trail use/rail banking agreement is reached, it must require the trail sponsor to assume, for the term of the agreement, full responsibility for: (i) managing the right-of-way; (ii) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability); and (iii) the payment of any and all taxes that may be levied or assessed against the right-of-way.
4. Interim trail use/rail banking is subject to possible future reconstruction and reactivation of the right-of-way for rail service and to the trail sponsor's continuing to meet its responsibilities for the right-of-way described in paragraph 3 above.
5. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. See 49 C.F.R. § 1152.29(d)(2), (h).
6. If interim trail use is implemented, and subsequently the trail sponsor intends to terminate trail use on all or any portion of the right-of-way covered by the interim trail use agreement, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
7. If an agreement for interim trail use/rail banking is reached by February 18, 2022, for the right-of-way, interim trail use may be implemented. If no agreement is reached, Eighteen Thirty may fully abandon the Line, subject to any outstanding conditions.
8. This decision is effective on its service date.

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