

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1306X]

Blue Ridge Southern Railroad, L.L.C.—Abandonment Exemption—in Henderson and Transylvania Counties, N.C.

Blue Ridge Southern Railroad, L.L.C. (BRS), has filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 19.1-mile rail line between milepost 0.7 (approximately 0.1 miles northeast of the Main Street grade crossing) at Hendersonville in Henderson County, and milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, N.C. (the Line).¹ The Line traverses U.S. Postal Service Zip Codes 28793, 28739, 28791, 28729, 28768, and 28712.

BRS has certified that: (1) no local traffic has moved over the Line for at least two years; (2) there is no overhead traffic that cannot 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 two-year period;

¹ BRS was authorized to acquire the Line in Blue Ridge Southern Railroad—Acquisition Exemption—Norfolk Southern Railway, FD 35820 (STB served July 11, 2014). See also Watco Holdings, Inc.—Continuance in Control Exemption—Blue Ridge S. R.R., FD 35821 (STB served July 11, 2014).

and (4) the requirements at 49 C.F.R. §§ 1105.7 and 1105.8 (notice of environmental and historic report), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R.

§ 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,² the exemption will be effective on May 27, 2021, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2), and interim trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by May 7, 2021.⁴ Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by May 17, 2021.

² Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

³ 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.

⁴ Filing fees for OFAs and trail use requests can be found at 49 C.F.R. § 1002.2(f)(25) and (27), respectively.

All pleadings, referring to Docket No. AB 1306X, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on BRS's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606.

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

BRS has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by April 30, 2021. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), BRS 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 BRS's filing of a notice of consummation by April 27, 2022, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

Decided: April 21, 2021.

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