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RE AB 1314-0X **Elk River Railroad Inc. Abandonment Exemption in Kanawha and Clay Counties, WV**

Elk River Railroad Inc. (TERRI) has petitioned the STB to abandon some rail lines in Clay and Kanawha Counties in West Virginia. This petition for exemption has false and misleading information contained in the petition. The rail line from Clendenin to Hartland, WV., was formally abandoned in 1979 when the B&O Railroad was the owner, see AB 19-24 of 3/18/1975 and the ICC abandonment certificate of 4/1/1979. Immediately after or within a year of the 1979 Decision of the ICC, a county road was established on portions of the abandoned railroad right of way from Clendenin to near Hartland. Between 1979 and 1981 all rails and ties and most bridges were removed from the right of way. Also the abutting property owners along this right of way who had reversionary rights to the right of way reclaimed their property as rail use had been abandoned in 1979.

For some unexplainable reason the ICC/STB granted a railroad construction approval to the Elk River railroad, now called TERRI, in 1996 in FD 31989 when that rail line had been abandoned for 17 years. The STB website does not have the FD 31989 decision in its database so I cannot figure out how the ICC/STB could institute a rail line on a county road and also on property that had reverted back to abutting property owners 17 years before.

The FD 31989 Decision in 1996 had numerous environmental mitigations attached to the decision, and to date none of those mitigation restrictions have been done. All the bridges have been removed since 1981 and never replaced. The county road put in place on the abandoned right of way in or around 1981 is bypassed around the creeks and rivers because the removed all the bridges. TERRI admits to the condition of the right of way in their Environmental Report to the STB in AB 1314-0X in pages 190 through 217. In other words, Elk River Railroad/TERRI has done nothing to become a common carrier on the Clendenin to Hartland rail line so Elk River Railroad does not come under the jurisdiction of the STB. And if Elk River Railroad/TERRI is not under STB jurisdiction, there can be no STB abandonment permission and no railbanking.

After the reading the federal court case cited by NARPO, **RLTD v. Leelanau County**, in their letter to the STB on 7/28/2021, it appears the Clendenin to Hartland right of way conforms to the same if not exact set of circumstances in the **RLTD** case. Also it appears the **RLTD** case

negates the STB from granting potential trail use on the Duck to Hartland portion of AB 1314-0X as TERRI is not connected to the national rail system.

I request that the STB not approve the Petition for Exemption for Abandonment in AB 1314-0X as the Clendenin to Hartland portion of the Petition for Exemption contains false and misleading information, and the Duck to Hartland portion does not connect to the national rail system..

The Parties of Record to AB 1314-0X have been served with email on 7/30/2021.

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