

SERVICE DATE – AUGUST 3, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1314X

THE ELK RIVER RAILROAD, INC.—ABANDONMENT EXEMPTION—
IN KANAWHA & CLAY COUNTIES, W. VA.

Decided: August 3, 2021

On July 2, 2021, the Elk River Railroad, Inc. (TERRI), filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 53.4-mile rail line, extending between milepost 96.0 (at or near Clendenin, W. Va.) and milepost 43.6 (at or near North Line, south of Duck, W. Va.), including 0.8 miles extending south from milepost 67.2 (at or near Hartland, W. Va.) known as the Middle Creek Spur, in Kanawha and Clay Counties, W. Va. (the Line).¹ As explained below, the proceeding will be held in abeyance.

According to the map provided as Exhibit B in the verified notice, the proposed abandonment of the Line, if consummated, would appear to isolate a segment of track from the interstate rail network. The segment in question, highlighted in orange and labeled “BC&G” in Exhibit B (BC&G Line), appears to include the line recently authorized for acquisition by the West Virginia State Rail Authority (WVRA) as a common carrier line in West Virginia State Rail Authority—Acquisition & Operation Exemption—Elk River Railroad, FD 36458 (STB served Dec. 2, 2020).

The verified notice will be held in abeyance in order to allow TERRI to file a supplement addressing whether the proposed abandonment would leave the BC&G Line stranded and, if so, how that would affect TERRI’s entitlement to the abandonment exemption it seeks. See, e.g., Cent. Or. & Pac. R.R.—Aban. & Discontinuance of Serv.—in Coos, Douglas, & Lane Cntys., Or., AB 515 (Sub-No. 2), slip op. at 12 (STB served Oct. 31, 2008). TERRI will be directed to submit its supplement by August 17, 2021.² Also, the Board will serve a copy of this decision on

¹ On July 12, 2021, TERRI filed a supplement to Exhibit F of its submission.

² Additionally, a number of individuals who own property near or adjacent to the Line have filed letters expressing concern about the possible loss of access to their property and homes should abandonment authority be granted and the right-of-way railbanked; TERRI responded to those submissions on July 30, 2021. The National Association of Reversionary Property Owners (NARPO), on July 28, 2021, requested that the Board not permit interim trail use/rail banking on the Line, claiming that the Line is not connected to the national rail system. TERRI may reply to NARPO’s submission as part of the supplement required by this decision.

WVRA. If WVRA wishes to address whether the BC&G Line would become stranded, it should likewise file its comment by August 17, 2021.

It is ordered:

1. This proceeding is held in abeyance.
2. TERRI shall submit a supplement to its verified notice, as described above, by August 17, 2021.
3. A copy of this decision will be served on the WVRA. WVRA may file a comment by August 17, 2021.
4. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.