

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36693]

BNSF Railway Company—Trackage Rights Exemption—Montana Rail Link, Inc.

BNSF Railway Company (BNSF) has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7), for acquisition of local and overhead trackage rights over approximately 65.7 miles of non-contiguous rail line owned by Montana Rail Link, Inc. (MRL), as follows: (1) from milepost 0.00 at Sappington, Mont., to milepost 9.84 at Harrison, Mont.; (2) from milepost 0.00 at East Helena, Mont., to milepost 4.86 at Montana City, Mont.; and (3) from milepost 0.00 at Logan, Mont., to milepost 51.00 at Spire Rock, Mont. (the Branch Lines).

BNSF and MRL have entered into a written trackage rights agreement¹ that grants BNSF exclusive local and overhead trackage rights over the Branch Lines. This agreement is related to a recent Board decision in which MRL obtained authority to discontinue service over approximately 656.47 miles of rail line and to discontinue trackage rights service over approximately 66.47 miles of rail line in Montana, Idaho, and Washington, thereby allowing BNSF to resume operations along this corridor.²

¹ A redacted version of the trackage rights agreement between BNSF and MRL was filed with the verified notice. An unredacted version of the agreement was submitted to the Board under seal concurrently with a motion for protective order, which is addressed in a separate decision.

² Mont. Rail Link, Inc.—Discontinuance of Service Exemption—in Yellowstone, Stillwater, Sweet Grass, Park, Gallatin, Broadwater, Jefferson, Lewis & Clark, Powell, Deer Lodge, Granite, Missoula, Lake, Mineral, & Sanders Cntys., Mont.; Bonner &

According to the verified notice, MRL has agreed to grant BNSF trackage rights over the Branch Lines in order to facilitate that restored BNSF service. While MRL will continue to own the Branch Lines, BNSF states that it has agreed with MRL that BNSF will fulfill any and all common carrier obligations and responsibilities relating to the Branch Lines in connection with BNSF's trackage rights operations.

The transaction may be consummated on or after May 17, 2023, the effective date of the exemption.

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than May 10, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36693, must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading

Kootenai Cntyss, Idaho; & Spokane Cnty., Wash., AB 575 (Sub-No. 2X) (STB served Mar. 8, 2023).

must be served on BNSF's representative, Peter W. Denton, Steptoe & Johnson LLP, 1330 Connecticut Ave, N.W., Washington, DC 20036.

According to BNSF, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b).

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

Decided: April 27, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.