

SERVICE DATE – MAY 3, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36763

THE LOWVILLE & BEAVER RIVER RAILROAD COMPANY—
ACQUISITION EXEMPTION—
LEWIS COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Digest:¹ The Board denies a petition to stay the effective date of the exemption in this proceeding.

Decided: May 2, 2024

On April 4, 2024, the Lowville & Beaver River Railroad Company (LBRR) filed a verified notice of exemption pursuant to 49 C.F.R. § 1150.41 for authority after-the-fact to acquire approximately 10.61 miles of rail line between milepost 0.0 and milepost 10.57 between the Village of Lowville, N.Y., and the Village of Croghan, N.Y., including a secondary branch line of 0.4 miles extending towards Beaver Falls, N.Y., in Lewis County, N.Y. (the Line). Notice of the exemption was served and published in the Federal Register on April 19, 2024 (89 Fed. Reg. 28,840). The exemption is scheduled to become effective on May 4, 2024.

This proceeding is related to The Lowville & Beaver River Railroad—Abandonment Exemption—in Lewis County, N.Y., Docket No. AB 180X, in which LBRR previously filed a verified notice of exemption to abandon the Line. By decision served on January 22, 2024, Docket No. AB 180X was held in abeyance and LBRR was directed to take certain actions, one of which was for it to seek after-the-fact authority to acquire the Line. Mohawk, Adirondack & N. R.R.—Aban. Exemption—in Lewis & Jefferson Cntys., AB 768X et al., slip op. at 3-4, 8 (STB served Jan. 22, 2024).

On April 22, 2024, the Railway Historical Society of Northern New York (RHSNNY) filed a comment in Docket No. AB 180X disputing a statement regarding historic structures made by LBRR in its supplemental environmental and historic report filed in that docket. The same day, RHSNNY submitted an almost identical filing in this docket, with one addition: “We request a stay.”

RHSNNY’s request for a stay will be denied. In deciding a request for stay, the Board considers four criteria, including as a threshold matter whether the party seeking a stay will be

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

irreparably harmed in the absence of a stay. See Ind. Harbor Belt R.R.—Trackage Rts.—Consol. Rail Corp., FD 36099 et al., slip op. at 4 (STB served Mar. 14, 2017) (citing Wash. Metro. Area Transit Comm’n v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977)) (discussing the requirements for a stay under 49 U.S.C. § 1321(b)(4)). The party seeking a stay carries the burden of persuasion on all of the elements required for such extraordinary relief. Id. (citing Canal Auth. of Fla. v. Callaway, 489 F.2d 567, 573 (5th Cir. 1974)).

RHSNNY has failed to address the criteria for a stay and has therefore failed to meet its burden. RHSNNY does not explain how allowing the exemption to become effective would cause it irreparable harm; nor has it identified a connection between the exemption in this docket and the relief it seeks in Docket No. AB 180X. However, the Board notes that RHSNNY’s concerns regarding historical structures will be considered as part of the environmental and historic review in Docket No. AB 180X. Because RHSNNY has not met its burden, its request for a stay will be denied.

It is ordered:

1. RHSNNY’s request for a stay is denied.
2. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.