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SERVICE DATE – JANUARY 8, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1026X]

Bellingham International Railroad, LLC—Abandonment Exemption—in Whatcom
County, WA

Bellingham International Railroad, LLC (BIR), has filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 2-mile line of railroad between milepost 2.98 and milepost 4.98 in Bellingham, Whatcom County, WA.¹ The line traverses United States Postal Service Zip Code 98225 and includes no stations.

BIR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) no overhead traffic has been handled on the line for at least 2 years;² (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 2-year period; and

¹ In 1998, BIR acquired the exclusive rail service easement over the line and all track, track materials, and related structures. See Bellingham International Railroad LLC—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company, STB Finance Docket No. 33635 (STB served Aug. 4, 1998).

² According to BIR, the line is stub-ended and not capable of handling overhead traffic.

(4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

Where, as here, BIR is abandoning all of its rail lines, the Board does not normally impose labor protection under 49 U.S.C. 10502(g), unless the evidence indicates the existence of: (1) a corporate affiliate that will continue substantially similar rail operations; or (2) a corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations by its subsidiary railroad. See Wellsville, Addison & Galetton R. Corp.—Abandonment, 354 I.C.C. 744 (1978); and Northampton and Bath R. Co.—Abandonment, 354 I.C.C. 784 (1978). Because BRI does not appear to have a corporate affiliate or parent that will continue similar operations or that could benefit from the proposed abandonment, employee protective conditions will not be imposed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 7, 2009, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ and

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service 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 Effective July 18, 2008, the filing fee for an OFA increased to \$1,500. See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2008 Update, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 21, 2009. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 28, 2009,⁵ with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to BIR's representative: Karl Morell, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

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

BIR has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by January 13, 2009. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

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

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BIR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and

⁵ BIR states that the property underlying the line's right-of-way may be reversionary, which may affect the transfer of the property for other than rail or rail-banking purposes.

fully abandoned the line. If consummation has not been effected by BIR's filing of a notice of consummation by January 8, 2010, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: January 2, 2009.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan

Acting Secretary