

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[STB Docket No. AB 1271X]

Savage, Bingham & Garfield Railroad Company—Discontinuance of Trackage Rights  
Exemption—in Whiting, Ind.

On November 21, 2018, Savage, Bingham & Garfield Railroad Company (SBG) filed a petition<sup>1</sup> under 49 U.S.C. § 10502 to (1) revoke the exemption that authorized SBG to operate pursuant to a trackage rights agreement entered into between SBG and Elgin, Joliet and Eastern Railway Company (CN),<sup>2</sup> over a 0.6-mile rail line owned by CN in Whiting, Ind. (the Line) and (2) allow the trackage rights to terminate. The Line is located between milepost J 47.4 (south end of CN's Whiting Line) and Bridge Number 631 at or near milepost J 46.8 on CN's Calumet Spur on CN's Matteson Subdivision in Whiting, Ind.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment—Goshen, 360 I.C.C. 91 (1979).

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<sup>1</sup> SBG's petition is styled as a petition to revoke. However, petitions to revoke trackage rights agreements typically are appropriate when filed concurrently with a trackage rights verified notice of exemption. See, e.g., Union Pac. R.R.—Trackage Rights Exemption—Burlington N. & Santa Fe Ry., FD 33631 (Sub-No. 1), slip op. at 2 (STB served July 30, 1998) ("We see nothing objectionable with this procedure when, as here, the petition and notice are filed together."). Here, the appropriate procedure is a petition under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 10903 to discontinue SBG's trackage rights over the Line.

<sup>2</sup> Elgin, Joliet and Eastern Railway Company is an indirect subsidiary of Canadian National Railway Company.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by March 11, 2019.

Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under 49 C.F.R. §§ 1105.6(c)(5) and 1105.8(b)(3).

Any offer of financial assistance (OFA) for subsidy under 49 C.F.R. § 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner.<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,800. See 49 C.F.R. § 1002.2(f)(25).

All filings in response to this notice must refer to STB Docket No. AB 1271X and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001 and (2) Richard F. Riley Jr., Foley & Lardner LLP, 3000 K Street, N.W., Suite 600, Washington, DC 20007-5109. Replies to the petition are due on or before December 31, 2018.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at

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<sup>3</sup> The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors in all abandonment and discontinuance proceedings to file a formal expression of intent to file an offer. The process also requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly-available information. See Offers of Financial Assistance, EP 729 (STB served June 29, 2017); 82 Fed. Reg. 30,997 (July 5, 2017).

49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our website at [www.stb.gov](http://www.stb.gov).

Decided: December 6, 2018.

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