

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1112X]

Caldwell Railroad Commission—Abandonment Exemption—in Caldwell County, N.C.

Caldwell Railroad Commission (CRC) has filed an amended verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon an approximately 3.91-mile rail segment extending between milepost 108.79 and milepost 112.7 in Caldwell County, N.C. (the Line).¹ The Line traverses United States Postal Service Zip Code 28645.

CRC has certified that: (1) no freight traffic has moved over the Line for at least two years; (2) any overhead traffic over the Line can and has been rerouted; (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 is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the

¹ CRC previously filed a verified notice of exemption that was dismissed as moot, because CRC's predecessor had obtained a 49 U.S.C. Subtitle IV exemption over the relevant portion of the Line, which encompassed authority to abandon the Line. Caldwell R.R. Comm'n—Aban. Exemption—in Caldwell Cty., N.C., AB 1112X (STB served May 22, 2015). CRC subsequently obtained a partial revocation of that Subtitle IV exemption, which allows CRC to pursue abandonment authority. Caldwell R.R. Comm'n—Exemption from 49 U.S.C. Subtitle IV, FD 32659 (Sub-No. 2) (STB served Sept. 8, 2015).

requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 24, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),³ and interim trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by November 2, 2015. Petitions to reopen or requests for public use⁴ conditions under

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. 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.

³ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

⁴ CRC states that the Line may be suitable for other public purposes or trail use, but may be subject to reversionary interests.

49 C.F.R. § 1152.28 must be filed by November 12, 2015, 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 CRC's representative: David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Ave., N.W., Washington, DC 20036.

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

CRC has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by October 30, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (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 interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), CRC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CRC's filing of a notice of consummation by October 23, 2016, 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: October 20, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.