

44941

SERVICE DATE – DECEMBER 18, 2015

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 567 (Sub-No. 2X)]

Rutherford Railroad Development Corporation—Abandonment Exemption—in

Rutherford County, NC

[Docket No. AB 568 (Sub-No. 2X)]

Southeast Shortlines, Inc. d/b/a Thermal Belt Railway—Discontinuance Exemption—in

Rutherford County, NC

Rutherford Railroad Development Corporation (RRDC) and Southeast Shortlines, Inc. d/b/a Thermal Belt Railway (TBRY) (collectively, applicants), have jointly filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for RRDC to abandon, and for TBRY to discontinue service over, approximately 4.97 miles of rail line, between milepost SB 175.5 near Alexander Mills and milepost SB 180.47 in Spindale, together with a portion of the Bostic Spur, which runs from approximately the northern right of way line of U.S. 74 Business, a distance of approximately 2,441.4' westerly to a point at or near Rail Milepost SF-407.40 and Rail Valuation Station 5343+22, in Rutherford County, N.C. (the Lines). The Lines traverse United States Postal Service Zip Codes 28043 and 28160.

Applicants have certified that: (1) no local traffic has moved over the Lines for at least two years; (2) there is no overhead traffic on the Lines that would have to be

rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Lines (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Lines 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 two-year period; and (4) the 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 these exemptions, any employee adversely affected by the abandonment or discontinuance 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, these exemptions will be effective on January 19, 2016, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),² and

¹ 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
(continued . . .)

trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by December 28, 2015. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by January 7, 2016, 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 applicants' representative: Jeffrey A. Bandini, Parker Poe Adams & Bernstein LLP, P.O. Box 389, Raleigh, NC 27602.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by December 24, 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 (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.

(. . . continued)

should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² 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).

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 C.F.R. § 1152.29(e)(2), RRDC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Lines. If consummation has not been effected by RRDC's filing of a notice of consummation by December 18, 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: December 15, 2015.

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