

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 6 (Sub-No. 499X)]

BNSF Railway Company—Abandonment Exemption—in Los Angeles County, Cal.

BNSF Railway Company (BNSF) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon its freight rail easement over an approximately 5.93-mile line of railroad on the Harbor Subdivision, between approximately milepost 2.1 and approximately milepost 7.95, in Los Angeles County, Cal. (the Line).<sup>1</sup> The Line traverses U.S. Postal Service Zip Codes 90001, 90003, 90011, 90037, 90043, 90044, 90047, 90058, 90062, and 90255.

BNSF has certified that: (1) no local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line; (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 any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12 (newspaper publication), 49 C.F.R. § 1152.50(d)(1) (notice to governmental

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<sup>1</sup> In its verified notice, BNSF states that the physical assets of the Line are owned by the Los Angeles County Metropolitan Transportation Authority (LACMTA). According to BNSF, the Line is part of a group of rail lines acquired by a predecessor of LACMTA. See Los Angeles, Cty. Transp. Comm’n—Acquis. Exemption—The Atchison, Topeka & Santa Fe Ry., FD 32172 (ICC served Dec. 2, 1992).

agencies), and 49 C.F.R. §§ 1105.7 and 1105.8 (environment and historic report), 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)<sup>2</sup> has been received, this exemption will be effective on August 14, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2), and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by July 25, 2019.<sup>4</sup>

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<sup>2</sup> Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

<sup>3</sup> 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.

<sup>4</sup> Filing fees for OFAs and trail use requests can be found at 49 C.F.R. § 1002.2(f)(25) and (27), respectively.

(continued . . . )

Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28<sup>5</sup> must be filed by August 5, 2019, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with Board should be sent to BNSF's representative, Peter Denton, 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.

BNSF has filed a combined environmental and historic report that addresses the potential effects of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by July 19, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal 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 trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

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<sup>5</sup> BNSF states that the abandonment will facilitate LACMTA's desire to construct the Rail to Rail Active Transportation Corridor Project – Segment A, which will consist of on- and off-street bicycle and pedestrian/multi-purpose paths within existing street and railroad rights-of-way. As a result, BNSF states that the Line is not available for public purposes other than the Project.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), BNSF 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 BNSF's filing a notice of consummation by July 15, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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

Decided: July 10, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.