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FILED

JUL 29 2004

**SURFACE
TRANSPORTATION BOARD**

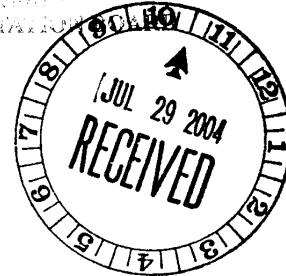
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JUL 29 2004

Shaw-Walsh
TRANSPORTATION

28 July 2004

by express delivery



Hon. Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Re: Roaring Fork Transportation Authority --
acquisition and operation exemption --
Roaring Fork Railroad Holding Authority,
F.D. 34532

Dear Mr. Williams:

Enclosed for filing please find the original and copies of a Notice of Exemption under 49 C.F.R. § 1150.31, et seq., for Roaring Fork Transportation Authority (RFTA) to acquire the right to reactivate (operate in the future) rail on the rail line formerly owned by Roaring Fork Railroad Holding Authority (RFRHA). RFTA is in essence the successor agency to RFRHA, which ceased after RFTA was formed. The line in question was railbanked¹ by RFRHA, and RFTA is already the interim trail manager per previous STB authorization. Under BG & CM, F.D. 34399/34398, Oct. 17, 2003, we understand that RFTA should obtain STB approval for transfer of the rail reactivation right.

Although we believe this matter to qualify for a fee waiver under 49 C.F.R. § 1002.2(e) since both RFTA and RFRHA are/were government agencies. However, in order to expedite matters, I enclose herewith a check in the amount of \$1400, which I understand to be the current fee for 1150.31 Notices of Exemption. See 49 C.F.R. § 1002.2(f)(11).

I will be on a climbing expedition through August 18. Should any question arise concerning this notice which is housekeeping in nature on or prior to August 18, please contact Mr. Dan Blankenship (CEO of RFTA) directly at 970-920-1905 (RFTA

¹ Regulated under 16 U.S.C. § 1247(d), pursuant to a Notice of Interim Trail Use.

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offices in Aspen, CO). If STB staff has substantive issues, which hopefully will not be the case, such matters should be addressed to me upon my return (i.e., August 19).

Thank you for your assistance in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. H. Montange', with a stylized flourish at the end.

Charles H. Montange
for Roaring Fork
Transportation Authority
(RFTA)

w/encls. (notice of exemption, check for fee)

cc. D. Blankenship (RFTA) (w/not. of ex.)
R. Noone (counsel for RFRHA) (w/not. of ex.)

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BEFORE THE SURFACE TRANSPORTATION BOARD

Roaring Fork Transportation Authority
-- acquisition and operation exemption--
Roaring Fork Railroad Holding Authority

Finance Docket 34532



Roaring Fork Transportation Authority hereby gives pursuant to 49 C.F.R. § 1150.31, et seq, notice of exemption to acquire and to operate (in particular to transfer the right to reactivate rail service) Roaring Fork Railroad Holding Authority's line between Glenwood Springs and Woody Creek in Garfield, Eagle and Pitkin Counties, CO.

The line in question has previously been authorized for abandonment in Roaring Fork Railroad Holding Authority-- Abandonment Exemption -- in Garfield, et al. Counties, CO, AB 547X, served Oct. 16, 1998. The line was initially authorized for railbanking (regulation under 16 U.S.C. § 1247(d) for interim trail use and future rail reactivation) in the same decision. An OFA was subsequently dismissed. Decision served May 21, 1999, allowing the railbanking authorization to become effective.

Roaring Fork Railroad Holding Authority (RFRHA) entered into an agreement with Roaring Fork Transportation Authority (RFTA) to transfer all its rights in respect to the line, as well as ownership of the line to RFTA.¹ To this end, the

¹ RFTA is a unit of local government created pursuant to Colorado Revised Statutes 43-4-601, et seq., by the voters of the towns or cities of Aspen, Snowmass, Carbondale, Basalt, and Glenwood Springs, and the Counties of Pitkin and Eagle in the

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parties applied to STB for authorization to substitute RFTA as "interim trail manager." STB granted this authorization in a replacement Notice of Interim Trail Use (NITU) served November 30, 2001 (Exhibit D). RFRHA duly transferred the rail line to RFTA, and has been terminated.

In BG & CM Railroad, F.D. 34399 & F.D. 34398, served Oct. 17, 2003, at ICC e-Library version p. 4, this Board indicated that notwithstanding the understanding of the parties, the right to reactivate rail service does not transfer between parties to a railbanking agreement absent STB approval. Based on this decision, RFTA concludes that it should have sought approval for a transfer of the rail reactivation right, it being the clear intent of RFRHA to transfer that right to RFTA as well. In order to comply with this Board's decision in BG & CM Railroad, RFTA accordingly is filing this Notice of Exemption.

As required by 49 C.F.R. § 1150.33, RFTA makes the following representations:

(a) Full name and address of applicant: Roaring Fork Transportation Authority, 51 Service Center Drive, Aspen, CO 81611.

(b) Representative of applicant who should receive correspondence: Charles H. Montange, 426 NW 162d St., Seattle, WA 98177.

(c) Statement concerning status of agreement: RFTA has

Roaring Fork Valley of Colorado. RFTA was formed in November 2000 to own and/or to operate transportation facilities in the aforementioned Valley.

acquired all relevant track, tie and other track materials, and sufficient real estate interests for railroad operation pursuant to this Board's prior orders pursuant to 16 U.S.C. § 1247(d). The transfer agreement also provided that RFTA acquired all rights held by RFRHA to operate the line for railroad purposes. By this notice, RFTA seeks only to obtain this Board's authorization to acquire the regulatory right to reactivate freight rail service. The agreement between RFRHA and RFTA already has transferred from RFRHA to RFTA all RFRHA's property rights to reactivate.

(d) Operator: RFTA. The line is currently railbanked and RFTA intends that the railbanking status be unaffected by this Notice.

(e) Summary.

(1) Name and address of railroad transferring the subject property: Roaring Fork Railroad Holding Authority. RFRHA is now disbanded. The address of its legal counsel is Robert Noone, 1001 Grand Avenue, Suite 207, PO Drawer 39, Glenwood Springs, CO 81602.

(2) The proposed time schedule for consummation of the transaction: Pursuant to the authorization set forth in Exhibit D, RFTA has already acquired the property necessary for rail service, including the right to reactivate service.

(3) Mileposts of the subject property: MP 360.22 in Glenwood Springs to MP 393.66, near Woody Creek, in Garfield, Eagle and Pitkin Counties, CO.

(4) Total route miles: 33.44.

(f) Map. See Exhibit A.

(g) Certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier. See Exhibit B.

Compliance with 49 C.F.R. § 1150.34 (caption summary). See Exhibit C.

Compliance with 49 C.F.R. § 1150.32(e). Inasmuch as expected revenue is projected to be substantially under \$5 million, no further compliance with the notice requirements of § 1150.32(e) is required.

Comment and request for clarification concerning 49 C.F.R. § 1150.32(d) (requirement that applicant preserve intact all sites and structures more than 50 years old). The line in question in this proceeding has been authorized for abandonment and railbanking, and in this process, RFRHA has complied with all requirements imposed by this Board to implement section 106 of the National Historic Preservation Act, 16 U.S.C. 470, in accordance with this Board's decisions in AB 547X. To the extent that the conditions bear upon salvage and RFTA elects to complete further salvage, RFTA commits to comply with the conditions imposed upon RFRHA. RFTA accordingly requests that this Board note that the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470, have been met as to this line to the extent provided in this Board's decisions in AB 547X.

Verification. See Exhibit E.

Respectfully submitted,

Charles H. Montange
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936
for RFTA

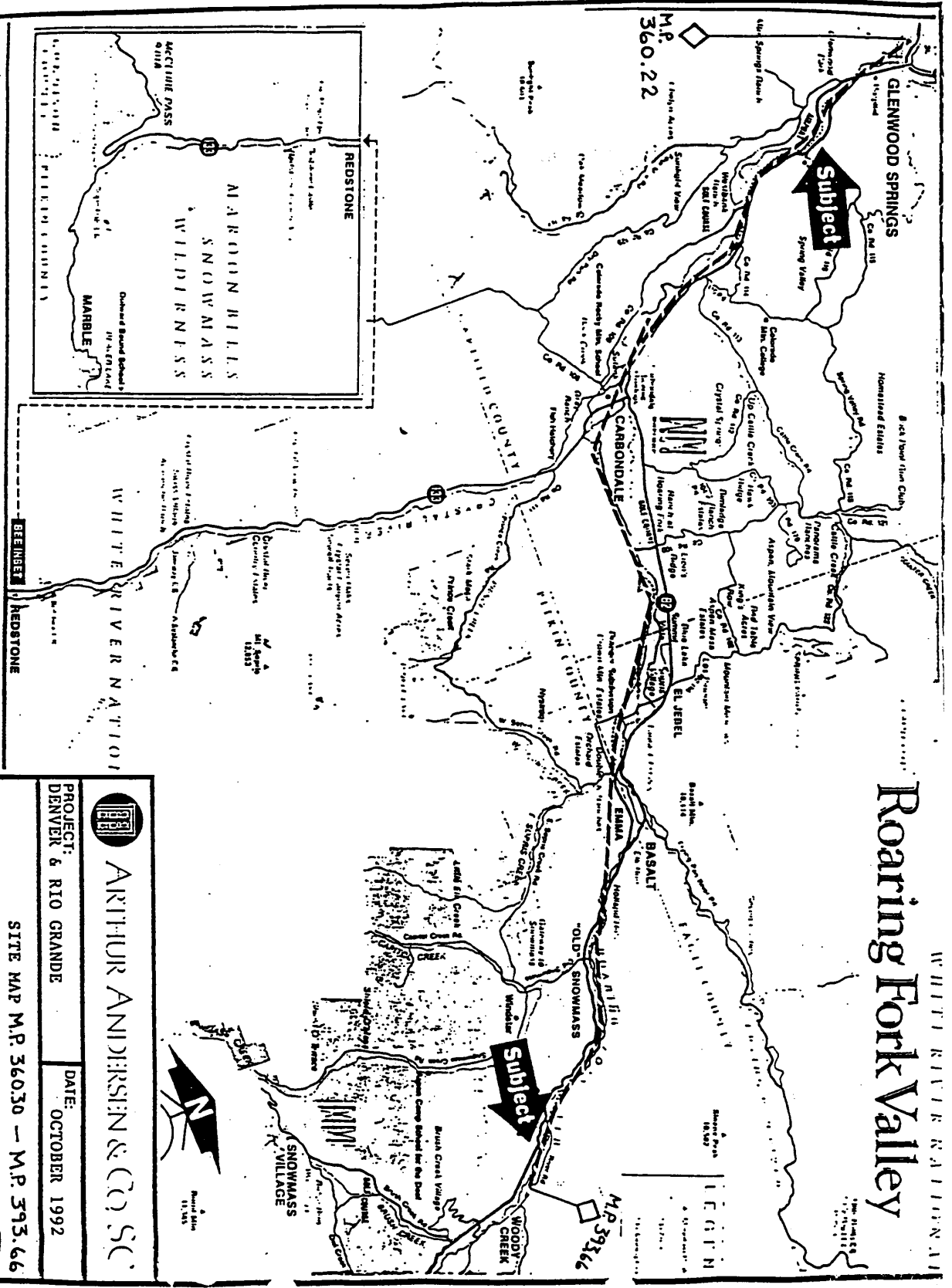
Att(s): Exhibit A -- Map
Exhibit B -- Revenue Certificate
Exhibit C -- Caption Summary
Exhibit D -- RFRHA/RFTA decision served 11/30/04
Exhibit E -- Verification

Exhibit A

Map

Roaring Fork Valley

WHITE RIVER NATIONAL MONUMENT



ARTHUR ANDERSEN & CO. S.C.

PROJECT: DENVER & RIO GRANDE

DATE: OCTOBER 1992

SITE MAP M.P. 360.30 - M.P. 393.66

Exhibit B

Revenue Certification

I, Dan Blankenship, Chief Executive Officer of Roaring Fork Transportation Authority, hereby certify that expected annual revenues from this line will be well below the revenue limitations for a Class III railroad and are expected to be less than \$1 million per year.

Dan Blankenship

Exhibit C
Caption Summary
pursuant to
49 C.F.R. § 1150.34

BEFORE THE SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

Roaring Fork Transportation Authority
-- acquisition and operation exemption--
Roaring Fork Railroad Holding Authority, Inc.

F.D. 34532

Roaring Fork Transportation Authority (RFTA) filed a notice of exemption to acquire from Roaring Fork Railroad Holding Authority (RFRHA's) all RFRHA's rights to reactivate rail service on RFRHA's line between Glenwood Springs and Woody Creek in Garfield, Eagle, and Pitkin Counties, CO.² Comments must be filed with the Board and served on RFTA's representative: Charles H. Montange, 426 NW 162d St., Seattle, WA 98177, telephone (206) 546-1936; fax (206) 546-3739.

The notice is filed under § 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

² The line in question has previously been authorized for abandonment/railbanking in Roaring Fork Railroad Holding Authority, AB 547X, served Oct. 16, 1998. A replacement Notice of Interim Trail Use authorizing RFTA to become interim trail manager was served on Nov. 30, 2001.

Exhibit D

RRHA/RFTA decision served 11/30/2001

Case

Docket No.

AB 547 0 X

Title

ROARING FORK RAILROAD HOLDING AUTHORITY--ABANDONMENT EXEMPTION--IN GARFIELD, EAGLE AND PITKIN COUNTIES, CO

Decision Summary

(1) REOPENED THIS PROCEEDING; (2) VACATED THE NITU SERVED ON OCTOBER 16, 1998; AND (3) ISSUED A REPLACEMENT NITU APPLICABLE TO ROARING FORK TRANSPORTATION AUTHORITY AS INTERIM TRAIL USER, EFFECTIVE ON THE SERVICE DATE OF THIS DECISION.

Download Files

The WordPerfect (WPD) version of this decision is provided as a courtesy and should not be used for citation purposes. The PDF file represents the official Board decision.

WP Envoy (requires WordPerfect viewer)

Graphics/Maps/Figures:



- 32279.wpd



- 32279.pdf

Size of PDF File: 0.02 MB

Approximate download time at 28.8 : 0.1 Minute(s)

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Full Text of Decision

32279

SERVICE DATE - NOVEMBER 30, 2001

DO

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-547X

ROARING FORK RAILROAD HOLDING AUTHORITY-ABANDONMENT EXEMPTION- IN

<http://www.stb.dot.gov/Decisions/readingroom.nsf/e6e77c80047c939585256ede006e9599/...> 7/27/2004

GARFIELD, EAGLE, AND PITKIN COUNTIES, CO

Decided: November 28, 2001

By decision and notice of interim trail use or abandonment (NITU) served on October 16, 1998, the Roaring Fork Railroad Holding Authority (RFRHA) was granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 33.44-mile line of railroad known as the Aspen Branch, extending from milepost 360.22 near Glenwood Springs to the end of the line at milepost 393.66 near Woody Creek, in Garfield, Eagle, and Pitkin Counties, CO. The NITU also authorized RFRHA to rail bank the right-of-way in its own name.

On October 22, 2001, RFRHA and the Roaring Fork Transportation Authority (RTA) jointly filed a request, pursuant to 49 CFR 1152.29(f), for the substitution of RTA as the interim trail user. The parties have submitted a copy of the extant NITU and a statement of willingness to assume financial responsibility by RTA. They have also indicated the date of transfer of responsibility for the right-of-way, as on or after November 1, 2001. The parties' submission meets the requirements of 49 CFR 1152.29(f). Accordingly, the request will be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The NITU served on October 16, 1998, is vacated.
3. A replacement NITU applicable to RTA as interim trail user is issued, effective on the service date of this decision.
4. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer of use of (unless a user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.

5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user's continuing to meet the financial obligations for the right-of-way.

6. If the new trail user intends to terminate trail use, it must send the Board a copy of this NITU and request that it be vacated on a specified date.

7. This decision is effective on its service date.

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

Vernon A. Williams

Secretary

AB_547_0_X

Exhibit E

Verification

I, Dan Blankenship, declare under penalty of perjury (a) that I am Chief Executive Officer of Roaring Fork Transportation Authority, and (b) that the statements contained in the Notice of Exemption of which this Verification is a part are true and correct.

Dan Blankenship

Executed on: July 27, 2004.