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SERVICE DATE – FEBRUARY 1, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1321X]

Ohi-Rail Corporation—Discontinuance of Service Exemption—in Perry and Muskingum Counties, Ohio.

Ohi-Rail Corporation (Ohi-Rail) has filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service and terminate its lease operations over approximately 14.8 miles of rail line owned by the Ohio Rail Development Commission, including the Fultonham Running Track from milepost 0.0 to milepost 3.1 (Glass Rock-East) and Z&W Industrial Track from milepost 45.8 to milepost 57.5 (Glass Rock-West), in Perry and Muskingum Counties, Ohio (the Line).¹ The Line traverses U.S. Postal Service Zip Codes 43701, 43735, 43739, 43760, 43777, and 43791.

Ohi-Rail has certified that: (1) it has not moved any local traffic over the Line for at least two years; (2) it has not moved any overhead traffic over the Line for at least two years, and overhead traffic, if there were any, could be rerouted over other lines; (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 on the Line is either pending with the Surface Transportation Board (Board) or with any U.S.

¹ Ohi-Rail was authorized to lease and operate the Line in Ohi-Rail Corp.—Lease & Operation Exemption—Ohio Department of Transportation, FD 30986 (ICC served Feb. 27, 1987).

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) 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 discontinuance of service 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)² to subsidize continued rail service has been received, this exemption will be effective on March 3, 2023, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by February 10, 2023, and formal expressions of intent to file an OFA to subsidize continued rail service under 49 C.F.R. § 1152.27(c)(2)³ must be filed by February 13, 2023.⁴ Petitions for reconsideration must be filed by February 21, 2023.

² Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

³ The filing fee for OFAs can be found at 49 C.F.R. § 1002.2(f)(25).

⁴ Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate in this docket. However, as explained in Ohio Rail Development Commission—Petition for Declaratory Order, FD 36387, slip op. at 6-7 (STB served Dec. 22, 2020), once Ohi-Rail is authorized to discontinue service on the Line, requests for issuance of a certificate of interim trail use or abandonment for the Line's right-of-way may be filed by a potential trail sponsor in the abandonment docket, Conrail Abandonment of Lines in Zanesville Ohio, Docket

All pleadings, referring to Docket No. AB 1321X, must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street S.W., Washington, DC 20423-0001. In addition, a copy of each pleading filed with the Board must be sent to Ohi-Rail's representative, Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

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

Board decisions and notices are available at www.stb.gov.

Decided: January 27, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

No. AB 167 (Sub-No. 445N). In addition, because the Line has already been authorized for abandonment, this discontinuance does not require an environmental review.