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ENTERED
Office of Proceedings
October 6, 2023
Part of
Public Record

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October 6, 2023

By e-filing

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: STB Docket No. AB 1335X
Meridian & Bigbee Railroad, L.L.C.
Discontinuance of Incidental Overhead Trackage Rights
In Lowndes and Montgomery Counties, AL

Dear Ms. Brown:

Enclosed for e-filing on behalf of Meridian & Bigbee Railroad, L.L.C. ("MNBR") is a Notice of Exempt Discontinuance filed under 49 CFR part 1152 subpart F.

The relevant filing fee was paid using Pay.gov. Please let me know if there are any questions regarding these filings.

Sincerely,

Justin J. Marks
Counsel to Meridian & Bigbee Railroad, L.L.C

Enclosure

FEE RECEIVED
October 6, 2023
Surface
Transportation Board

FILED
October 6, 2023
Surface
Transportation Board

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 1335X

MERIDIAN & BIGBEE RAILROAD, L.L.C.
- DISCONTINUANCE OF INCIDENTAL OVERHEAD TRACKAGE RIGHTS -
IN LOWNDES AND MONTGOMERY COUNTIES, AL

NOTICE OF EXEMPT DISCONTINUANCE

(color images included)

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Counsel for Meridian & Bigbee Railroad, L.L.C.

Dated: October 6, 2023

Before the

SURFACE TRANSPORTATION BOARD

STB Docket No. AB 1335X

**MERIDIAN & BIGBEE RAILROAD, L.L.C.
- DISCONTINUANCE OF INCIDENTAL OVERHEAD TRACKAGE RIGHTS -
IN LOWNDES AND MONTGOMERY COUNTIES, AL**

NOTICE OF EXEMPT DISCONTINUANCE

Meridian & Bigbee Railroad, L.L.C. (“MNBR”) formerly known as M&B Railroad, L.L.C. hereby invokes the Board’s class exemption procedures at 49 C.F.R. part 1152 subpart F seeking exemption authority to discontinue its incidental overhead trackage rights over a 14-mile rail line extending between milepost XXB189 near Burkville and terminating at Montgomery Yard in Montgomery, AL (the “Subject Line”). MNBR obtained these incidental overhead trackage rights through its acquisition of CSX Transportation, Inc. (“CSXT”) rail lines (referred to herein as the “Eastern Segment”) in *M & B Railroad, L.L.C. – Acquisition and Operation Exemption – CSX Transp., Inc.* STB Finance Docket No. 34423 (Nov. 20, 2003). MNBR did not acquire authority to operate local freight service; that service has been provided by CSXT.

This discontinuance is being filed simultaneously with, and is related to, an application filed in FD 36727 for CSXT to reacquire the Eastern Segment from MNBR.¹

MNBR does not intend to exercise its discontinuance authority over the Subject Line unless

¹ The Eastern Segment (not subject to this notice of exemption) extends approximately 93.68 miles in two sections. Segment 1 extends 30.22 miles from milepost XXB 189.00 (some mileposts are not a full mile apart) near Burkville, AL, to milepost XXB 222.00 at the Western Junction station in Dallas County, AL. Segment 2 extends approximately 63.46 miles from milepost OOR 716.26 at the Western Junction station in Dallas County, AL, to milepost ORS 779.71 near Myrtlewood, AL.

and until CSXT consummates its acquisition transaction. Once the CSXT transaction is consummated, MNBR will interchange with CSXT at Myrtlewood rather than Montgomery.

This Notice of Exempt Discontinuance is being filed pursuant to the requirements of 49 C.F.R. part 1152 subpart F. A class exemption is appropriate for MNBR's discontinuance of incidental overhead trackage rights because it is consistent with Board precedent when a rail carrier discontinues overhead trackage rights where it does not have the right to provide (and has not provided) any local service with the past two years, and local service is being provided by another carrier. *See Soo Line Railroad Company – Discontinuance of Trackage Rights Exemption in Wayne, Washtenaw, Oakland, Livingston, Ingham, Clinton, Easton, Barry, Ionia, Kent, Ottawa, Allegan, Van Buren, and Berrien Counties, Mich., LaPorte, Porter, and Lake Counties, Ind., and Cook County, Ill.*, STB Docket No. 57 (Sub-No. 59X) (served June 30, 2010); *Illinois Central Railroad Company – Discontinuance of Trackage Rights Exemption – in Madison, Yazoo, Holmes, Carroll, Montgomery, Grenada, Yalobusha, Tallahatchie, Panola, Tate, and Desoto Counties, Miss.*, STB Docket No. AB 43 (Sub-No. 185X) (served Oct. 18, 2011). Here, MNBR is discontinuing incidental overhead trackage rights on the Subject Line where CSXT provides the local service.

In accordance with such requirements, Applicant hereby states as follows:

1. The exact name of Applicant is Meridian & Bigbee Railroad, L.L.C.
2. Applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.
3. MNBR is invoking the Board's class exemption procedures in order to discontinue its incidental overhead trackage rights on the Subject Line. MNBR was never authorized to provide, and never provided, local freight service on the Subject Line. The Subject Line extends

between milepost XXB 189 near Burkville and terminating at Montgomery Yard in Montgomery, AL. The Subject Line passes through Lowndes and Montgomery Counties, AL.

4. A detailed map of the Subject Line is attached hereto as Exhibit A. A map of the current MNBR system is also attached as part of Exhibit A.

5. The representative of MNBR to whom correspondence should be sent is:

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave., NW
Suite 1300 South
Washington, DC 20004
Tel: (202) 772-0916
jmarks@clarkhill.com

6. The Subject Line to be discontinued traverses through United States ZIP Codes 36752 and 36108.

7. The notice of exemption presented herein pertains to MNBR's proposal to discontinue overhead trackage rights over the Subject Line and not abandonment authority. Accordingly, trail use / rail banking and other public use conditions are not appropriate.²

8. Applicant proposes to consummate the discontinuance after the effective date of this notice of exemption and at the time CSXT consummates its transaction in FD 36727 to acquire the Eastern Segment of MNBR's rail line.

9. MNBR certifies that:

(a) It has not handled local traffic over the Subject Line in at least two years

² See *Norfolk Southern Railway Company – Discontinuance of Service Exemption – In St. Joseph and LaPorte Counties, IN*, STB Docket No. AB-290 (Sub-No. 307X) (served June 18, 2008); *Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA*, STB Docket No. AB-721X (served November 16, 2007); *Columbus and Greenville Railway Company – Discontinuance of Service Exemption – In Greenwood, MS*, STB Docket No. AB-297 (Sub-No. 103X) (served July 2, 2007).

and in fact, has never handled local traffic over the Subject Line. MNBR is only authorized to operate and therefore is only discontinuing incidental overhead operating rights. Once the CSXT transaction is consummated, CSXT will resume overhead operations and MNBR will interchange with CSXT at Myrtlewood, AL rather than Montgomery, AL, and therefore, any overhead traffic on the line can be rerouted over other lines.

(b) No formal complaint by a user of rail service on the Subject Line, or a state or local government entity acting on behalf of such user, regarding MNBR's cessation of service over the Subject Line, either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the two-year period.

10. MNBR recognizes that the discontinuance of service will be made subject to the standard employee protective conditions as set forth in *Oregon Short Line Railroad Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).³

11. Because MNBR seeks only discontinuance and not abandonment authority of its overhead trackage rights (and because the Subject Line will continue to be owned and operated by CSXT), MNBR will not be disposing of or altering the Subject Line or any structures that are 50 years old or older. An environmental and historic report is not required for a discontinuance proceeding.⁴

12. MNBR certifies that it has complied with the legal (newspaper) notice requirements

³ As noted above the discontinuance authority sought herein will only be exercised if the CSXT application in Docket No. FD 36727 is approved and consummated. Thus, if the CSXT application is approved, any MNBR employees affected in that proceeding will be entitled to protective conditions under *New York Dock – Control – Brooklyn Eastern District Terminal*, 360 I.C.C. 60 (1979). If the CSX application is approved and consummated, there will be no additional employees affected by this discontinuance.

⁴ See note 2, *supra*, and 49 C.F.R. §1105.6(c) and §1105.8(b).

of 49 C.F.R. §1105.12. Notice of the proposed discontinuance was published on September 27, 2023 in the Montgomery Advertiser. A copy of the form of publication and a copy of the proof of publication are attached as Exhibit B.

13. MNBR has complied with the advance notice requirements of 49 C.F.R. §1152.50(d)(1). A copy of the notice dated September 20, 2023, sent to the required governmental agencies is attached hereto as Exhibit C.

For the reasons set forth above, the Board should determine that the proposed discontinuance of service of incidental overhead trackage rights on the Subject Line qualifies for the use of the Board's class exemption procedures at 49 C.F.R. part 1152 subpart F, and it should issue the appropriate notice.

Respectfully submitted,



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Two Commerce Square
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Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

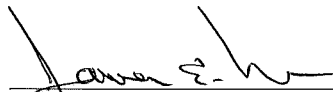
Justin J. Marks
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1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
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jmarks@clarkhill.com

*Counsel for Meridian & Bigbee Railroad,
L.L.C.*

Dated: October 6, 2023

VERIFICATION

I hereby verify on behalf of Meridian & Bigbee Railroad, L.L.C., under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

A handwritten signature in black ink, appearing to read "James Irvin", is written over a horizontal line.

James Irvin
President

Executed on October 6, 2023.

EXHIBIT A - MAP



Trackage Rights to be Discontinued

MNBR Meridian & Bigbee Railroad, L.L.C.

Other Genesee & Wyoming Railroads

Dashed line indicates Trackage Rights.

EXHIBIT B – NEWSPAPER NOTICE



Daily-Montgomery, Montgomery County, AL

TO: CLARK HILL PLC
1001 PENNSYLVANIA AVE NW #1300 SOUTH
WASHINGTON, DC 20004

of Affidavits: 1

This is not an invoice

E-Verify#: DHS72179

PROOF OF PUBLICATION

State of Alabama

County of Montgomery:

Before the undersigned authority personally appeared said Legal Clerk who on oath, says that he/she is a personal representative of the *Montgomery Advertiser*, a daily newspaper published in Montgomery, Alabama: that the attached copy of advertisement, being a Legal in the matter of:

Ad Number: 0005832991

Was Published in said newspaper in the issue(s) dated:

MGM-Montgomery Advertiser

09/27/2023

Affiant further says that the said *Montgomery Advertiser* is a newspaper published in said Montgomery County, Alabama, and that the said newspaper has heretofore been published in said Montgomery County, Alabama, and has been entered as second class matter at the Post Office in said Montgomery County, Alabama, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Now due on said account is \$223.44



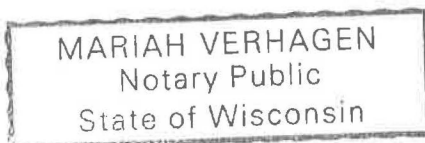
Legal Clerk

Subscribe and sworn before me this 2nd day of October, 2023



Notary Public, State of Wisconsin, County of Brown
8-25-26

My Commission expires



**NOTICE OF INTENT TO
DISCONTINUE RAIL SERVICE**

Meridian & Bigbee Railroad, L.L.C. (MNBR) issues this notice that on or about September 30, 2023, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a notice of exemption pursuant to the provisions of 49 CFR Part 1152 Subpart F – *Exempt Abandonments and Discontinuances of Service and Trackage Rights* to permit MNBR to discontinue incidental overhead trackage rights over approximately 14 miles of the line of railroad between milepost XXB189 near Burkeville and terminating at Montgomery Yard in Montgomery, AL (the Line). The Line traverses through United States ZIP Codes 36752 and 36108. The MNBR proceeding will be docketed as STB Docket No. AB-1335X.

This discontinuance is related to an application filed in STB Docket No. FD 36727 for CSX Transportation, Inc. (CSXT) to reacquire MNBR's "Eastern Segment" of rail line extending 30.22 miles from milepost XXB 189.00 (some mileposts are not a full mile apart) near Burkeville, AL, to milepost XXB 222.00 at the Western Junction station in Dallas County, AL, and extending approximately 63.46 miles from milepost OOR 716.26 at the Western Junction station in Dallas County, AL, to milepost ORS 779.71 near Myrtlewood, AL from MNBR. MNBR will not consummate the discontinuance unless and until CSXT consummates its proposed acquisition of the eastern Segment.

Because the proposed action entails the discontinuance of service over the Line, rather than abandonment, no environmental or historic documentation is required under 49 CFR 1105.6 and 1105.8. Appropriate offers of financial assistance to subsidize rail service can be filed with the STB. Trail use / rail banking and public use condition requests are not appropriate in discontinuance proceedings.

An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance to subsidize rail service) must be filed directly with the STB's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423-0001 [see 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [see 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the STB's Office of Public Assistance, Governmental Affairs and Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on MNBR's representative: Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004; 202-772-0916. Mont. Adv. 9/27/23
5832991

EXHIBIT C – 10 DAY NOTICES

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F (202) 772-0919

September 20, 2023

ALL AGENCIES ON THE
ATTACHED SERVICE LIST

Re: Meridian & Bigbee Railroad, L.L.C. – Discontinuance Exemption –
in Lowndes and Montgomery Counties, AL
Surface Transportation Board Docket No. AB 1335X

To Whom it May Concern:

This letter is being sent to you pursuant to the requirements of 49 C.F.R. § 1152.50(d), to advise you that Meridian & Bigbee Railroad, L.L.C. ("MNBR") intends to file a notice for exemption for MNBR to discontinue incidental overhead trackage rights over the line of railroad described below, by filing a verified notice of exemption pursuant to the provisions of 49 C.F.R. Part 1152 Subpart F. MNBR expects to file the notice of exemption with the STB on or about September 30, 2023, under STB Docket No. AB 1335X.

MNBR will invoke the STB's exemption procedures to discontinue its incidental overhead trackage rights of the line of railroad between approximately milepost XXB 189 near Burkeville and terminating at Montgomery Yard in Montgomery, AL. (the "Subject Line"). CSX Transportation, Inc. ("CSXT") operates local and overhead service on the line. The Subject Line traverses through United States Postal Service ZIP Codes 36752 and 36108. A map of the subject line is enclosed.

This discontinuance is related to an application to be filed in STB Finance Docket 36727 by CSXT to reacquire MNBR's "Eastern Segment" of rail line extending 30.22 miles from milepost XXB 189.00 (some mileposts are not a full mile apart) near Burkeville, AL, to milepost XXB 222.00 at the Western Junction station in Dallas County, AL, and extending approximately 63.46 miles from milepost OOR 716.26 at the Western Junction station in Dallas County, AL, to milepost ORS 779.71 near Myrtlewood, AL from MNBR. MNBR will not consummate the discontinuance unless and until CSXT consummates its proposed acquisition of the Eastern Segment.

Because this proceeding would involve the discontinuance of common carrier service and not abandonment of the Line, MNBR understands that the question of whether the Line contains federally granted rights-of-way is inapplicable, and that the Line would not be suited at this time for alternative public use. Although it is not the owner of the Line, any pertinent documentation in MNBR's possession will be made available promptly to those requesting it.

September 20, 2023
Page 2

Given that MNBR is not the owner of the Line, MNBR has no current plans or rights to salvage the track along the Line as a result of this discontinuance.

Sincerely,



Justin J. Marks
Counsel to the Meridian & Bigbee Railroad,
L.L.C.

Enclosure



04/2023

**Service List for
STB Docket No. AB-1335X**

Alabama Department of Transportation's Rail Highway Safety Section P.O. Box 303050 Montgomery, AL 36130-3050 aldotrail@dot.state.al.us	United States Department of the Army Military Surface Deployment and Distribution Command Transportation Engineering Agency ATTN: SDTE-SA (Railroads for National Defense) 1 Soldier Way, Building 1900W Scott AFB, IL 62225
U.S. Department of the Interior - National Park Service RTCA Program 1849 C Street, NW Washington, DC 20240	Office of Chief of Forest Service U.S. Department of Agriculture 1400 Independence Ave., SW Washington, DC 20250-1111

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Notice of Exempt Discontinuance was served on the persons shown on the attached list by first class mail, postage prepaid.



Justin J. Marks

Dated: October 6, 2023

**Service List for
STB Docket No. AB-1335X**

Alabama Department of Transportation's Rail Highway Safety Section P.O. Box 303050 Montgomery, AL 36130-3050 aldotrail@dot.state.al.us	United States Department of the Army Military Surface Deployment and Distribution Command Transportation Engineering Agency ATTN: SDTE-SA (Railroads for National Defense) 1 Soldier Way, Building 1900W Scott AFB, IL 62225
U.S. Department of the Interior - National Park Service RTCA Program 1849 C Street, NW Washington, DC 20240	Office of Chief of Forest Service U.S. Department of Agriculture 1400 Independence Ave., SW Washington, DC 20250-1111