

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1310 (Sub-No. 1X)]

Northwestern Pacific Railroad Company—Discontinuance of Service Exemption—in Mendocino County, Cal.

Northwestern Pacific Railroad Company (NWPCO) 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 over an approximately 53.5-mile rail line extending between approximately milepost NWP 142.5 near Outlet Station and approximately milepost NWP 89 near the Sonoma-Mendocino County, Cal., border in Mendocino County, Cal. (the Line).¹ The Line traverses U.S. Postal Service Zip Codes 95490, 95470, 95482, 95449, and 95425.

NWPCO has certified that: (1) it has handled no local traffic over the Line for at least two years;² (2) it has not handled overhead traffic on the Line and there is no

¹ According to NWPCO, it holds common carrier authority to operate over the Line pursuant to a lease agreement with the North Coast Railroad Authority (NCRA). See Nw. Pac. R.R.—Change in Operators Exemption—N. Coast R.R. Auth., FD 35073 (STB served Aug. 30, 2007). NCRA has filed a verified notice of exemption to abandon 175.84 miles of rail line, including an approximately three-mile segment of the Line between milepost 139.5 and milepost 142.5. See NCRA, Notice of Exemption 1, N. Coast R.R.—Aban. Exemption—in Mendocino, Trinity & Humboldt Cntys., Cal., AB 1305X.

² NWPCO states that it has never offered service on the Line due to Emergency Order 21 issued by the Federal Railroad Administration prohibiting railroad operations since 1998.

potential overhead traffic that would need to be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or 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 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) and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

The verified notice states that the Line “comprises the entirety of NWPCO’s remaining common carrier operating authority.”³ Where, as here, the carrier is discontinuing service over its entire system, the Board does not normally impose labor protection under 49 U.S.C. § 10502(g), unless the evidence indicates the existence of: (1) a corporate affiliate that will continue substantially similar rail operations; or (2) a corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations by its subsidiary railroad. See Honey Creek R.R.—Aban. Exemption—in Henry Cnty., Ind., AB 865X (STB served Aug. 20, 2004); Northampton & Bath R.R.—Aban. near Northampton & Bath Junction in Northampton Cnty., Pa., 354 I.C.C. 784 (1978); Wellsville, Addison & Galetton R.R.—Aban. of Entire Line in Potter & Tioga Cntys., Pa., 354 I.C.C. 744 (1978). According to NWPCO, it does not have a corporate affiliate that has similar rail operations, and there is no corporate parent

³ NWPCO states that it previously discontinued operations over a connecting rail line segment between milepost NWP 89 and milepost SP 63.4. See Nw. Pac. R.R.—Discontinuance of Serv. Exemption—in Marin, Napa, & Sonoma Cntys., Cal., AB 1310X (STB served June 11, 2021).

that will benefit from the proposed discontinuance. Therefore, employee protection conditions will not be imposed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)⁴ to subsidize continued rail service has been received, this exemption will be effective on September 1, 2021, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 C.F.R. § 1152.27(c)(2)⁵ must be filed by August 12, 2021.⁶ Petitions for reconsideration must be filed by August 23, 2021.

All pleadings, referring to Docket No. AB 1310 (Sub-No. 1X) should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading filed with the Board must be served on NWPCO's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Avenue, N.W., Suite 1300 South, Washington, DC 20004.

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.

⁴ 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).

⁵ The filing fee for OFAs can be found at 49 C.F.R. § 1002.2(f)(25).

⁶ Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

Decided: July 27, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.