



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1243X]

Patriot Woods Railroad, LLC—Abandonment Exemption—in Cowlitz County, Wash.

[Docket No. AB 1244 (Sub-No. 1X)]

Columbia & Cowlitz Railway, LLC—Discontinuance of Service Exemption—in Cowlitz County, Wash.

Patriot Woods Railroad, LLC (PW) and Columbia & Cowlitz Railway, LLC (CLC) (collectively, Applicants), have jointly filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for PW to abandon, and for CLC to discontinue service over, an approximately 21.50-mile rail line between milepost 8.5 at Ostrander Junction and the end of the line at milepost 30 in Cowlitz County, Wash. (the Line).<sup>1</sup> The Line traverses United States Postal Service Zip Codes 98611, 98626, and 98649 and includes the Headquarters station at milepost 14.2 and the Landfill station at milepost 16.2.

Applicants have certified that: (1) no local or overhead traffic has moved over the Line for at least two years; (2) there is no overhead traffic to be rerouted; (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 with any U.S. District Court or

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<sup>1</sup> In a concurrently filed verified notice of exemption, CLC seeks to abandon approximately 7 miles of connecting rail line between milepost 1.5 at Longview and milepost 8.5 at Ostrander Junction, in Cowlitz County, Wash. See Columbia & Cowlitz Ry.—Aban. Exemption—in Cowlitz Cty., Wash., Docket No. AB 1244X.

has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

Where, as here, the carrier is abandoning its entire line, 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 Cty., Ind., AB 865X (STB served Aug. 20, 2004); Wellsville, Addison & Galetton R.R.—Aban., 354 I.C.C. 744 (1978); and Northampton & Bath R.R.—Aban., 354 I.C.C. 784 (1978). According to PW, after abandonment PW's parent company and corporate affiliate will not continue similar operations, nor will PW's parent company realize substantial financial benefits over and above relief from the burden of its subsidiary railroad. Therefore, employee protection conditions will not be imposed.

Any employee of CLC adversely affected by the discontinuance 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) has been received, these exemptions will be effective on September 30, 2017,

unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 C.F.R 1152.29 must be filed by September 8, 2017. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 20, 2017, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to Melanie B. Yasbin, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 5, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance

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<sup>2</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 exemptions' 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 exemptions' effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,700. See 49 CFR 1002.2(f)(25). Effective September 1, 2017, the fee will become \$1,800. See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update, EP 542 (Sub-No. 25), slip op. App. C at 20 (STB served July 28, 2017).

for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. 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.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), PW 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 PW's filing of a notice of consummation by August 31, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at [WWW.STB.GOV](http://WWW.STB.GOV).

Decided: August 28, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

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Clearance Clerk

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