



## **SURFACE TRANSPORTATION BOARD**

**[Docket No. AB 1233 (Sub-No. 2X)]**

### **Allegheny Valley Railroad Company—Abandonment Exemption—in Allegheny County, Pa.**

Allegheny Valley Railroad Company (AVR), has filed a verified notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon an approximately 3.6-mile segment of rail line known generally as the “Brilliant Branch” located in Pittsburgh and Aspinwall, Allegheny County, Pa. (the Line). The Line consists of the following segments: (1) the Brilliant Branch, extending from milepost 0.7 in East Liberty (in the City of Pittsburgh), crossing AVR’s Allegheny Branch and the Allegheny River, passing through the Borough of Aspinwall and ending at approximately milepost 3.0, in Pittsburgh; (2) the Brilliant Branch-West Leg Wye, beginning at approximately milepost 0.0 on AVR’s Allegheny River Bridge in Aspinwall and ending at approximately milepost 0.5, in the Township of O’Hara, Pa.; and (3) a portion of the Allegheny Branch Connection in Pittsburgh beginning at approximately milepost 1.8, at the connection to the Brilliant Branch, and ending at approximately milepost 2.6, approximately 528 feet westerly of its connection to the Allegheny Branch. The Line traverses U.S. Postal Service Zip Codes 15206, 15208, and 15215.

AVR has certified that: (1) no local traffic has moved over the Line for at least two years; (2) any overhead traffic on the Line can 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 on behalf of such user) regarding cessation of service over the Line is pending with either the Surface Transportation Board (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 CFR 1105.7(b) and 1105.8(c) (notice of environmental and historic

reports),<sup>1</sup> 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment 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,<sup>2</sup> this exemption will be effective on May 3, 2024, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by April 12, 2024.<sup>3</sup> Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 15, 2024.<sup>4</sup> Petitions to reopen and requests for public use conditions under 49 CFR 1152.28 must be filed by April 23, 2024.

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<sup>1</sup> In its verified notice, which AVR submitted on February 23, 2024, AVR requested that the Board waive the provision at 49 CFR 1105.11 calling for the carrier to use a form transmittal letter when sending its environmental and/or historic report to appropriate agencies. In a decision served on April 2, 2024, the Board denied the waiver request and deemed the filing date for AVR's verified notice to be March 14, 2024 (20 days after AVR re-served its environmental and historic report with the form cover letter).

<sup>2</sup> Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

<sup>3</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 exemption's 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 exemption's effective date.

<sup>4</sup> Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

All pleadings, referring to Docket No. AB 1233 (Sub-No. 2X), must be filed with the Surface Transportation Board either 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 must be served on AVR's representative, Thomas J. Healey, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606.

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

AVR has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by April 8, 2024. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0294. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245. Comments on environmental or historic preservation matters must be filed within 15 days after the Draft 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), AVR 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 AVR's filing of a notice of consummation by April 3, 2025, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: March 29, 2024.

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

**Stefan Rice,**

*Clearance Clerk.*

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