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SERVICE DATE - MAY 24, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-598X

BHP Nevada Railroad Company—Discontinuance of Service Exemption—in Elko and White Pine Counties, NV

BHP Nevada Railroad Company (BHP Nevada) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances to discontinue service over 146 miles of railroad between milepost 0.0 in Cobre and milepost 146.1 in Keystone, in Elko and White Pine Counties, NV. The line traverses United States Postal Service Zip Codes 89835, 89301, 89315 and 89318.

BHP Nevada certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no 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 has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 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.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line R. Co.--Abandonment--Goshen, 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, this exemption will be effective on June 25, 2002, unless stayed pending reconsideration. Petitions to stay and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2)¹ must be filed by June 3, 2002.² Petitions to reopen³ must be filed by June 13, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

¹ Each offer of financial assistance must be accompanied by the filing fee, which, as of April 8, 2002, is currently set at \$1,100. See 49 CFR 1002.2(f)(25).

² While applicant initially indicated a proposed consummation date of June 22, 2002, and because applicant failed to publish notice in the newspaper as required, and a new filing date of May 6, 2002, was entered when proof of publication was received. Because the verified notice was not complete until May 6, 2002, and hence was not deemed filed until then, the earliest possible date for consummation is 50 days from May 6, 2002 (June 25, 2002). Applicant's representative has confirmed that the correction consummation date is on or after June 25, 2002.

³ Because this is a discontinuance proceeding and abandonment is not proposed, trail use/rail banking or public use conditions are not appropriate. Likewise, no environmental or historic documentation is required because the circumstances here are similar to those for which exceptions are provided under 49 CFR 1105.6(c)(6) and 1105.8.

A copy of any petition filed with the Board should be sent to applicants' representative:

Edward D. Greenberg, Galland, Kharasch, Greenberg, Fellman & Swirsky, P.C., Canal
Square, 1054 Thirty-First Street, N.W., Suite 200, Washington, DC
20007.

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

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: May 15, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary