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SERVICE DATE - JUNE 28, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-597X]

Butte-Silver Bow County–Abandonment Exemption–in Silver Bow County, MT

On June 18, 2002, Butte-Silver Bow County (BSB), a noncarrier, filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903-04<sup>1</sup> to abandon approximately 11 miles of railroad known as the Missoula Gulch and Butte Hill Line (MGBH) in and near Butte, in Silver Bow County, MT.<sup>2</sup> The MGBH extends from

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<sup>1</sup> In addition to an exemption from 49 U.S.C. 10903, BSB seeks exemption from 49 U.S.C. 10904 (offers of financial assistance). Also, on May 21, 2002, BSB filed a request for a trail use condition under 16 U.S.C. 1247(d) with respect to the Missoula Gulch segment, and a request for a public use condition under 49 U.S.C. 10905 for the Butte Hill segment. These requests will be addressed in the final decision.

<sup>2</sup> The MGBH was most recently owned and operated by a non-profit corporation called the Butte/Anaconda Historic Park and Railroad Corporation (BAHPR). The BAHPR operated a tourist train over the portion of the MGBH between Rocker and the former Butte Hill Yard under a lease from the State of Montana from 1988 to 1991, at which time the BAHPR acquired the MGBH. See Butte/Anaconda Historic Park and Railroad Corporation–Acquisition Exemption–State of Montana, Department of Commerce, ICC Finance Docket No. 31982 (ICC served Feb. 11, 1992). In 1994, the Montana Secretary of State’s Office involuntarily dissolved the BAHPR, but it continued intermittently to operate a tourist train over the MGBH through 1996, did not seek reinstatement, and never distributed its assets following dissolution. On October 29, 2001, the Montana district court in Silver Bow County ordered the BAHPR’s assets distributed to BSB.

On February 15, 2002, BSB filed a verified notice of exemption under 49 CFR 1150.31 to acquire the MGBH, with the intention to subsequently seek this abandonment. On March 15, 2002, the Board provided public notice of the acquisition exemption. See Butte-Silver Bow

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milepost 0.0 at Rocker, west of Butte, to milepost 4.40 at the Butte Hill Yard (Missoula Gulch segment), and also extends north and east from milepost 0.0 at the Butte Hill Yard to milepost 3.69 near the Badger Mine (Butte Hill segment). The line traverses U.S. Postal Service Zip Code 59701. There are no stations on the line.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

BSB has no railroad employees and the entire line is involved in this abandonment. Accordingly, no employee protection will be imposed here.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 4, 2002.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,100 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 29, 2002. Each trail use request must be accompanied by a \$150 filing fee. See

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<sup>2</sup>(...continued)

County-Acquisition Exemption-Silver Bow County, MT, STB Finance Docket No. 34171 (STB served Mar. 15, 2002) (67 FR 11743). Abandonment of the MGBH is being sought to facilitate environmental cleanup activities in and around Butte required by the U.S. Environmental Protection Agency.

49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-597X and must be sent to: (1) Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) Susan J. Geer, Esq., Davis Graham & Stubbs LLP, 1550 17th Street, Suite 500, Denver, CO 80202. Replies to the BSB petition are due on or before July 29, 2002.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1552. [TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

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

Decided: June 20, 2002.

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

Vernon A. Williams

Secretary