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SEC

SERVICE DATE – MAY 21, 2009

SURFACE TRANSPORTATION BOARD

NOTICE

STB Ex Parte No. 690

TWENTY-FIVE YEARS OF RAIL BANKING:
A REVIEW AND LOOK AHEAD

AGENCY: Surface Transportation Board.

ACTION: Notice of Public Hearing.

SUMMARY: The Surface Transportation Board will hold a public hearing beginning at 9:00 a.m. on Wednesday, July 8, 2009, in the Hearing Room on the first floor of the Board's headquarters in Washington, D.C. The purpose of the public hearing will be to examine the impact, effectiveness, and future of rail banking under Section 8(d) of the National Trails System Act. Persons wishing to speak at the hearing should notify the Board in writing.

DATES: The public hearing will take place on Wednesday, July 8, 2009. Any person wishing to speak at the hearing should file with the Board a combined notice of intent to participate (identifying the party, the proposed speaker, the time requested, and the topic(s) to be covered) and the person's written testimony, as soon as possible, but no later than June 29, 2009. Written submissions by interested persons who do not wish to appear at the hearing are also due by June 29, 2009.

ADDRESSES: All filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the Board's "www.stb.dot.gov" website, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send an original and 10 copies of the filing to: Surface Transportation Board, Attn: STB Ex Parte No. 690, 395 E Street S.W., Washington, DC 20423-0001.

FOR FURTHER INFORMATION, CONTACT: Victoria Rutson at (202) 245-0295. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877-8339.

SUPPLEMENTARY INFORMATION: In 1983, Congress added Section 8(d) to the National Trails System Act to create a program—codified at 16 U.S.C. 1247(d)—to allow preservation of railroad corridors for possible future rail use, called "rail banking," and to allow railroad corridors that would be abandoned to be used in the interim as recreational trails.

In brief, the Trails Act and the Board's implementing regulations give interested parties the opportunity to negotiate voluntary agreements to use for recreational trails railroad rights-of-way that otherwise would be abandoned. The trail sponsor must agree to assume responsibility for managing the trail, for paying property taxes on the right-of-way, and for any liability in connection with trail use. In turn, the rail carrier may salvage its track and discontinue service on the line. If the parties reach a Trails Act agreement, the right-of-way can be used as a trail until (if ever) a rail carrier decides to restore rail service on the line.

The Board has issued numerous decisions authorizing trail use negotiation periods, many of which have resulted in agreements between the rail carrier and the party seeking interim trail use. To date, the Board has authorized nine rail banked lines for the restoration of rail service. Very recently (on May 11, 2009, in STB Docket No. AB-3 (Sub-No. 104X), Missouri Pacific Railroad Company—Abandonment Exemption—In Muskogee, McIntosh and Haskell Counties, OK), the Board vacated a Notice of Interim Trail Use in part to permit the restoration of active rail service on a portion of a rail banked line.

In recent years, an increasing number of questions have been brought to the Board, both formally and informally, regarding aspects of the rail banking program. Formally, the Board has pending before it STB Finance Docket No. 35116, R.J. Corman Railroad Company/Pennsylvania Lines Inc.—Construction and Operation Exemption—in Clearfield County, PA, involving a proposal to construct and operate over 10 miles of a previously fully abandoned rail right-of-way and to reactivate a 9.3-mile portion of a connecting rail banked line. Informally, the Board has been asked who would be responsible for bearing the cost of rebuilding a railroad bridge removed during interim trail use if active rail service should ever be restored.

To allow a more detailed discussion of these and other issues, the Board is holding a hearing to explore the issues surrounding the rail banking program. These issues include:

- Has rail banking under Section 8(d) been a success for rail carriers and trail users?
- Have most rail corridors proposed for rail banking under Section 8(d) actually been developed into trails?
- Should the Board require notice or a copy of the Trails Act agreements to be submitted to the Board?
- What can or should the Board do to further facilitate rail banking and encourage the restoration of active rail service on rail banked lines?
- Who should bear the cost to restore a rail corridor for rail service, including replacing any bridges that may have been removed during interim trail use?
- How have reversionary property owners been affected by rail banking?

Parties are also invited to comment on the rail banking program in general and the future of rail banking in an era of constrained rail infrastructure.

Date of Hearing. The hearing will begin at 9:00 am on Wednesday, July 8, 2009, in the 1st floor hearing room at the Board's headquarters at 395 E Street, S.W., in Washington, DC, and will continue, with short breaks if necessary, until every person scheduled to speak has been heard.

Notice of Intent To Participate and Testimony. Any person wishing to speak at the hearing should file with the Board a combined notice of intent to participate (identifying the party, the proposed speaker, the time requested, and the topic(s) to be covered) and the person's written testimony, as soon as possible, but no later than June 29, 2009. Also, any interested person who wishes to submit a written statement without appearing at the July 8 hearing should file that statement by June 29, 2009.

Board Releases and Live Video Streaming Available Via the Internet. Decisions and notices of the Board, including this notice, are available on the Board's website at "www.stb.dot.gov." This hearing will be available on the Board's website by live video streaming. To access the hearing, click on the "Live Video" link under "Information Center" at the left side of the home page beginning at 9:00 a.m. on July 8, 2009.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Dated: May 21, 2009.

Anne K. Quinlan
Acting Secretary