

SERVICE DATE - MAY 16, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-485X

BLUE MOUNTAIN RAILROAD, INC.–ABANDONMENT EXEMPTION–
IN WHITMAN COUNTY, WA, AND LATAH COUNTY, ID

Decided: May 13, 2005

By decision and notice of interim trail use or abandonment (NITU) served on March 4, 1997, the Board granted the petition for exemption filed by Blue Mountain Railroad, Inc. (BMR) for the abandonment of three segments of its rail line, totaling 7.45 miles, in Whitman County, WA, and Latah County, ID. The three line segments are located between: (1) milepost 19.0 at Kamiaken Street and milepost 19.30 at Pullman, WA; (2) milepost 19.75 at Pullman and milepost 25.50 near Moscow, ID; and (3) milepost 26.10 near Moscow and milepost 27.50 at Line Street in Moscow. The exemption was subject to historic preservation, environmental, and standard employee protective conditions.

The NITU authorized a 180-day period for Whitman County and the cities of Moscow and Pullman to negotiate an interim trail use/rail banking agreement with BMR.¹ Shortly after the NITU was issued, BMR reached an interim trail use agreement with the City of Moscow for a 1.27-mile segment between milepost 26.23 at the Washington/Idaho state line and milepost 27.50 at Line Street in Moscow. BMR also reached a separate interim trail use agreement with the City of Pullman and Whitman County for a 6.18-mile segment.

On April 25, 2005, Palouse River & Coulee City Railroad, Inc. (PRCC), successor in interest to BMR,² filed a petition to partially vacate the NITU to permit PRCC to reactivate rail service on a 0.75-mile segment of the rail line rail banked in this proceeding pursuant to BMR's interim trail use agreement with the City of Moscow. PRCC states that it currently operates over a rail line that is immediately adjacent to the University of Idaho, a public corporation and state educational institution. According to PRCC, it recently entered into a conditional agreement

¹ BMR retained two segments of the line, between milepost 19.30 and milepost 19.75 at Pullman and between milepost 25.50 and milepost 26.10 near Moscow, for use in serving the two local shippers on the line, Washington State University and The McGregor Company.

² See Watco Company, Inc., South Kansas and Oklahoma Railroad Company, Palouse River & Coulee City Railroad, Inc., Southeast Kansas Railroad Company, and Blue Mountain Railroad, Inc.–Corporate Family Transaction Exemption, STB Finance Docket No. 33898, (STB served July 24, 2000).

with the Regents of the University of Idaho (University) whereby the parties will be exchanging certain properties and easements to enable PRCC to relocate a short segment of its rail line in Moscow further away from the University. PRCC states that, in order to facilitate the exchange and ensure that there are no service disruptions on its line, the City of Moscow has agreed to reconvey to PRCC the 0.75-mile segment of the right-of-way located between milepost 26.75 and milepost 27.50 that was rail banked in this proceeding. The University in turn, will grant the City an easement over its adjacent property so that the trail can be relocated. According to PRCC, the agreement between it and the University is contingent upon the Board's approval of its petition, since the relocation of PRCC's existing line to the rail banked segment is essential to the overall project.

PRCC indicates that the relocation project will not affect service to shippers nor will the construction of the new track involve expansion into new territory. The new track will parallel and be located only a very short distance from the existing track. PRCC also indicates that operations will be conducted in the same manner as today, that there will be no competitive issues, and its revenues and operating expenses will not be impacted. In these circumstances, PRCC states that the Board does not have jurisdiction over the abandonment or construction components of this relocation project. See City of Detroit v. Canadian National Ry. Co., et al., 9 I.C.C.2d 1208 (1993), aff'd sub nom. Detroit/Wayne County Port Authority v. ICC, 59 F.3rd 1314 (D.C. Cir. 1995).

PRCC has complied with the requirements of 49 CFR 1152.29(d)(3) regarding a request to vacate the NITU. Therefore, this proceeding will be reopened and the partial vacation of the NITU will be granted.³ Additionally, no authority under 49 U.S.C. 10901 is required here to reactivate rail service over the rail banked line, because the successor to the carrier that sought abandonment authority for the rail line is the carrier seeking to restore service over the line. See Georgia Great Southern Division, South Carolina Central Railroad, Co., Inc.—Abandonment and Discontinuance Exemption—Between Albany and Dawson, in Terrell, Lee, and Dougherty Counties, GA, STB Docket No. AB-389 (Sub-No. 1X) (STB served May 16, 2003), petition for reconsideration denied (STB served Feb. 2, 2004), and cases cited therein.

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

It is ordered:

1. This proceeding is reopened.

³ While PRCC appears to be correct that Board authority is not needed for the proposed line relocation project, this decision is limited to partially vacating the NITU as specifically sought in PRCC's petition.

2. The NITU served on March 4, 1997, is vacated with respect to the 0.75-mile line segment between milepost 26.75 and milepost 27.50 in Moscow, IA.

3. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary