

41184

SERVICE DATE – NOVEMBER 4, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35437]

Georges Creek Railway, LLC–Operation Exemption–in Allegany County, Md.

Georges Creek Railway, LLC (Georges Creek), a noncarrier, has filed a verified notice of exemption under 49 CFR § 1150.31 to operate an 8.54-mile line of railroad between milepost BAI 27.0 near Morrison and milepost BAI 18.46 at the end of the track near Carlos, in Allegany County, Md., (the Line).¹

This transaction is related to two simultaneously filed notices of exemption:

(1) Docket No. FD 35438, Eighteen Thirty Group, LLC–Acquisition Exemption–in Allegany County, Md., in which Eighteen Thirty Group, LLC (Eighteen Thirty), seeks an exemption under 49 C.F.R. § 1150.31 to acquire the Line pursuant to its agreement with Mark J. Friedman, Chapter 7 Trustee of the Bankruptcy Estate of James Riffin; and

(2) Docket No. FD 35436, Duncan Smith and Gerald Altizer–Continuance in Control Exemption–Eighteen Thirty Group, LLC and Georges Creek Railway, LLC, in which Duncan Smith and Gerald Altizer, the owners of Eighteen Thirty and Georges Creek,

¹ The Board authorized abandonment of the Line in CSX Transportation, Inc.–Abandonment Exemption–in Allegany County, Md., No. AB 55 (Sub-No. 659X) (STB served Aug. 25, 2005). By decision served December 14, 2005, WMS, LLC (WMS) was authorized to acquire the Line pursuant to the Board’s offer of financial assistance (OFA) provisions at 49 U.S.C. § 10904 and 49 C.F.R. § 1152.27, and by decision served August 18, 2006, James Riffin was substituted as the acquiring entity in lieu of WMS.

(Continued . . .)

seek an exemption to continue in control of Eighteen Thirty and Georges Creek upon their becoming Class III rail carriers.

This transaction is also related to a petition simultaneously filed by Eighteen Thirty in Docket No. AB 55 (Sub-No. 659X), CSX Transportation, Inc.–Abandonment Exemption–in Allegany County, Md., seeking an exemption under 49 U.S.C. § 10502 from the OFA requirements of 49 U.S.C. § 10904(f)(4)(A). The latter provision forbids an entity that has acquired a rail line under the OFA process from transferring that line to any entity other than the abandoning rail carrier from which it was originally purchased prior to the end of the fifth year after consummation of the sale.²

Georges Creek states that it intends to consummate this transaction once the bankruptcy court approves Eighteen Thirty’s purchase agreement, but no sooner than November 18, 2010, the effective date of the exemption (30 days after this exemption was filed).³

Georges Creek certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier and will not exceed \$5 million annually.

(Continued . . .)

² Eighteen Thirty has attached a letter from CSXT stating that it issued the deed for the sale of the Line on July 10, 2006, but that it will not exercise its statutory right to reacquire the Line and that it waives its rights under the statute.

³ Georges Creek states that approval by the bankruptcy court of Eighteen Thirty’s purchase agreement could take up to 60 days.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than November 10, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to FD 35437, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D. Heffner, John D. Heffner, PLLC, 1750 K Street, N.W., Suite 200, Washington, DC 20006.

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

Decided: November 1, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.