

Dated: September 25, 2018.

**Jeff Herzig,**

*Clearance Clerk.*

[FR Doc. 2018–21138 Filed 9–27–18; 8:45 am]

BILLING CODE 4915–01–P

## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36218; Docket No. FD 36219]

### **Gregory B. Cundiff, Connie Cundiff, CGX, Inc. and Ironhorse Resources, Inc.—Continuance in Control Exemption—San Pedro Valley Holdings, LLC in Cochise County, Ariz.; Gregory B. Cundiff, Connie Cundiff, CGX, Inc. and Ironhorse Resources, Inc.—Continuance in Control Exemption—San Pedro Valley Railroad, LLC in Cochise County, Ariz.**

In Docket No. FD 36218, Gregory B. Cundiff, Connie Cundiff, CGX, Inc. (CGX), and Ironhorse Resources, Inc. (IHR),<sup>1</sup> (collectively, applicants) filed a verified notice of exemption under 49 CFR 1180.2(d)(2) for CGX to continue in control of San Pedro Valley Holdings, LLC (SPVH), upon SPVH's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in *San Pedro Valley Holdings, LLC—Acquisition Exemption—San Pedro & Southwestern Railroad in Cochise County, Ariz.*, Docket No. FD 36216. In that proceeding, SPVH seeks an exemption under 49 CFR 1150.31 to acquire two rail lines owned by the San Pedro and Southwestern Railroad Company: (1) From point of connection to Union Pacific Railroad (UP) at milepost 1033.25 at or near Benson, to milepost 1040.15 at or near St. David, a distance of 6.9 miles in Cochise County, Ariz.; and (2) from point of connection to UP at milepost 1074 at or near Wilcox, to all tracks at Wilcox Yard, a total of 8,281 feet or 1.57 miles, in Cochise County (collectively, the Lines). The Lines total approximately 8.47 miles.

In Docket No. FD 36219, applicants filed a verified notice of exemption under 49 CFR 1180.2(d)(2) for IHR to continue in control of San Pedro Valley Railroad, LLC (SPVR), upon SPVR's becoming a Class III rail carrier. This transaction is related to a concurrently filed verified notice of exemption in *San Pedro Valley Railroad—Operator Exemption—San Pedro Valley Holdings, LLC in Cochise County, Ariz.*, Docket

No. FD 36217, in which SPVR seeks an exemption under 49 CFR 1150.31 to assume operations over the Lines.

According to applicants, CGX will continue in control of SPVH upon SPVH's becoming a Class III rail carrier and will remain in control of the following Class III carriers: Crystal City Railroad, Inc.; Lone Star Railroad, Inc.; Rio Valley Railroad, Inc.; and Mississippi Tennessee Holdings, Inc. Applicants state that IHR will continue in control of SPVR upon SPVR's becoming a Class III rail carrier and will remain in control of the following Class III carriers: Texas Railroad Switching, Inc.; Rio Valley Switching Company; Mississippi Tennessee Railroad, LLC; Southern Switching Company; Gardendale Railroad, Inc.; Caney Fork & Western Railroad; and Santa Teresa Southern Railroad.

The earliest these transactions may be consummated is October 17, 2018, the effective date of the exemptions (30 days after the verified notices were filed).<sup>2</sup> CGX and IHR state that they intend to consummate the transactions no sooner than 30 days after the filing of the notices of exemption.

Applicants state that: (1) The properties to be acquired by SPVH and operated by SPVR, and the properties of the rail carriers controlled by CGX and IHR do not connect with each other; (2) the proposed continuances in control are not part of a series of anticipated transactions that would connect the carriers with each other or any railroad in their corporate families; and (3) the transactions do not involve a Class I rail carrier. Therefore, the transactions are exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under Sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

If the notices contain false or misleading information, the exemptions are void ab initio. Petitions to revoke the exemptions under 49 U.S.C. 10502(d) may be filed at any time. The filing of

<sup>2</sup> The verified notices of exemption in Docket Nos. FD 36218 and FD 36219 originally were filed on August 30, 2018, but were supplemented on September 17, 2018, to clarify the common control of the entities involved in the transactions. Therefore, September 17 is deemed the verified notices' filing date.

a petition to revoke will not automatically stay the effectiveness of the exemptions. Petitions for stay must be filed no later than October 10, 2018 (at least seven days before the exemptions become effective).

An original and 10 copies of all pleadings, referring to Docket Nos. FD 36218 and FD 36219, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on the applicants' counsel, Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604–1228.

According to applicants, these actions are categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting under 49 CFR 1105.8(b).

Board decisions and notices are available on our website at [www.stb.gov](http://www.stb.gov).

Decided: September 25, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2018–21184 Filed 9–27–18; 8:45 am]

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## SURFACE TRANSPORTATION BOARD

[Docket No. AB 1261]

### **New York State Department of Environmental Conservation—Adverse Abandonment—Saratoga and North Creek Railway in Town of Johnsburg, NY**

On September 10, 2018, the New York State Department of Environmental Conservation (the Department) filed an application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (the Board) authorize the third-party, or adverse, abandonment of Saratoga and North Creek Railway (SNCR) over approximately 29.71 miles of rail line extending between milepost NC 0.0 at North Creek, NY, and its terminus at milepost NC 29.71 near the former Tahawus Mine (Tahawus Line or the Line). The Line traverses United States Postal Service Zip Codes 12842, 12843, 12851, 12852, 12853, and 12857.

According to the Department, the Line was built by the United States during the Second World War to facilitate the transportation of strategic materials from a former mine owned and operated by NL Industries. In 2012, SNCR obtained Board authority to operate over the Tahawus Line, which it had purchased from NL Industries the year

<sup>1</sup> CGX, a noncarrier holding company, owns IHR—also a noncarrier holding company. CGX is owned in equal parts by the Gregory B. Cundiff Trust and the Connie Cundiff Trust, both of which are noncarrier individual trusts.

before. *See Saratoga & N. Creek Ry.—Operation Exemption—Tahawus Line*, FD 35631 (STB served June 1, 2012). According to the Department, since obtaining Board authority, SNCR has moved at most a few carloads of industrial garnet as well as carloads of ballast purchased by SNCR for its own use. The Department further claims that there is currently no freight service on the Line and there are only two potential shippers. The Department states that SNCR has resorted to using the right-of-way, which runs through the state-owned Forest Preserve within New York's Adirondack Park, as a storage facility for obsolete railcars. The Department states that it is seeking an adverse abandonment to protect the Forest Preserve.

In a decision served on February 27, 2018, the Department was granted exemptions from several statutory provisions as well as waivers of certain Board regulations that were not relevant to its adverse discontinuance application or that sought information not available to the Department.

According to the Department, there is no documentation in its possession that indicates that the Line contains federally granted rights-of-way. Any documentation in the Department's possession will be made available promptly to those requesting it. The Department's entire case-in-chief for adverse abandonment was filed with the application.

The Department states that the interests of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

Any interested person may file written comments concerning the proposed adverse abandonment or protests (including protestant's entire opposition case) by October 25, 2018. Persons who may oppose the proposed adverse abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons opposing the proposed adverse abandonment who wish to participate actively and fully in the process should file a protest, observing the filing, service, and content requirements of 49 CFR 1152.25. The Department's reply is due by November 9, 2018.

All filings in response to this notice must refer to Docket No. AB 1261 and must be sent to: (1) Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001; and (2)

Joshua M. Tallent, New York State Office of the Attorney General, Environmental Protection Bureau, The Capitol, Albany, NY 12224-0341.

Any request for an interim trail use/railbanking condition under 16 U.S.C. 1247(d) and 49 CFR 1152.29 must be filed by October 25, 2018, and should address whether the issuance of a certificate of interim trail use in this case would be consistent with the grant of an adverse abandonment application. Each trail use request must be accompanied by a \$300 filing fee. *See* 49 CFR 1002.2(f)(27).

Filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's "www.stb.gov" website, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send the original and 10 copies of the filing to the Board with a certificate of service. Except as otherwise set forth in 49 CFR pt. 1152, every document filed with the Board must be served on all parties to this adverse abandonment proceeding. 49 CFR 1104.12(a).

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Board's Office of Environmental Analysis (OEA) will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact OEA by phone at the number listed below. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment regulations at 49 CFR pt. 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our website at [www.stb.gov](http://www.stb.gov).

Decided: September 25, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Aretha Laws-Byrum,**  
Clearance Clerk.

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## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36216]

### San Pedro Valley Holdings, LLC—Acquisition Exemption—San Pedro and Southwestern Railroad Company in Cochise County, Ariz.

San Pedro Valley Holdings, LLC (SPVH), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire two rail lines owned by the San Pedro and Southwestern Railroad Company: (1) From point of connection to Union Pacific Railroad (UP) at milepost 1033.25 at or near Benson, to milepost 1040.15 at or near St. David, a distance of 6.9 miles in Cochise County, Ariz.; and (2) from point of connection to UP at milepost 1074 at or near Wilcox, to all tracks at Wilcox Yard, a total of 8,281 feet or 1.57 miles, in Cochise County (collectively, the Lines). The Lines total approximately 8.47 miles.

This transaction is related to a concurrently filed verified notice of exemption in *Gregory B. Cundiff—Continuance in Control Exemption—San Pedro Valley Holdings, LLC in Cochise County, Ariz.*, Docket No. FD 36218, in which CGX, Inc., seeks Board approval to continue in control of SPVH upon SPVH's becoming a Class III rail carrier.

SPVH certifies that, as a result of the proposed transaction, its projected annual revenues will not result in its becoming a Class I or Class II rail carrier and will not exceed \$5 million. SPVH also certifies that the proposed transaction does not involve any interchange commitments as defined in 49 CFR 1150.43(h).

The earliest this transaction may be consummated is October 17, 2018, the effective date of the exemption (30 days after the verified notice was filed).<sup>1</sup> SPVH states that it intends to consummate the transaction no sooner than 30 days after the filing of this notice of exemption.

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

<sup>1</sup> SPVH filed its verified notice of exemption on August 30, 2018. On September 17, 2018, however, SPVH supplemented its verified notice to clarify references to Docket No. FD 36218. Therefore, September 17, 2018, is deemed the verified notice's filing date.