

ENTERED
Office of Proceedings
August 29, 2024
Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36808
GEORGES CREEK DIVISION RAILROAD, LLC
— LEASE AND OPERATION EXEMPTION —
EIGHTEEN THIRTY GROUP, LLC

**VERIFIED NOTICE OF EXEMPTION OF
GEORGES CREEK DIVISION RAILROAD LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
rwimbish@fletcher-sippel.com
(312) 252-1500

**ATTORNEY FOR GEORGES CREEK
DIVISION RAILROAD, LLC**

**FILED
August 29, 2024
SURFACE
TRANSPORTATION BOARD**

Dated: August 29, 2024

**FEE RECEIVED
August 29, 2024
SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36808

GEORGES CREEK DIVISION RAILROAD, LLC
— LEASE AND OPERATION EXEMPTION —
EIGHTEEN THIRTY GROUP, LLC

**VERIFIED NOTICE OF EXEMPTION OF
GEORGES CREEK DIVISION RAILROAD, LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Georges Creek Division Railroad LLC (“GCDR”), a non-carrier, hereby files this notice of exemption under 49 C.F.R. part 1150, subpart D, for authorization to acquire by lease, and to conduct common carrier operations over, certain railroad lines (the “Lines”) located in Maryland as described below. In so doing, GCDR will, upon transaction consummation, assume a common carrier status on the Lines.

In accordance with the requirements of 49 C.F.R. § 1150.33, GCDR submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.33(a)

The full name and address of the applicant herein is as follows:

Georges Creek Division Railroad, LLC
13 Canal Street, 2nd Floor
Cumberland, MD 21502

Applicant's Representative: 49 C.F.R. § 1150.33(b)

GCDR's representative to whom correspondence regarding this transaction should be sent is as follows:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
rwimbish@fletcher-sippel.com
(312) 252-1504

Statement Concerning Agreement: 49 C.F.R. § 1150.33(c)

GCDR and the Lines' owner, Eighteen Thirty Group, LLC ("Eighteen Thirty"), are finalizing terms of a "Land and Rail Assets Lease Agreement" (the "Agreement") pursuant to which GCDR will assume a leasehold interest in the long-inactive Lines. Western Maryland Scenic Railroad Development Corporation ("WMSR"), a non-carrier, controls GCDR. Further, GCDR was created for the specific purpose of assuming a common carrier status on the Lines as is required of GCDR under the terms of the Agreement. In the interest of full disclosure, the principal objective of the present transaction is to enable WMSR to expand its intrastate excursion and railroad tourism offerings in the region by adding the Lines to its portfolio. For that reason, the Agreement permits GCDR to enter into a sublease agreement with WMSR beyond the scope of the Board's jurisdiction pursuant to which WMSR would assume all rights and obligations in the Lines under the lease *except* for (as applicable) the right and obligation to offer and to provide railroad common carrier service, which GCDR would retain.

Operation of the Property: 49 C.F.R. § 1150.33(d)

As applicable, GCDR will offer common carrier service over the Lines upon consummation of the proposed transaction, on or after the effective date of this exemption.

Summary of the Transaction: 49 C.F.R. § 1150.33(e)

As applicable here, GCDR¹ is invoking the subject class exemption procedures to lease from Eighteen Thirty,² and to conduct common carrier operations (as applicable) over, the Lines, which are as follows (comprising a total of 14.49 route miles): (a) roughly 13.94 miles of railroad line consisting of a portion of the former CSXT Transportation, Inc. (“CSXT”) Georges Creek Subdivision between approximately Milepost BAI 31.6 at Westernport, Maryland, and approximately Milepost BAI 18.46 at the end of the line at Carlos/Shaft, Maryland; and (b) roughly 0.55 miles of railroad consisting of a portion of the former CSXT Thomas Subdivision from approximately Milepost BAH 26.25 at Barton, Maryland, to the end of track at approximately Milepost BAH 26.80 at Westernport, Maryland.³

¹ GCDR is currently not affiliated with, and is not under common control with, any railroad common carriers.

² Eighteen Thirty’s business address is 10706 Beaver Dam Road, Cockeyville, MD 21030-2207.

³ Eighteen Thirty Acquired the Lines (all long inactive) via two separate Board-authorized transactions. *See Eighteen Thirty Group, LLC – Acquisition Exemption – Lines of CSX Transportation, Inc.*, FD 35927 (STB served May 15, 2015); *CSX Transportation, Inc. – Abandonment Exemption – In Allegany County, Md.*, AB-55 (Sub-No. 659X) (STB served Dec. 30, 2010); and *Eighteen Thirty Group, LLC – Acquisition Exemption – In Allegany County, Md.*, FD

Map: 49 C.F.R. § 1150.33(f)

A map showing the Lines and indicating the area served is attached as Exhibit A.

Certification: 49 C.F.R. § 1150.33(g)

GCDR's projected annual revenue will not result in the creation of a Class II or Class I rail carrier under the provisions of 49 C.F.R. § 1201 (1-1). A Certificate complying with the provisions of 49 C.F.R. § 1150.33(g) is attached.

Interchange Commitments: 49 C.F.R. § 1150.33(h)

The Agreement governing this transaction does not contractually limit GCDR from interchanging of traffic with any connecting carrier. See Certification and Verification (attached). As matters now stand, GCDR's only interline

35438 (STB served Nov. 4, 2010). Subsequently, Eighteen Thirty sought and obtained Board authorization to abandon a roughly 7.54-mile portion of the Lines (the "Segment" – between Milepost BAI 26.0 at Moscow, Maryland and milepost BAI 18.46 at Shaft/Carlos) in *Eighteen Thirty Group, LLC – Abandonment Exemption – In Allegany County, Md.*, AB-1293X, *et al.* (STB served Feb. 21, 2020). Although Eighteen Thirty has been relieved of any common carrier obligations on the Segment, it has not consummated abandonment of it, and GCDR will assume a leasehold interest in the Lines subject to applicable Board regulatory jurisdiction and oversight. *Cf. The Alabama Great Southern Railroad Company – Discontinuance Exemption – In Saint Bernard Parish, LA*, AB-290 (Sub-No. 323X), slip op. at 1 (abandonment authority includes, implicitly, discontinuance authority); *Grand Elk Railroad, Inc. – Acquisition Exemption – Lines of Wisconsin Central Ltd. in the State of Michigan*, FD 36503, *et al.* (STB served Dec. 20, 2021) (permitting the use of the Board's class exemption procedures for transactions under 49 C.F.R. part 1150 involving lines authorized for common carrier service discontinuance).

connection is with CSXT.

Advance Notice: 49 C.F.R. § 1150.32(e)

GCDR's projected annual revenue is not expected to exceed \$5 million, and, accordingly, the advance notice requirements of 49 C.F.R. § 1150.32(e) are not applicable to this transaction. See Certification and Verification (attached).

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

Under 49 C.F.R. § 1105.6(c)(2), the proposed lease and operation of the Line is exempt from environmental reporting requirements. GCDR's common carrier operations would not result in significant changes in carrier operations, *i.e.*, changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), GCDR's proposed operation of the Line also is exempt from historic preservation reporting requirements, as the proposed change of operators is not expected to impact historic structures along the Line that are 50 years old or older.

Caption Summary: 49 C.F.R. § 1150.34

A caption summary in appropriate form is attached as Exhibit B.

Respectfully submitted,

By: /s/ *R. A. Wimbish*

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
rwimbish@fletcher-sippel.com
(312) 252-1500

**ATTORNEY FOR GEORGES CREEK
DIVISION RAILROAD, LLC**

Dated: August 29, 2024

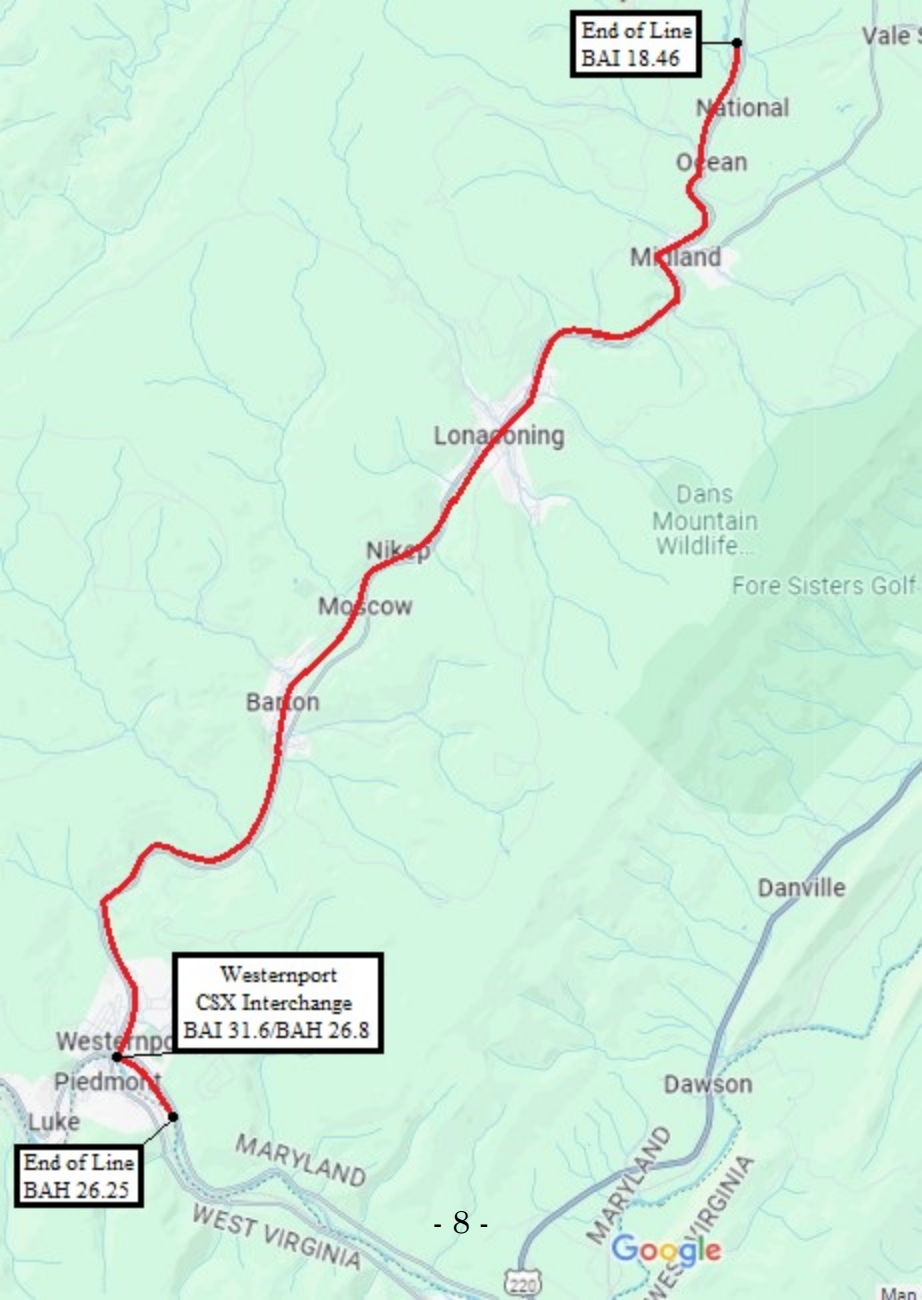
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36808

**GEORGES CREEK DIVISION RAILROAD, LLC
— LEASE AND OPERATION EXEMPTION —
EIGHTEEN THIRTY GROUP, LLC**

EXHIBIT A

MAP



End of Line
BAI 18.46

Westernport
CSX Interchange
BAI 31.6/BAH 26.8

End of Line
BAH 26.25

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36808

**GEORGES CREEK DIVISION RAILROAD, LLC
— LEASE AND OPERATION EXEMPTION —
EIGHTEEN THIRTY GROUP, LLC**

EXHIBIT B

DRAFT FEDERAL REGISTER NOTICE

SURFACE TRANSPORTATION BOARD
NOTICE OF EXEMPTION

FD 36808

GEORGES CREEK DIVISION RAILROAD, LLC
— LEASE AND OPERATION EXEMPTION —
EIGHTEEN THIRTY GROUP, LLC

Georges Creek Division Railroad, LLC (“GCDR”), a non-carrier, has filed a Verified Notice of Exemption under 49 C.F.R. part 1150, subpart D, to lease and conduct common carrier operations over approximately 14.49 route miles of rail line as follows: (a) roughly 13.94 miles of railroad line consisting of a portion of the former CSXT Transportation, Inc. (“CSXT”) Georges Creek Subdivision between approximately Milepost BAI 31.6 at Westernport, Maryland, and approximately Milepost BAI 18.46 at the end of the line at Carlos/Shaft, Maryland; and (b) roughly 0.55 miles of railroad consisting of a portion of the former CSXT Thomas Subdivision from approximately Milepost BAH 26.25 at Barton, Maryland to the end of track at approximately Milepost BAH 26.80 at Westernport, Maryland.

GCDR expects to consummate the proposed lease transaction on or shortly after the effective date of this exemption.

Comments must be filed with the Board and served on:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
rwimbish@fletcher-sippel.com
(312) 252-1500

This Notice is filed under 49 C.F.R. § 1150.31. If this 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 transaction.

Dated: September __, 2024

By the Board

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36808

**GEORGES CREEK DIVISION RAILROAD, LLC
— LEASE AND OPERATION EXEMPTION —
EIGHTEEN THIRTY GROUP, LLC**

CERTIFICATION AND VERIFICATION

CERTIFICATION AND VERIFICATION

I, David Wesley Heinz, General Manager of Georges Creek Division Railroad LLC (“GCDR”), hereby certify that – (a) the projected annual rail revenue of GCDR is not projected to exceed \$5 million; (b) the same projected annual revenue will not result in the creation of a Class II or Class I rail carrier under the provisions of 49 C.F.R. § 1201 (1-1); and (c) the agreements governing this transaction would not contractually limit GCDR from interchanging of traffic with any connecting carrier

In addition, I hereby verify that – (a) I have read the foregoing notice of exemption, know the facts asserted therein, and that the same are true as stated to the best of my knowledge, information, and belief; and (b) I am authorized to make this verification on behalf of GCDR.

David Wesley Heinz

David Wesley Heinz

Dated: August 29, 2024