

**Hearing Process Information**

Written comments, for inclusion in the hearing record, from those unable to attend the hearing or wishing to supplement their oral presentation should be received at the Bureau of Reclamation by September 6, 1995.

**Note:** If special assistance is required, contact Mona Jefferies-Soniea at (916) 979-2297. Please notify Ms. Jefferies-Soniea as far in advance of the hearings as possible and not later than 1 week prior to the hearing date to enable Reclamation to secure the needed services. If a request cannot be honored, the requester will be notified.

Dated: July 28, 1995.

**Dan M. Fults,**

*Acting Regional Director.*

[FR Doc. 95-19213 Filed 8-3-95; 8:45 am]

BILLING CODE 4310-94-P

**INTERSTATE COMMERCE COMMISSION**

[Docket No. AB-6 (Sub-No. 366X)]

**Burlington Northern Railroad Company; Abandonment Exemption; in Buchanan County, MO**

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR part 1152 Subpart F—Exempt Abandonments to abandon 0.85 miles of rail line between milepost 142.19 and milepost 143.04 in the City of St. Joseph, in Buchanan County, MO.

BN has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 3, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR

1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29<sup>3</sup> must be filed by August 14, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 24, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Sarah J. Whitley, Assistant General Counsel, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102-5348.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

BN has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by August 9, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 28, 1995.

<sup>1</sup> A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

<sup>2</sup> See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

<sup>3</sup> The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 95-19226 Filed 8-3-95; 8:45 am]

BILLING CODE 7035-01-P

[Docket No. AB-449 (Sub-No. 1X)]

**Western Kentucky Railway, L.L.C.—Abandonment Exemption—in Union County, KY**

Western Kentucky Railway, L.L.C. (WKR), has filed a notice of exemption under 49 CFR Part 1152 Subpart F—Exempt Abandonments to abandon 20 miles of its line between milepost JE48.0 north of Dekoven, and milepost JE28.0 at Waverly, in Union County, KY.

WKR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic that could move over the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 2, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to

<sup>1</sup> A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made before the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the

file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29<sup>3</sup> must be filed by August 14, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 23, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Ave., N.W., Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Kelvin J. Dowd, Esq., Slover & Loftus, 1224 17th St., N.W., Washington, D.C. 20036.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

WKR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by August 8, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 28, 1995.

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

**Vernon A. Williams,**  
Secretary.

[FR Doc. 95-19227 Filed 8-3-95; 8:45 am]

BILLING CODE FR-7035-01-P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 94-16]

#### **Barnett J.W. Grier, Jr., M.D., Revocation of Registration**

On November 1, 1993, the Deputy Assistant Administrator (then-Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Barnett J.W. Grier, Jr., M.D. of Beverly

Hills, California (Respondent), proposing to revoke his DEA Certificate of Registration, BG2764226, and deny any pending applications for registration as a practitioner. The statutory basis for the Order to Show Cause was that the continued registration of Respondent was inconsistent with the public interest and that Respondent was no longer authorized to handle controlled substances in the State of California. 21 U.S.C. 823(f) and 824(a) (3) and (4).

On December 9, 1993, Respondent requested a hearing and the proceeding was docketed before Administrative Law Judge Mary Ellen Bittner. Following filing of prehearing statements by both parties, the Government filed a motion for summary disposition on November 30, 1994. No response was filed by Respondent. No evidentiary hearing was held as there were no factual issues involved, only a question of law. The administrative law judge issued her opinion and recommended decision on December 23, 1994. No exception were filed by either party.

On January 23, 1995, the administrative law judge transmitted the record of the proceeding to the Deputy Administrator. After careful consideration of the record in its entirety, the Deputy Administrator enters his final order in this matter, in accordance with 21 CFR 1316.67, based on conclusions of law and facts contained in the record which were not disputed, as set forth herein.

On October 24, 1987, the California Medical Board suspended Respondent's state medical license for ninety days and placed him on probation for eight years upon a finding that Respondent failed to supervise a physician's assistant and that such failure constituted an extreme departure from the Standard of medical practice in Southern California. On May 13, 1991, Respondent falsified an application for a new DEA Certificate of Registration by answering "no" to the liability question concerning revocation, suspension, denial, restriction, or probation of state professional license or controlled substance registration.

On October 2, 1992, the California Medical Board petitioned to revoke Respondent's probation because he had violated the terms of his probation by issuing numerous prescriptions for controlled substances, including Promethazine with codeine, Emperin with codeine, Tylenol #3 with codeine, and Phenergan with codeine for other than a legitimate medical purpose. The California Medical Board also found that Respondent had prescribed,

dispensed or furnished dangerous drugs without a good faith prior medical examination; and submitted Quarterly Reports, executed under penalty of perjury, falsely reporting compliance with both Federal and State laws. On February 29, 1993, Respondent pled *nolo contendere* in absentia to six counts of state criminal charges involving controlled substances. On August 3, 1993, the California Medical Board revoked Respondent's license to practice medicine in the State of California effective September 3, 1993.

On October 14, 1992, Respondent requested a modification of his DEA registration from California to Georgia. On November 3, 1994, the Georgia Composite State Board of Medical Examiners revoked Respondent's license to practice medicine in the State of Georgia. Respondent does not deny that he is not licensed in California or Georgia.

DEA has consistently held that it does not have statutory authority under the Controlled Substances Act to register a practitioner unless that practitioner is authorized to dispense controlled substances by the state in which he proposes to practice. *See Lawrence R. Alexander, M.D.*, 57 FR 22256 (1992); *Bobby Watts, M.D.*, 53 FR 11919 (1988); *Robert F. Witek, D.D.S.*, 52 FR 4770 (1987). In such cases, a motion for summary disposition is properly entertained. There is no need for a plenary evidentiary hearing since there are no questions of fact to be resolved by such a hearing. *Phillip E. Kirk, M.D.*, 48 FR 32887 (1983), *aff'd sub nom, Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984); *Floyd A. Santner, M.D.*, 47 FR 51831 (1982). Therefore, because Respondent is no longer authorized to handle controlled substances in the State of California or the State of Georgia, the states in which Respondent proposes to practice, the Deputy Administrator cannot permit him to maintain a DEA Certificate of Registration in either state.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BG2764226, previously issued to Barnett J.W. Grier, Jr., M.D., be, and it is hereby, revoked, and any pending application for renewal of such registration be, and they hereby are, denied, and that any request for modification be, and it hereby is, denied. This order is effective September 5, 1995.

Commission to review and act on the request before the effective date of this exemption.

<sup>2</sup>See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

<sup>3</sup>The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.