

exemption process, on the transportation merits of a project presenting serious questions like those raised here without more thoroughly evaluating those issues. The record in this proceeding on the overall financial viability of the project is significantly underdeveloped. Neither I nor the Board majority should be required to rely on reports in the media, which I have highlighted above, or on feasibility studies with all relevant data redacted, to make such an important decision on whether to approve construction of a rail line costing over a billion dollars through an environmentally sensitive area.

Rather than determining at this time that the Coalition's petition is ripe for decision, even preliminarily and piecemeal, the Board should require the Coalition to submit a complete and unredacted version of the R.L. Banks study, should insist that the Coalition elaborate on the projected demand for Uinta Basin oil in light of the global oil demand issues that have arisen since that study was completed, as discussed above, and should obtain more detail from the Coalition and DHIP Group on the reality of obtaining the necessary financing for the project, with or without obligating public funds, along with considering further input on these issues from the objectors.

I therefore find it premature for the Board to issue the decision the majority issues today. Though the *Decision* states that it "does not prejudge the Board's final decision, nor diminish the agency's environmental review process concerning the proposed line's construction," *Decision* 10, nevertheless, the far more prudent course of action for the Board here would be to defer any decision on whether an exemption is warranted and on the overall transportation merits until the environmental review process is complete and until the Coalition submits more persuasive evidence on the financial viability of the entire project.

I respectfully dissent.

Jeffrey Herzig,

Clearance Clerk.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2021-0001]

Establishment of an Emergency Relief Docket for Calendar Year 2021

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of establishment of public docket.

SUMMARY: This Notice announces the establishment of FRA's emergency relief docket (ERD) for calendar year 2021. The designated ERD for calendar year 2021 is docket number FRA-2021-0001.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for further information regarding submitting petitions and/or comments to docket number FRA-2021-0001.

SUPPLEMENTARY INFORMATION: On May 19, 2009, FRA published a direct final rule establishing ERDs and the procedures for handling petitions for emergency waivers of safety rules, regulations, or standards during an emergency situation or event. 74 FR 23329. That direct final rule became effective on July 20, 2009 and made minor modifications to 49 CFR 211.45 in FRA's Rules of Practice in 49 CFR part 211. Section 211.45(b) provides that each calendar year FRA will establish an ERD in the publicly accessible DOT docket system (available at www.regulations.gov). Section 211.45(b) further provides that FRA will publish a notice in the **Federal Register** identifying by docket number the ERD for that year. FRA established the ERD and emergency waiver procedures to provide an expedited process for FRA to address the needs of the public and the railroad industry during emergency situations or events. This Notice announces the designated ERD for calendar year 2021 is docket number FRA-2021-0001.

As detailed in § 211.45, if the FRA Administrator determines an emergency event as defined in 49 CFR 211.45(a) has occurred, or that an imminent threat of such an emergency occurring exists, and public safety would benefit from providing the railroad industry with operational relief, the emergency waiver procedures of 49 CFR 211.45 will go into effect.¹ In such an event, the FRA

¹ Given the ongoing nature of the coronavirus disease 2019 (COVID-19) public health emergency, FRA considers the FRA Administrator's March 13, 2020, emergency declaration in docket number FRA-2020-0002 to be in effect until it is specifically rescinded by the Administrator. See [https://www.regulations.gov/document?D=FRA-](https://www.regulations.gov/document?D=FRA-2020-0002-0002)

Administrator will issue a statement in the ERD indicating the emergency waiver procedures are in effect and FRA will make every effort to post the statement on its website at railroads.dot.gov. Any party desiring relief from FRA regulatory requirements as a result of the emergency should submit a petition for emergency waiver under 49 CFR 211.45(e) and (f). Specific instructions for filing petitions for emergency waivers under 49 CFR 211.45 are found at 49 CFR 211.45(f). Specific instructions for filing comments in response to petitions for emergency waivers are at 49 CFR 211.45(h).

Privacy

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.transportation.gov/privacy. See also www.regulations.gov/privacyNotice for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-1999-6439, Notice No. 27]

Adjustment of Nationwide Significant Risk Threshold

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of adjustment of Nationwide Significant Risk Threshold.

SUMMARY: FRA is updating the Nationwide Significant Risk Threshold (NSRT) for purposes of FRA's regulation on the Use of Locomotive Horns at Public Highway-Rail Grade Crossings. This action is needed to ensure the

2020-0002-0002. However, any new requests for relief related to COVID-19 should be submitted to the 2021 ERD (FRA-2021-0001).