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SERVICE DATE – SEPTEMBER 25, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-871X]

State of New Hampshire Department of Transportation—Abandonment Exemption—in  
Belknap County, NH

The State of New Hampshire, Department of Transportation, Bureau of Rail and Transit (NHDOT), has filed an amended notice of exemption<sup>1</sup> under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a portion of rail line known as the Lakeport Spur, in Belknap County, NH, extending from engineering station 1 + 70 to engineering station 11 + 28.11 (on Valuation Section V.21, Map 65-A).<sup>2</sup> The line traverses United States Postal Service Zip Code 03246.

NHDOT has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (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 Surface Transportation Board or with any U.S. District Court or has been decided in

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<sup>1</sup> NHDOT originally filed its notice of exemption on March 14, 2006. After consulting with the Board's Section of Environmental Analysis (SEA), NHDOT filed an amended notice of exemption on September 5, 2006, which became the official filing date.

<sup>2</sup> NHDOT states that, prior to the filing of this notice of exemption, the property was acquired by James R. Irwin, & Sons, Inc., and currently is being used for a commercial boat storage facility and marina.

favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 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. 10502(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 October 25, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>4</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 5, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 16, 2006, with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

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<sup>3</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by SEA in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>4</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to NHDOT's representative: Stephen G. LaBonte, Assistant Attorney General, Office of the Attorney General, 33 Capitol Street, Concord, NH 03301.

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

NHDOT has filed a combined environmental report and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 29, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

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

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NHDOT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NHDOT's filing of a notice of consummation by September 25, 2007, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at

“WWW.STB.DOT.GOV.”

Decided: September 15, 2006.

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

Vernon A. Williams

Secretary