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SERVICE DATE – LATE RELEASE SEPTEMBER 4, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-383 (Sub-No. 5X)

WISCONSIN & SOUTHERN RAILROAD CO. –  
ABANDONMENT EXEMPTION – IN MILWAUKEE COUNTY, WI

Decided: September 4, 2007

Wisconsin & Southern Railroad Co. (WSOR) filed a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon an approximately 2.41-mile line of railroad, extending from milepost 94.35, east of N. 24th Street, to milepost 96.76, west of N. Richards Street, known as the Nut Line, in the cities of Milwaukee and Glendale, in Milwaukee County, WI. Notice of the filing was served and published in the Federal Register on May 21, 2007 (72 FR 28552).

By decision served on August 24, 2007 (August 2007 decision), the Board granted the exemption, subject to the employee protective conditions set forth in Oregon Short Line R. Co.–Abandonment–Goshen, 360 I.C.C. 91 (1979). The exemption authorized by the August 2007 decision is scheduled to become effective on September 23, 2007. By pleading filed on August 24, 2007, WSOR certifies that it has served a copy of the August 2007 decision on Bliffert Northside Lumber (Bliffert), the sole active shipper on the line, as required by the August 2007 decision. Offers of Financial Assistance (OFA) under 49 CFR 1152.27 are due by September 4, 2007, petitions to stay are due by September 10, 2007, and petitions to reopen are due by September 18, 2007.

By motion filed on August 27, 2007, WSOR requests that the Board make the August 2007 decision effective upon service. WSOR states that it seeks to close the sale of a portion of the line to a third party for nonrail use. WSOR wishes the abandonment to become effective immediately so that it can close the sale.

Neither Bliffert nor any other party protested the abandonment. WSOR attached a letter from Bliffert consenting to WSOR's request that the abandonment become effective immediately. WSOR states that it does not know of any party that intends to file an OFA or seek a stay or reopening of the August 2007 decision.

Granting WSOR's motion would effectively exempt WSOR from the OFA requirements of 49 U.S.C. 10904. Exemptions from 49 U.S.C. 10904 have been granted from time to time, provided the right-of-way is needed for a valid public purpose and there is no overriding public need for continued rail service. Here, because the planned sale of part of the line for an unspecified nonrail purpose does not constitute a sufficient reason to foreclose the OFA process,

we will deny WSOR's request to make the abandonment effective before September 4, 2007. However, to allow for early completion of the proposed sale transaction, we will make the August 2007 decision effective on September 7, 2007, and the due date for any petition to stay will be moved up to September 5, 2007.

It is ordered:

1. WSOR's motion will be granted in part.
2. Provided no OFA is filed, this exemption will be effective on September 7, 2007. Petitions to stay must be filed by September 5, 2007, and petitions to reopen must be filed by September 18, 2007.
3. This decision is effective on its date of service.

By the Board, Chairman Nottingham, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams  
Secretary