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SERVICE DATE - APRIL 1, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-55 (Sub-No. 535X)]

CSX Transportation, Inc.--Abandonment Exemption--

in Stark County, OH

[STB Docket No. AB-227 (Sub-No. 6X)]

Wheeling & Lake Erie Railway Company--Discontinuance

of Service Exemption--in Stark County, OH

CSX Transportation, Inc. (CSXT) and Wheeling & Lake Erie Railway Company (W&LE) have filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances for CSXT to abandon and W&LE to discontinue service over approximately 0.7 miles of railroad owned by CSXT and leased to and operated by W&LE between milepost 16.0 and milepost 15.3 in Canton, Stark County, OH.<sup>1</sup>

CSXT and W&LE has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead

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<sup>1</sup> W&LE's lease and operation of CSXT's line between Aultman and Canton, OH, including the line segment involved herein, was exempted by the Interstate Commerce Commission in Wheeling & Lake Erie Railway Company--Lease, Purchase, and Operation Exemption--CSX Transportation, Inc., Finance Docket No. 32083 (ICC served Oct. 15, 1992). At the same time, W&LE purchased an adjoining CSXT line extending south from Canton to Sandyville, OH. Service on the Canton-Sandyville line is not affected by this transaction.

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traffic 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 Surface Transportation Board (Board) or with any U.S. District Court or has been decided in 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 May 1, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an

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<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent

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OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29<sup>4</sup> must be filed by April 11, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 21, 1997, with: Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant representatives: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202 and William C. Sippel, Oppenheimer Wolff & Donnelly, Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60602.

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

CSXT and W&LE have filed an environmental report which addresses the effects of the abandonment and discontinuance, if

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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>3</sup> Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$900. See 49 CFR 1002.2(f)(25).

<sup>4</sup> The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

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any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by April 4, 1997. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1545. 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), CSXT and W&LE shall file a notice of consummation with the Board to signify that they have exercised the authority granted and discontinued service and fully abandoned the line. If consummation has not been effected by CSXT's and W&LE's filing of a notice of consummation by April 1, 1998, and there are no legal or regulatory barriers to consummation, the authority to abandon and discontinue will automatically expire.

Decided: March 25 , 1997.

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

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Vernon A. Williams

Secretary