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SERVICE DATE – APRIL 21, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1017X]

West Shore Railroad Corporation–Abandonment Exemption–in Union and

Northumberland Counties, PA

[STB Docket No. AB-1018X]

Union County Industrial Railroad Company–Discontinuance of Service Exemption–in

Union County, PA

West Shore Railroad Corporation (West Shore) and Union County Industrial Railroad Company (UCIR) (collectively, applicants) have jointly filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances of Service: (1) for West Shore to abandon a line of railroad known as the Mifflinburg Branch, extending from milepost 0.0 at Montandon, in Northumberland County, PA, and extending in a generally westerly direction, crossing the West Branch of the Susquehanna River through Lewisburg to the Borough of Mifflinburg, ending at milepost 11.8 in Union County, PA, and (2) for UCIR to discontinue service in Union County between Lewisburg and Mifflinburg. The line traverses United States Postal Service Zip Codes 17844, 17837, and 17847.

West Shore and UCIR have 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; (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 of 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 these exemptions, any employee adversely affected by the abandonment or discontinuance 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, these exemptions will be effective on May 21, 2008, 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

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<sup>1</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 (SEA) in its independent investigation) cannot be made before the exemptions' 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 exemptions' effective date.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

trail use/rail banking requests under 49 CFR 1152.29 must be filed by May 1, 2008.<sup>3</sup>

Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 12, 2008, with: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representative: Richard R. Wilson, 127 Lexington Ave., Suite 100, Altoona, PA 16601.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

West Shore and UCIR have filed an environmental and historic report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by April 25, 2008. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and

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<sup>3</sup> West Shore states that it has entered into a conditional sale agreement with Lewisburg Area Recreation Authority (LARA) and asks the Board to issue a notice of interim trail use (NITU) now so that the line can be conveyed to LARA pursuant to the NITU. Because LARA has not satisfied the requirements for a NITU set forth at 49 CFR 1152.29 for prospective trail users, the request must be denied. Moreover, even had LARA already met those requirements, any NITU the Board would issue could not take effect until after the offer of financial assistance (OFA) process was allowed to proceed and no OFA purchase or subsidy took place. It is well established that OFAs to acquire rail lines for continued rail service or to subsidize rail operations take priority over interim trail use/rail banking. See, e.g., Mid-Michigan Railroad, Inc.—Abandonment Exemption—In Kent, Ionia, and Moncalm Counties, MI, STB Docket No. AB-364 (Sub-No. 12X) (STB served Apr. 4, 2008). Accordingly, West Shore's suggestion that its trail use proposal here is the type of "valid public purpose" that would effectively "exempt" this proceeding from the OFA procedures at 49 U.S.C. 10904 must be rejected.

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), West Shore 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 West Shore's filing of a notice of consummation by April 21, 2009, 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](http://WWW.STB.DOT.GOV).”

Decided: April 15, 2008.

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

Anne K. Quinlan

Acting Secretary