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SERVICE DATE - JANUARY 24, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33332]

Summit View Incorporated--Continuance in Control Exemption--

The Youngstown Belt Railroad Company

Summit View Incorporated (Summit) has filed a notice of exemption to continue in control of The Youngstown Belt Railroad Company (YBRR), upon YBRR's becoming a Class III rail carrier. The transaction was to have been consummated shortly after December 31, 1996, the effective date of the exemption.

YBRR, a noncarrier, has concurrently filed a notice of exemption in The Youngstown Belt Railroad Company--Lease and Operation Exemption--Warren & Trumbull Railroad Company, STB Finance Docket No. 33333, to lease and operate approximately 12.9 miles of rail line, together with incidental trackage rights, owned by The Warren and Trumbull Railroad Company (WTRC); and (2) to acquire and operate 2.4 miles of connected rail line owned by CSX Transportation, Inc. (CSXT) via simultaneous assignment of WTRC's rights under a Track Lease/Operating Agreement with CSXT, a total of 15.3 miles

of rail line, exclusive of the incidental trackage rights, located in Mahoning and Trumbull Counties, OH.

Summit controls four other nonconnecting Class III rail carriers: the Ohio & Pennsylvania Railroad Company; the Ohio Central Railroad, Inc.; the Ohio Southern Railroad, Inc.; and the Youngstown & Austintown Railroad, Inc.

Summit states that: (1) YBRR will not connect with SKO; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads; and (3) the transaction does not involve a Class I railroad. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III railroad carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33332, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

Decided: January 16, 1997.

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

Vernon A. Williams

Secretary