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SERVICE DATE - OCTOBER 2, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-227 (Sub-No. 11X)]

Wheeling & Lake Erie Railway Company--Abandonment Exemption--

in Harrison and Jefferson Counties, OH

Wheeling & Lake Erie Railway Company (W&LE) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon an approximately 11.4-mile line of railroad on the Georgetown Branch, from milepost 0.0 in Adena to milepost 0.5 at AC&NA Junction and from milepost 0.0 at AC&NA Junction to milepost 10.9 at the former Georgetown Coal Preparation Plant, in Harrison and Jefferson Counties, OH.<sup>1</sup> The line traverses United States Postal Service Zip Codes 43901, 43989, 43981 and 43907.

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

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<sup>1</sup> The 0.5-mile segment of the Georgetown Branch between Adena and AC&NA was formerly the north end of W&LE's Saginaw Branch, which, according to W&LE, was abandoned south of AC&NA Junction in 1993. See The Wheeling & Lake Erie Railway Company--Abandonment Exemption--In Jefferson, Harrison and Belmont Counties, OH, ICC Docket No. AB-227 (Sub-No. 3X) (ICC served Apr. 5, 1993).

(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 November 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 OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 14, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 22, 1997, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

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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 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).

A copy of any petition filed with the Board should be sent to applicant's representative: Thomas J. Litwiler, Oppenheimer Wolff & Donnelly, Two Prudential Plaza, 45<sup>th</sup> Floor, 180 North Stetson Avenue, Chicago, IL 60601.

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

W&LE has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 7, 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), W&LE 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 W&LE's filing of a

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notice of consummation by October 2, 1998, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: September 25, 1997.

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

Vernon A. Williams

Secretary