

# FLETCHER & SIPPEL LLC

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August 24, 2016

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## VIA ELECTRONIC FILING

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W., Room 1034  
Washington, DC 20423-0001

**ENTERED**  
**Office of Proceedings**  
**August 23, 2016**  
**Part of**  
**Public Record**

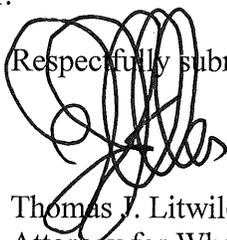
Re: **Docket No. FD 36010**  
**Wheeling & Lake Erie Railway Company -- Operation**  
**Exemption -- Valley Line in Harrison and Jefferson Counties, OH**

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is the **Amendment to Verified Notice of Exemption** of Wheeling & Lake Erie Railway Company, dated August 24, 2016.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,



Thomas J. Litwiler  
Attorney for Wheeling & Lake Erie  
Railway Company

TJL:tl

Attachment

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 36010

WHEELING & LAKE ERIE RAILWAY COMPANY  
-- OPERATION EXEMPTION --  
VALLEY LINE IN HARRISON AND JEFFERSON COUNTIES, OH

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**AMENDMENT TO  
VERIFIED NOTICE OF EXEMPTION**

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Vice President - Law & Government Relations  
Wheeling & Lake Erie Railway Company  
100 East First Street  
Brewster, Ohio 44613-1202  
(330) 767-7250

**ATTORNEYS FOR WHEELING & LAKE ERIE  
RAILWAY COMPANY**

Dated: August 24, 2016

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 36010

WHEELING & LAKE ERIE RAILWAY COMPANY  
-- OPERATION EXEMPTION --  
VALLEY LINE IN HARRISON AND JEFFERSON COUNTIES, OH

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**AMENDMENT TO  
VERIFIED NOTICE OF EXEMPTION**

Wheeling & Lake Erie Railway Company ("W&LE") hereby files this amendment to its previously-submitted Verified Notice of Exemption (the "Notice") seeking authority to resume operations on an abandoned W&LE line in Harrison and Jefferson County, Ohio (the "Valley Line"). This amendment excludes from the scope of the Notice approximately 2.4 miles of trackage on which certain rail assets have been removed. As amended, W&LE's Notice encompasses the operation of approximately 14.6 miles of trackage extending from milepost 188.5 to milepost 189.1 near Unionvale, Ohio and from milepost 191.5 near Adena, Ohio to milepost 205.54 near Warrenton, Ohio.

W&LE abandoned the Valley Line in 2003 pursuant to exemption authority issued by the Board in 1999. Wheeling & Lake Erie Railway Company -- Abandonment Exemption -- In Harrison and Jefferson Counties, OH, Docket No. AB-227 (Sub-No. 9X) (STB served October 19, 1999). In its initial Notice filed herein on July 19, 2016, W&LE sought authority to resume operations on the entire Valley Line, while noting that a short segment of rail had been removed from the line near Adena. Notice at 4, n.1. In a supplemental letter filing dated July 29, 2016, W&LE provided further detail regarding the approximately 9,500 feet of steel rail that had been removed west of Adena.

Trackage on the remainder of the Valley Line has remained in place. Notice at 4; July 29, 2016 Letter at 1. Recent train movements have occurred on a short stub at the western end of the Valley Line, and between Warrenton and Dillonvale on the eastern end of the line. The additional trackage between Dillonvale and Adena is intact.

To eliminate any issue regarding the eligibility of its Notice for the "operation" class exemption of 49 C.F.R. § 1150.31, W&LE deletes the segment of the Valley Line from milepost 189.1 near Unionvale to milepost 191.5 near Adena from the Notice. W&LE will seek appropriate authority from the Board at such time as it may seek to resume operations on that segment.

All other information provided in W&LE's Notice remains unchanged.<sup>1</sup> Attached hereto as revised Exhibits A and C, respectively, are modified versions of the map exhibit and the caption summary required by 49 C.F.R. § 1150.34, reflecting the removal of the Unionvale-Adena segment from the Notice.

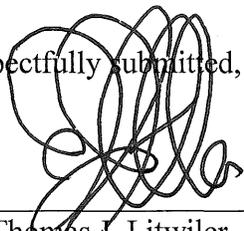
W&LE acknowledges that the filing of this amendment will restart the procedural schedule specified in 49 C.F.R. § 1150.32(b). W&LE's exemption to resume its common carrier status on the 14.6 miles of trackage described above will become effective on September 23, 2016.

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<sup>1</sup> W&LE's Notice, as had the 1999 STB abandonment decision, stated the overall length of the Valley Line as approximately 18 miles. The actual length of the Valley Line is approximately 17 miles, as its mileposts (MP 188.5 to MP 205.54) indicate.

Respectfully submitted,

By:



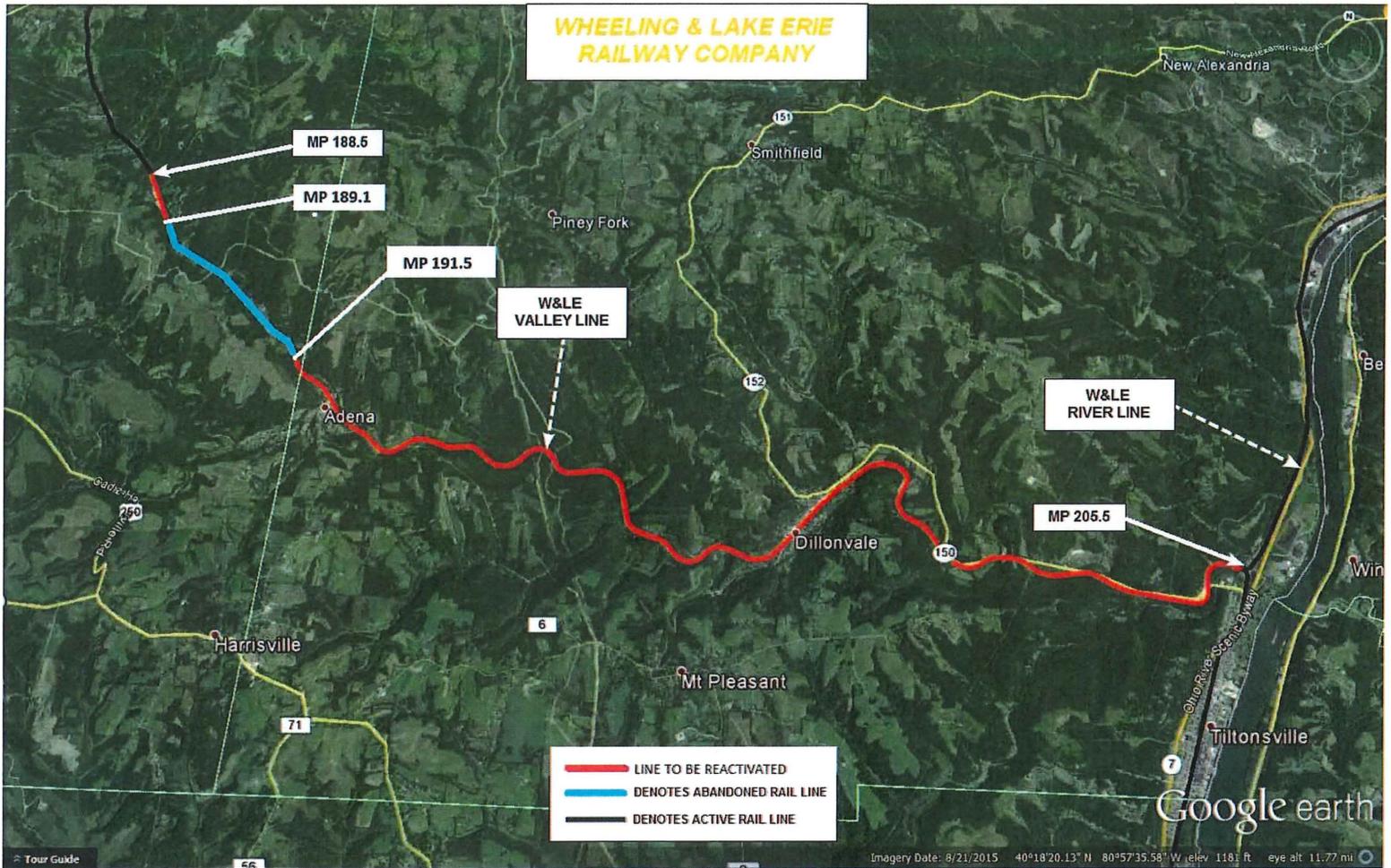
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**ATTORNEYS FOR WHEELING & LAKE ERIE  
RAILWAY COMPANY**

Dated: August 24, 2016



SURFACE TRANSPORTATION BOARD

**NOTICE OF EXEMPTION**

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DOCKET NO. FD 36010

WHEELING & LAKE ERIE RAILWAY COMPANY  
-- OPERATION EXEMPTION --  
VALLEY LINE IN HARRISON AND JEFFERSON COUNTIES, OH

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Wheeling & Lake Erie Railway Company ("W&LE"), a Class II rail carrier, has filed a Verified Notice of Exemption to operate approximately 14.6 miles of previously-abandoned rail line extending from milepost 188.5 to milepost 189.1 near Unionvale and from milepost 191.5 near Adena to milepost 205.54 near Warrenton in Harrison and Jefferson Counties, Ohio (the "Subject Line"). The two segments of the Subject Line are part of a line that was abandoned by W&LE in 2003 pursuant to exemption authority granted by the Board in Docket No. AB-227 (Sub-No. 9X).

W&LE expects to consummate its resumption of common carrier status on the Subject Line on or after September 23, 2016.

Comments must be filed with the Board and served on:

Thomas J. Litwiler  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 920  
Chicago, Illinois 60606-2832  
(312) 252-1500

This Notice is filed under 49 C.F.R. § 1150.31. If the Notice contains false or misleading information, the exemption is void ab initio. 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.

Dated: September \_\_, 2016

By the Board

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings