

Voting Conference, July 27, 2005

Statement of Amy Ziehm  
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Michael H. Meyer, Trustee in Bankruptcy for California Western Railroad, Inc. v. North Coast  
Railroad Authority, d/b/a Northwestern Pacific Railroad  
STB Finance Docket No. 34337

Embraced Case:

General Exemption Authority—Lumber or Wood Products—Petition for Partial Revocation  
STB Ex Parte No. 346 (Sub-No. 25B)

Good morning, Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

The decision submitted for your consideration involves a complaint for damages and a petition for partial revocation of the Board's exemption for rail transportation of lumber or wood products.

Mr. Meyer is the trustee in bankruptcy for California Western Railroad, Inc., which operated a 40-mile line of railroad between Fort Bragg and Willits, CA, from 1996 to 1998, primarily transporting lumber for Georgia Pacific Corporation. California Western connected to the national rail system only at Willits, where it joined a line owned by the North Coast Railroad Authority and leased and operated by the Northwestern Pacific Railroad. On November 25, 1998, the Federal Railroad Administration found unsafe conditions and issued an emergency order requiring Northwestern Pacific to stop operating trains over the line and effectively severing California Western from the national rail system. California Western filed for bankruptcy in December 2002.

In December 2004, the trustee filed a complaint on behalf of California Western asking the Board to find the Authority, d/b/a Northwestern Pacific, liable for damages sustained as a result of Northwestern Pacific's alleged violation of its common carrier obligation. The trustee also filed a petition for partial revocation of the Board's exemption for lumber or wood products.

The draft decision before you denies the trustee's complaint. Before it can be found to have violated the common carrier obligation at 49 U.S.C. 11101(a), the carrier must have failed to provide service upon reasonable request. Here, the trustee concedes that, since the line went out of service in 1998, neither California Western nor Georgia Pacific, the only shipper on the line, ever requested that service be provided or that the line be repaired.

Furthermore, the record shows that there was minimal traffic on the line and that extensive repairs would have been required to bring the line into compliance with FRA safety regulations. The draft notes the Authority's statement that it did not have adequate funding for this expensive project, and finds that there would have been little justification on this record for expending the resources, or attempting to secure the funding, that would have been needed to make the necessary repairs.

The draft decision denies the trustee's complaint and, as a result, finds it unnecessary to address the trustee's request for partial revocation of the lumber or wood products exemption. Accordingly, the draft decision dismisses the trustee's revocation request as moot.

We would be happy to answer any questions you might have. Thank you.