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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-409 (Sub-No. 5X)]

Los Angeles County Metropolitan Transportation Authority—Abandonment

Exemption—in Los Angeles County, CA

Los Angeles County Metropolitan Transportation Authority (LACMTA) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exemption Abandonments to abandon a 0.31-mile line of railroad (the Line), a portion of the Santa Monica Industrial Lead,<sup>1</sup> between milepost 485.69 and milepost 486.00 in Los Angeles County, CA. The line traverses United States Postal Service Zip Code 90011.

LACMTA has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government

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<sup>1</sup> The Santa Monica Industrial Lead is the subject of a notice of exemption in Union Pacific Railroad Company—Abandonment and Discontinuance of Trackage Rights Exemption—in Los Angeles County, CA, STB Docket No. AB-33 (Sub-No. 265X) that was served and published in the Federal Register on April 8, 2008. The exemption became effective on May 8, 2008. In a decision served May 7, 2008, the Board rejected a notice of intent by James Riffin to file an offer of financial assistance (OFA) to purchase the Santa Monica Industrial Lead. On May 28, 2008, Riffin filed a petition to revoke Union Pacific Railroad Company's (UP) exemption, to which UP replied on June 2, 2008. Those filings will be addressed in a subsequent Board decision. In this notice, LACMTA is seeking to abandon its residual common carrier obligation for the Line.

entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation 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 (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 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 July 18, 2008, unless stayed pending reconsideration. LACMTA has simultaneously filed in this proceeding a petition for exemption from the OFA provisions at 49 U.S.C. 10904 and the public use provisions at 49 U.S.C. 10905. That matter will be resolved in a subsequent decision.

The OFA process is designed for the purpose of providing continued rail service. The Board need not require the sale of a line under the OFA provisions if it determines that the offeror is not genuinely interested in providing rail service or that there is no likelihood of future traffic.<sup>2</sup> Here, where the abandoning carrier seeks an exemption from

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<sup>2</sup> See, e.g., Union Pacific Railroad Company—Abandonment and Discontinuance of Trackage Rights Exemption—in Los Angeles County, CA, STB Docket No. AB-33 (Sub-No. 265X) (STB served May 7, 2008); Roaring Fork Railroad Holding Authority—Abandonment Exemption—in Garfield, Eagle, and Pitkin Counties, CO, STB Docket No. AB-547X (STB served May 21, 1999), aff'd sub nom. Kulmer v. STB, 236 F.3d 1255, 1256-58 (10th Cir. 2001); The Burlington Northern and Santa Fe Railway

(continued . . .)

the provisions of section 10904, where there has been no service on the line for at least 2 years, and where the property is proposed to be used for a public purpose, any person who wishes to oppose the request for an exemption from the OFA provisions or who intends to file an OFA should address one or more of the following: whether there is a demonstrable commercial need for rail service, as manifested by support from shippers or receivers on the line being abandoned or as manifested by other evidence of immediate and significant commercial need; whether there is community support for continued rail service; whether acquisition of freight operating rights would interfere with current and planned transit services; and whether continued rail service is operationally feasible, especially where, as here, the line to be abandoned is physically constrained.

The petition for exemption from the OFA process was filed on May 29, 2008. To permit persons to take these factors into consideration in filing a reply to the petition for exemption, replies to that petition for exemption will be accepted until June 25, 2008.

Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>4</sup> and trail use/rail banking requests

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( . . . continued)

Company—Abandonment Exemption—in King County, WA, STB Docket No. AB-6 (Sub-No. 380X) (STB served Aug. 5, 1998).

<sup>3</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 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>4</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

under 49 CFR 1152.29 must be filed by June 30, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 8, 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 LACMTA's representative: Charles Spitulnik, 1001 Connecticut Avenue, NW, Suite 905, Washington, DC 20036.

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

LACMTA has filed a combined environmental and historic report. SEA will issue an environmental assessment (EA) by June 23, 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 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), LACMTA 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 LACMTA's filing of a notice of consummation by June 18, 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.”

Decided: June 12, 2008.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan

Acting Secretary