

Evansville Terminal Company, Inc. (ETC), upon ETC's becoming a Class III rail carrier. The transaction was to have been consummated on or after the June 28, 1996 effective date of the exemption.

ETC, a noncarrier, has concurrently filed a notice of exemption in *Evansville Terminal Company, Inc.—Acquisition and Operation Exemption—Trustee, Indiana HiRail Corporation, STB Finance Docket No. 32989*, to acquire approximately 40.4 miles of rail lines of Trustee, Indiana HiRail Corporation, between Browns, IL, and Evansville, IN.

RailAmerica controls six other nonconnecting Class III rail carriers: Huron & Eastern Railway Company, Inc.; Saginaw Valley Railway Company, Inc.; West Texas & Lubbock Railroad Company, Inc.; Plainview Terminal Company; Dakota Rail, Inc.; and South Central Tennessee Railroad Company.

RailAmerica states that: (1) ETC will not connect with any of the other railroads in its corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect ETC with any other railroad in its corporate family; 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.

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. 32990, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423 and served on: Robert P. vom Eigen, Hopkins & Sutter, 888 Sixteenth Street, NW., Washington, DC 20006.

Decided: July 10, 1996.

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

Vernon A. Williams,

Secretary.

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[STB Docket No. AB-55 (Sub-No. 531X)]

**CSX Transportation, Inc.—
Discontinuance of Service
Exemption—in Fayette and Raleigh
Counties, WV**

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* to discontinue service over 4.8 miles of its line of railroad from milepost CAX-0.0 at Mill Creek Jct., to milepost CAX-4.8 at Garden Ground, in Fayette and Raleigh Counties, WV.

CSXT has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (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 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 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 use of 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 August 16, 1996, unless stayed pending

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10903.

reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29⁴ must be filed by July 29, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 6, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, 500 Water Street J150, Jacksonville, FL 32202.

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

CSXT 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 July 22, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. 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.

Decided: July 10, 1996.

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

Vernon A. Williams,

Secretary.

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² 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.

³ See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

⁴ The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.