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December 23, 2003

VIA FEDERAL EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, DC 20006

ENTERED
Office of Proceedings

DEC 24 2003

Part of
Public Record



Re: **Docket No. AB-227 (Sub-No. 9X)**
Wheeling & Lake Erie Railway Company -- Abandonment
Exemption -- In Harrison and Jefferson Counties, OH

Dear Secretary Williams:

By decision served October 19, 1999 in the above-captioned proceeding, the Board granted Wheeling & Lake Erie Railway Company ("W&LE") an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon its line of railroad known as the Valley Line, extending from milepost 188.5 near Unionvale to milepost 205.54 near Warrenton, Ohio. The exemption, which otherwise became effective November 18, 1999, was made subject to environmental and standard employee protective conditions and a condition that W&LE retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470(f) ("NHPA"). The Board's decision also provided that "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 notice of consummation by October 19, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If a legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed not later than 60 days after satisfaction, expiration or removal of the legal or regulatory barrier." Because the section 106 process of the NHPA had not been completed by October 19, 2000, W&LE was unable to consummate the abandonment by that date.

On June 18, 2003, W&LE, the Section of Environmental Analysis ("SEA") and the Ohio Historic Preservation Office ("OHPO") executed a Memorandum of Agreement ("MOA") setting forth the stipulations, terms and conditions that would be implemented by the parties in order to comply with the NHPA. Upon the recommendation of the SEA, by decision

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served August 4, 2003, the STB reopened the proceeding and removed the historic preservation condition imposed on the exemption.

By decision served October 3, 2003, the Board granted W&LE an extension of time to exercise the abandonment exemption. The decision provided that "the authority to abandon must be exercised, and the notice of consummation must be filed, no later than 60 days after satisfaction of the pre-abandonment requirements imposed in the MOA." By letter dated October 30, 2003, the OHPO advised SEA and W&LE that the documentation prepared in accordance with the MOA was acceptable, thus completing the pre-abandonment provisions of the MOA.

Pursuant to 49 C.F.R. 1152.29(e)(2) and 49 C.F.R. 1152.60(e), W&LE hereby provides notice that it exercised the authority granted herein and fully consummated abandonment of the subject line on December 23, 2003.

Ten copies of this letter are enclosed for filing at the Board. One extra copy also is enclosed, and I would request that you date-stamp that copy to show receipt of this filing and return it to me in the provided envelope. If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,



William C. Sippel
Attorney for Wheeling & Lake Erie
Railway Company

WCS/pj
Enclosures

cc: Section of Environmental Analysis
Ohio Historic Preservation Office

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December 23, 2003

Mr. Robert E. Leininger
Waste Management
1006 Walnut Street
Canal Winchester, Ohio 43110

Re: **Wheeling & Lake Erie Railway Company/
Valley Line Abandonment**

Dear Bob:

Please be advised that W&LE has completed the regulatory approval process for the abandonment of its Valley Line between Unionvale and Warrenton, Ohio. On October 30, 2003, the Ohio Historic Preservation Office advised W&LE and the STB's Section of Environmental Analysis that the documentation prepared by W&LE in accordance with the Memorandum of Agreement among the parties (for the three structures on the line deemed historically significant by the OHPO and the SEA) was acceptable. This completed the pre-abandonment provisions of the MOA and the abandonment exemption became fully effective. Under the Board's October 3, 2003 decision, the authority to abandon must be exercised, and a notice of consummation filed with the Board, no later than 60 days after satisfaction of the pre-abandonment requirements imposed in the MOA.

W&LE consummated the abandonment of the line today, December 23, 2003. A copy of the letter to the STB giving notice of consummation of the abandonment is attached for your file.

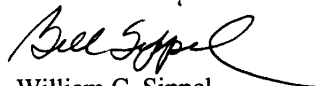
I am advised that W&LE is in the process of preparing a check to WMO in full repayment of the outstanding balance of the loan from WMO under the Agreement between the parties dated September 25, 1997.

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Please contact me if you have any questions.

Very truly yours,


William C. Sippel

WCS/pj
Enclosure

cc: William A. Callison, Esq.