

of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that the establishment of a dispute settlement panel has been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"). If such a panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issue Raised by Mexico

In its panel request, Mexico challenges three U.S. measures: (1) The Dolphin Protection Consumer Information Act (19 U.S.C. 1385); (2) certain dolphin-safe labeling regulations (50 CFR 216.91–92); and (3) the Ninth Circuit decision in *Earth Island v. Hogarth*, 494 F. 3d 757 (9th Cir. 2007), and alleges that these measures have the effect of prohibiting Mexican tuna and tuna products from being labeled dolphin-safe. Specifically, Mexico alleges that its tuna and tuna products are accorded less favorable treatment than like products of national origin and like products originating in other countries and are not immediately and unconditionally accorded any advantage, favor, privilege, or immunity granted to like products in other countries. Mexico further alleges that the U.S. measures create unnecessary obstacles to trade, are not based on an existing international standard, and are maintained although their objectives can be addressed in a less trade restrictive manner. Mexico alleges that the U.S. measures appear to be inconsistent with the *General Agreement on Tariffs and Trade 1994*, Articles I:1 and III:4, and the *Agreement on Technical Barriers to Trade*, Articles 2.1, 2.2, 2.3 and 2.4.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to <http://www.regulations.gov> docket number USTR–2008–0038. If you are unable to provide submission by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via <http://www.regulations.gov>, enter docket number USTR–2008–0038 on the home page and click "go". The site will provide a search-results page listing all

documents associated with this docket. Find a reference to this notice by selecting "Notice" under "Document Type" on the left side of the search-results page, and click on the link entitled "Send a Comment or Submission." (For further information on using the <http://www.regulations.gov> Web site, please consult the resources provided on the Web site by clicking on "How to Use This Site" on the left side of the home page.) The <http://www.regulations.gov> site provides the option of providing comments by filling in a "General Comments" field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type "See attached" in the "General Comments" field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted only by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to <http://www.regulations.gov>. The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page; and
- (3) Must provide a non-confidential summary of the information or advice. Any comment containing information submitted in confidence must be submitted only by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to [http://](http://www.regulations.gov)

www.regulations.gov. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body.

Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments may be viewed on the <http://www.regulations.gov> Web site by entering docket number USTR–2008–0038 in the search field on the home page.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–1033X]

Murray-Calloway Economic Development Corporation—Abandonment Exemption—in Marshall and Calloway Counties, KY

Murray-Calloway Economic Development Corporation (EDC) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon a 7.34-mile line of railroad between milepost 30, near Hardin, Marshall County, KY, and milepost 37.34, near Murray, Calloway County, KY. The line traverses United States Postal Service Zip Codes 42020, 42036, 42048, and 42071.¹

¹ EDC acquired the line from Hardin Southern Railroad in *Murray-Calloway Economic Development Corporation—Acquisition Exemption—Hardin Southern Railroad, Inc.*, STB Finance Docket No. 34742 (STB served Sept. 7, 2005). EDC has not operated service over the line and its remaining line is currently leased to another operator.

EDC has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line since EDC acquired it in 2005, and any previous overhead traffic has been rerouted; (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 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 May 22, 2009, unless stayed pending reconsideration.² Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by May 4, 2009. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 12, 2009, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to EDC's representative: Eric M. Hocky, Thorp, Reed & Armstrong, LLP, One Commerce

Square, 2005 Market Street, Suite 1910, Philadelphia, PA 19103.

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

EDC has filed a combined environmental and historic report addressing the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by April 27, 2009. 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), EDC 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 EDC's filing of a notice of consummation by April 22, 2010, 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 Web site at <http://www.stb.dot.gov>.

Decided: April 10, 2009.

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

Jeffrey Herzig,

Clearance Clerk.

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63.75, near New Fountain Farm, to milepost 84.42, near Pea Ridge, in Washington County, MO. The line traverses United States Postal Service Zip Code 93635.

UP 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 of 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 May 22, 2009,¹ unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),² must be filed by May 4, 2009.³ Petitions to reopen must be filed by May 12, 2009, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr.,

¹ UP's notice of exemption stated May 21, 2009, as the date of consummation. UP's counsel was notified that May 22, 2009, is the earliest day that the discontinuance may be consummated (50 days after the filed date).

² Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 CFR 1002.2(f)(25).

³ In discontinuance proceedings, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively. As part of their notice of exemption, UP also requests authority to temporarily remove the track structure and any related highway grade crossing signal systems to provide highway vehicles with unobstructed passage over grade crossings. UP acknowledges that they are obligated to reinstall track and any grade crossing signal systems at its sole expense should operations on the line be reinstated.

² ESC originally indicated that it would consummate the abandonment on or after May 21, 2009. But counsel for EDC has been notified that the earliest this transaction may be consummated is May 22, 2009.

³ 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.

⁴ Each OFA must be accompanied by the filing fee, which currently is set at \$1,500. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 204X)]

Union Pacific Railroad Company— Discontinuance of Service Exemption—in Washington County, MO

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonment and Discontinuances of Service* to discontinue service over the Pea Ridge Subdivision, a 20.67-mile line of railroad, extending from milepost