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**Barbara J. Hairston,**

*Supervisory Docket Officer, Docket Operations, Alternate Federal Register Liaison.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending April 6, 2007

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* OST-2007-27815.

*Date Filed:* April 4, 2007.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* April 25, 2007.

*Description:* Application of Exec Air Inc. of Naples Db. ExecAir requesting authority to conduct scheduled passenger operations as a commuter air carrier.

**Barbara J. Hairston,**

*Supervisory Docket Officer, Docket Operations, Alternate Federal Register Liaison.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in Indiana

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by FHWA and United States Fish and Wildlife Service (USFWS), DOI.

**SUMMARY:** This notice announces actions taken by the FHWA and the USFWS

that are final within the meaning of 23 U.S.C. § 139(I)(1). The actions relate to a proposed highway project, I-69, Evansville to Indianapolis, Indiana, in the Counties of Vanderburgh, Warrick, Gibson, Pike, Daviess, Greene, Monroe, Morgan, Johnson and Marion, State of Indiana. The Federal actions, taken as a result of a tiered environmental review process under the National Environmental Policy Act, 42 U.S.C. 4321-4351 (NEPA), and implementing regulations on tiering, 40 CFR 1502.20, 40 CFR 1508.28, and 23 CFR Part 771, determined certain issues relating to the proposed project. Those decisions will be used by Federal agencies in subsequent proceedings, including decisions whether to grant licenses, permits, and approvals for the highway project. The decisions also may be relied upon by State and local agencies in proceedings on the proposed project.

**DATES:** By this notice, the FHWA is advising the public that the FHWA and the USFWS have made decisions that are subject to 23 U.S.C. 139(I)(1) and are final within the meaning of that law. A claim seeking judicial review of those Federal agency decisions on the proposed highway project will be barred unless the claim is filed on or before October 15, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then the shorter time period applies.

**FOR FURTHER INFORMATION CONTACT:** For the FHWA: Mr. Anthony DeSimone, P.E., Federal Highway Administration, Indiana Division, 575 North Pennsylvania Street, Room 254, Indianapolis, IN 46204-1576; telephone: (317) 226-5307; e-mail:

*Anthony.DeSimone@fhwa.dot.gov*. The FHWA Indiana Division Office's normal business hours are 7:30 a.m. to 4 p.m., e.t. For the USFWS: Mr. Scott Pruitt, Field Supervisor, Bloomington Field Office, USFWS, 620 South Walker Street, Bloomington, IN 47403-2121; telephone: 812-334-4261; e-mail: *Scott\_Pruitt@fws.gov*. Normal business hours for the USFWS Bloomington Field Office are: 8 a.m. to 4:30 p.m., e.t. You may also contact Mr. Thomas Seeman, Project Manager, Indiana Department of Transportation (INDOT), 100 North Senate Avenue, Indianapolis, IN 46204; telephone: (317) 232-5336; e-mail: *TSeeman@indot.IN.gov*. Normal business hours for the Indiana Department of Transportation are: 8 a.m. to 4:30 p.m., e.t.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the FHWA has approved a Tier 1 Final Environmental Impact Statement (FEIS) and issued a

Record of Decision (ROD) in connection with a proposed highway project in the State of Indiana: I-69 from Evansville to Indianapolis, in Vanderburgh, Warrick, Gibson, Pike, Daviess, Greene, Monroe, Morgan, Johnson and Marion Counties. The project will be an approximately 142 mile long Interstate highway. It will begin at the I-64/I-164 interchange just north of Evansville, Indiana and end at I-465 in Indianapolis, to the west of the I-465/SR 37 interchange. The proposed freeway will be on both new and existing alignment.

Decisions in the FHWA Tier 1 ROD that have final approval include, but are not limited to, the following:

1. Purpose and need for the project (see section 3.1).

2. Range of alternatives for analysis (see sections 3.3 and 3.4).

3. Selection of the Interstate highway build alternative and highway corridor for the project. The selected alternative, referred to in the FEIS as Alternative 3C, involves completing I-69 as an Interstate highway from Evansville to Indianapolis via Oakland City, Washington, Crane Naval Surface Warfare Center, Bloomington, and Martinsville (see section 2.1). This alternative includes the use of parts of the existing alignment of SR 37 to reach I-465 and the route variation known as WE2 in the area of Washington, Indiana. The ultimate alignment of the highway within the corridor, and the location and number of interchanges and rest areas will be evaluated in the Tier 2 National Environmental Policy Act (NEPA) proceedings.

4. Elimination of other alternatives from consideration in Tier 2 NEPA proceedings. The alternatives that will not be considered any further include, but are not limited to, those identified in the Tier 1 FEIS as the "no build" alternative, and alternatives 1, 2A, 2B, 2C, 3A, 3B, 4A, 4B, 5A, and 5B. Also eliminated were a number of hybrids and variations on these alternatives, including the "Mann Road Variation" for reaching I-465 and variations WW1, WW2, and WE1 in the area of Washington, Indiana. Detailed information about the alternatives considered in Tier 1, and about the Federal decisions that eliminate alternatives other than Alternative 3C from further consideration, is available in section 3 of the Tier 1 ROD and the Tier 1 FEIS sections cited therein.

5. Process for completing the Tier 2 alternatives analysis and studies for the project, including the designation of six Tier 2 sections and a decision to prepare a separate environmental impact statement for each Tier 2 section (see section 2.3).

Interested parties may consult the Tier 1 ROD and Tier 1 FEIS for details about each of the decisions described above and for information on other issues decided. The documents are available as described below.

Following the completion of the Tier 1 ROD, interested parties submitted comments suggesting that new information existed that might affect the Tier 1 FEIS analyses and the Federal decisions based on those analyses. In response, the FHWA reevaluated the project and decided that the changes that occurred following the ROD did not individually or collectively require supplementation of the Tier 1 FEIS.

The Tier 1 FEIS (issued on December 5, 2003), the Tier 1 ROD (issued on March 24, 2004), the FHWA decision that supplementation of the Tier 1 FEIS is not required (issued on February 12, 2007), and other documents in the project records are available by contacting the FHWA or the INDOT at the addresses provided above. Interested parties also may view or download the FHWA Tier 1 FEIS, Tier 1 ROD, the decision not to prepare a Tier 1 supplemental EIS, the related reevaluation report, and INDOT responses to comments on the reevaluation report at the project Web site, <http://deis.i69indyevn.org/>, or by contacting FHWA or INDOT at the addresses listed above.

Actions taken by the USFWS, pursuant to the Endangered Species Act, 16 U.S.C. 1531–1544, include its concurrence with the FHWA's determination that the I-69 project is not likely to adversely affect the eastern fanshell mussel (*Cyprogenia stegaria*) and that the project is still likely to adversely affect, but not jeopardize, the bald eagle. The USFWS concluded that the project is not likely to jeopardize the continued existence of the Indiana bat and is not likely to adversely modify the bat's designated Critical Habitat. The USFWS decisions are described in the Programmatic Biological Opinion issued on December 3, 2003, the Revised Programmatic Biological Opinion issued on August 24, 2006, and other documents in the project records. These opinions, and other project records relating to the USFWS actions, are available by contacting the FHWA, INDOT, or USFWS at the addresses provided above. The Programmatic Biological Opinion can be viewed in the Appendices Section and downloaded from the project Web site at <http://deis.i69indyevn.org/FEIS/index.html> and the Revised Programmatic Biological Opinion can be viewed and downloaded from the project Web site at

[http://i69indyevn.org/Corridor\\_Reports/corridor\\_reports.html](http://i69indyevn.org/Corridor_Reports/corridor_reports.html).

This notice applies to all Federal agency decisions that are final within the meaning of 23 U.S.C. 139(1)(1) as of the issuance date of this notice, and to all laws under which such actions were taken. The laws include, but are not limited to:

1. National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351].
2. Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
3. Endangered Species Act [16 U.S.C. 1531–1544].
4. National Historic Preservation Act of 1966, as amended [16 U.S.C. 470 *et seq.*].
5. Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303 and 23 U.S.C. 138].
6. Clean Air Act [42 U.S.C. 7401–7671(q)].

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(1)(1).

**Robert F. Tally Jr.,**

*Division Administrator, Indianapolis, Indiana.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB–534 (Sub-No. 3X)]

#### Lake State Railway Company— Abandonment Exemption—Rail Line in Otsego County, MI

On March 28, 2007, the Lake State Railway Company (Lake State) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to permit the abandonment of 4.15 miles of rail line in Otsego County, MI. The line includes the northernmost portion of the carrier's main line Mackinaw Subdivision extending from milepost MP 116.8 (where the line crosses East McCoy Road) to the end of the line at milepost MP 120.95. The line traverses U.S. Postal Service Zip Code 49735.

The line does not contain Federally granted rights-of-way. Any documentation in Lake State's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set

forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by July 16, 2007.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,300 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than May 7, 2007. Each trail use request must be accompanied by a \$200 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–534 (Sub-No. 3X), and must be sent to: (1) Surface Transportation Board, 395 E. Street, SW., Washington, DC 20423–0001; and (2) Andrew B. Kolestar, 1224 Seventeenth Street, NW., Washington, DC 20036. Replies to the petition are due on or before May 7, 2007.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 245–0230 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: April 6, 2007.