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SERVICE DATE - MAY 28, 2004

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-290 (Sub-No. 192X)

NORFOLK SOUTHERN RAILWAY COMPANY-ABANDONMENT
EXEMPTION-IN ANDERSON AND WOODFORD COUNTIES, KY

Decided: May 27, 2004

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152.50 to abandon its line of railroad between milepost 0.7-LL, at Lawrenceburg, and milepost 3.5-LL, at Tyrone, in Anderson and Woodford Counties, KY, a distance of approximately 2.8 miles (rail line). The notice was served and published in the Federal Register on December 27, 1999 (64 FR 72376). By decision and notice of interim trail use or abandonment (NITU) served on February 7, 2001, a 180-day period was authorized for the Rails to Trails Conservancy (RTC) to negotiate an interim trail use/rail banking agreement with NSR for the rail line. The 180-day negotiating period was scheduled to expire on July 11, 2001, but subsequent decisions served on July 13, 2001, January 14, 2002, July 10, 2002, January 6, 2003, and July 7, 2003, extended the NITU negotiating period for RTC until January 4, 2004.

On January 2, 2004, RTC and Tyrone Bridge and Rail Company (TBRC) (collectively petitioners) jointly filed a petition requesting the Board to (1) extend the time period for negotiating a mutually acceptable interim trail use/rail banking agreement through July 2, 2004, and (2) substitute TBRC, in lieu of RTC, as the interim trail manager for the rail line, effective as of the date the new NITU is issued. Petitioners indicate that NSR consents to the request to substitute TBRC as the interim rail manager.

Petitioners have submitted a copy of the extant NITU and a statement of willingness to assume financial responsibility by TBRC. Petitioners submission meets the requirements of 49 CFR 1152.29(f). Accordingly, the requested relief will be granted.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. This proceeding is reopened.

2. The NITU served February 7, 2001 is vacated.

3. A replacement NITU designating TBRC as the new trail manager to negotiate a trail use agreement with NSR is issued effective on the service date of this decision, with the trail use negotiation period extended to July 2, 2004, as requested.

4. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.

5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user continuing to meet the financial obligations for the right-of-way.

6. If a trail use agreement is reached and subsequently the new trail user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that trail use be vacated on a specified date.

7. This decision is effective on its service date.

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

Vernon A. Williams
Secretary