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SERVICE DATE - MAY 20, 1998

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-312 (Sub-No. 2X)

SOUTH CAROLINA CENTRAL RAILROAD COMPANY, INC., D/B/A CAROLINA
PIEDMONT DIVISION--ABANDONMENT EXEMPTION--IN GREENVILLE COUNTY, SC

Decided: May 13, 1998

By decision served April 1, 1998, the Board granted South Carolina Central Railroad Company, Inc., d/b/a Carolina Piedmont Division (CPDR), an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon two segments of its line of railroad extending from: (1) milepost AJK 585.34, in East Greenville, SC, to milepost AJK 588.63 in Greenville, SC; and (2) milepost 0.0 to milepost 2.0 in Greenville, a total distance of 5.29 miles, in Greenville County, SC. The exemption was scheduled to become effective on May 1, 1998.

On April 21, 1998, the Rails to Trails Conservancy (RTC) filed a request for issuance of a notice of interim trail use (NITU) under the National Trails System Act (Trails Act), 16 U.S.C. 1247(d).¹ RTC submitted a statement of willingness to assume financial responsibility for interim trail use and rail banking in compliance with 49 CFR 1152.29 and acknowledged that use of the right-of-way for trail purposes is subject to future reactivation for rail service. By letter filed April 29, 1998, CPDR indicated its willingness to negotiate with RTC for interim trail use for a 90-day period.

Because RTC's request complies with the requirements of 49 CFR 1152.29 and CPDR is willing to enter into negotiations, a NITU will be issued. The parties may negotiate an agreement during the 90-day period prescribed below. If the parties reach a mutually acceptable final agreement, no further Board action is necessary. If no agreement is reached within 90 days, CPDR may fully abandon the line. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

¹ The notice pursuant to 49 U.S.C. 10502(b) that was served and published in the Federal Register on December 31, 1997 (62 FR 68352) provided that any request for trail use/rail banking under 49 CFR 1152.29 had to be filed no later than January 20, 1998. When good cause is shown, however, filings will be accepted after the due date. See Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, STB Ex Parte No. 537 (STB served Dec. 24, 1996, and June 27, 1997). Because RTC's late-filed request will not prejudice any party, it will be accepted. See Wheeling & Lake Erie Railway Company--Abandonment Exemption--In Starke County, OH, STB Docket No. AB-227 (Sub-No. 10X) slip op. at 1 n.1 (STB served Nov. 7, 1997).

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

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the decision served on April 1, 1998, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below for a period of 90 days after the May 1, 1998 effective date (until July 30, 1998).
 3. If an interim trail use/rail banking agreement is reached, it must require the trail user 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.
 4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.
 5. If interim trail use is implemented, and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specific date.
 6. If an agreement for interim trail use/rail banking is reached by July 30, 1998, interim trail use may be implemented. If no agreement is reached by that time, CPDR may fully abandon the line.
7. This decision is effective on the service date.

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

Vernon A. Williams
Secretary