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SERVICE DATE –MARCH 22, 2010

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-551 (Sub-No. 1X)

KNOX AND KANE RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN  
CLARION, FOREST, ELK AND McKEAN COUNTIES, PA

Decided: March 19, 2010

Knox and Kane Railroad Company (Knox and Kane) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its entire line of railroad between milepost 95.3 at North Clarion Junction, PA, and milepost 165.2 at Mt. Jewett, PA, a distance of 69.9 miles, in Clarion, Forest, Elk, and McKean Counties, PA. Notice of the exemption was served and published in the Federal Register on October 23, 2009 (74 FR 54873-74). The exemption became effective on November 24, 2009.

By decision and notice of interim trail use or abandonment (NITU) served November 23, 2009, the proceeding was reopened and a 180-day period (until May 23, 2010) was authorized for public use negotiations and for the McKean County Planning Commission, in conjunction with Clarion, Forest and Elk Counties, to negotiate an interim trail use/rail banking agreement with Knox and Kane for the right-of-way in this proceeding.<sup>1</sup>

The decision also imposed five environmental conditions recommended by the Board's Section of Environmental Analysis (SEA). The conditions require Knox and Kane to: (1) consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to commencing salvage activities that could disturb or destroy the identified geodetic station markers in order to plan for the possible relocation of the markers; (2) consult with the U.S. Army Corps of Engineers, Pittsburgh District (Corps) prior to commencing salvage activities and address any Corps concerns involving the proposed abandonment; and (3) prior to commencing salvage activities, contact Pennsylvania Department of Transportation, Bureau of Rail Freight, Ports & Waterways (PA DOT) if work is to be performed with PA DOT rights-of-way in Clarion County; (4) contact Pennsylvania Department of Environmental Protection Waste Management Program, Air Quality Program, and Watershed Management Program (PA DEP) prior to commencing salvage activities regarding any necessary PA DEP approvals; and (5)(a) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect)

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<sup>1</sup> In a decision served December 10, 2009, the Board also authorized The Kovalchick Family Trust to negotiate, until May 23, 2010, an interim trail use/rail banking agreement with Knox and Kane.

that are eligible for listing or listed in the National Register of Historic Places until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, (b) report to SEA regarding any consultations with the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation (State Historic Preservation Office or SHPO) and the public, and (c) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed the condition.

By letter filed on February 24, 2010, Knox and Kane requests removal of the section 106 historic preservation condition imposed in the November 23, 2009 decision. Knox and Kane attaches to its letter correspondence dated February 17, 2010 from the SHPO wherein the SHPO indicates that there are no National Register of Historic Places listed or eligible properties affected by the proposed abandonment. Therefore, based on the information provided, SEA recommends that the section 106 historic preservation condition imposed in the November 23, 2009 decision be removed. Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed. The public use condition remains in effect until May 23, 2010; the remaining environmental conditions, requiring consultation with NGS, the Corps, PA DOT, and PA DEP, also remain in effect.

This action 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 section 106 historic preservation condition imposed in the November 23, 2009 decision is removed.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.