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SERVICE DATE – LATE RELEASE OCTOBER 30, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1233X

ALLEGHENY VALLEY RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN  
ALLEGHENY COUNTY, PA.

Decided: October 29, 2015

On June 17, 2015, Allegheny Valley Railroad Company (AVRC) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 1,542 feet of what AVRC describes as railroad line, between milepost 0.3, on the northeasterly side of 16th Street, and milepost 0.6, at the center line of 21st Street, in the Strip District of Pittsburgh, Allegheny County, Pa. AVRC states that there are no railroad tracks or related structure on the property.

By decision served July 8, 2015, this proceeding was held in abeyance to allow AVRC to: (1) inform the Board whether this proceeding involved the same track, known as the Valley Industrial Track, that the Board concluded, in Allegheny Valley Railroad—Petition for Declaratory Order, Docket No. FD 35239, was previously abandoned by the Consolidated Rail Corporation (Conrail), and, if so, (2) explain why Board authorization to abandon this track would be required.

On July 17, 2015, AVRC filed supplemental information clarifying that the property at issue here is the same property involved in Docket No. FD 35239. In that proceeding, the Board determined that Conrail had received authority to abandon the Valley Industrial Track in 1984 and consummated the abandonment prior to Conrail's alleged conveyance of the railroad easement to AVRC in 1995. Allegheny Valley R.R.—Pet. for Declaratory Order (July 2013 Decision), FD 35239 (STB served July 16, 2013); see also Allegheny Valley R.R.—Acquisition & Operation Exemption—Certain Lines of Consol. Rail Corp., FD 32783 (ICC served Nov. 17, 1995). AVRC asserts, however, that “the issue of the validity of Conrail's permanent rail easement and its conveyance to AVRC for common carrier railroad purposes under Pennsylvania property law was not before the Board [in Docket No. 35239]” and that interpretation of the deed conveying that rail easement from Conrail to AVRC in 1995 is a matter of state property law. AVRC further asserts that, by virtue of its acquisition and operation exemption in Docket No. FD 32783, the previously abandoned line became subject to the Board's jurisdiction once again. Therefore, “in an abundance of caution and to remove any possible impediment to AVRC's plan to extinguish its permanent rail easement under Pennsylvania property law by conveyance back to the adjacent land owner, AVRC seeks abandonment authorization” for the right-of-way between milepost 0.3 and milepost 0.6.

As previously stated, the Board concluded that Conrail had consummated its abandonment of the Valley Industrial Track. July 2013 Decision, slip op. at 4. As such, the Board found that, regardless of whether the easement continued to exist as a matter of state property law, the Valley Industrial Track was, by virtue of the consummated abandonment, no longer part of the national rail system and thus there was nothing remaining under the Board's jurisdiction for AVRC to acquire. See id. The July 2013 Decision indicated that AVRC has "no federally granted operating authority to conduct common carrier freight transportation on the property," id., and AVRC therefore requires no abandonment authorization with respect to the property between milepost 0.3 and milepost 0.6. Accordingly, AVRC's notice of exemption will be rejected.

It is ordered:

1. AVRC's notice of exemption is rejected.
2. This decision is effective on its service date.

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