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SERVICE DATE - MAY 19, 1999

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-439 (Sub-No. 2X)

DALLAS AREA RAPID TRANSIT--ABANDONMENT EXEMPTION--
IN DALLAS AND COLLIN COUNTIES, TX

Decided: May 14, 1999

By decision served on May 15, 1997,¹ the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment² by Dallas Area Rapid Transit (DART)³ of an 18.67-mile line of railroad, consisting of 15.45 miles of the White Rock/Plano line,⁴ and 3.22 miles of a connecting branch line, the Soumethun Branch, in Dallas and Collin Counties, TX, subject to a historic condition⁵ and standard employee protective conditions.

By petition filed on May 4, 1999, DART filed a request for issuance of a notice of interim trail use/rail banking (NITU) under the National Trails System Act, 16, U.S.C. 1247(d) (Trails Act) and the regulations at 49 CFR 1152.29 in order to rail bank the White Rock segment of the line in

¹ The proceeding also included Southern Pacific Transportation Company--Discontinuance of Trackage Rights Exemption--in Dallas and Collin Counties, TX, STB Docket No. AB-12 (Sub-No. 191X), and St. Louis Southwestern Railway Company--Discontinuance of Trackage Rights Exemption--in Dallas and Collin Counties, TX, STB Docket No. AB-39 (Sub-No. 22X).

² Revised abandonment regulations were adopted in 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), that became effective on January 23, 1997. The exemption in this proceeding, filed January 22, 1997, was processed under the former regulations and they remain applicable to this proceeding.

³ DART, a rail common carrier, is a political subdivision of the State of Texas that is charged with developing and operating a public transit system in the greater Dallas area.

⁴ The line extends 6.8 miles from milepost 6.94 at Tenison Park to milepost 13.74 at Gifford Junction, in Dallas (the White Rock segment), and an additional 8.65 miles from milepost 273.00 at Gifford Junction to milepost 281.65 at Plano Parkway in Plano, TX (the Plano segment).

⁵ A historic condition was imposed on the White Rock Creek Bridge located at milepost 273.3 on the Plano segment.

its own name.⁶ DART states that it has not consummated abandonment of the White Rock segment and that the right-of-way underlying the White Rock segment may be suitable for future use as part of a public transit corridor and for alternative public uses, including a recreational trail. In its petition, DART indicates that it: (1) will retain ownership of the right-of-way; and (2) will remain responsible for management and use of the right-of-way, payment of any applicable taxes, and any liability arising out of its ownership and use.

In light of DART's statement that it will remain financially responsible for the right-of-way, acknowledging that use of the right-of-way is subject to possible future restoration of rail service, the requirements of the Trails Act and the regulations have been met, and a NITU will be issued permitting interim trail use and rail banking for the described line.

As conditioned, 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 decision served on May 15, 1997, exempting the abandonment of the line described above, is modified to the extent necessary to implement interim trail use/rail banking for the White Rock segment of the line located between milepost 6.94 at Tenison Park and milepost 13.74 at Gifford Junction.
3. DART must notify the Board if it is going to discontinue rail banking and consummate the abandonment.

⁶ A railroad is permitted to rail bank its own line where the railroad represents that the property is suitable for interim trail use and that it will assume financial responsibility for the line. See Roaring Fork Railroad Holding Authority--Abandonment Exemption--in Garfield, Eagle and Pitkin Counties, CO, STB Docket No. AB-547X, slip op. at 4 n.11 (STB served Oct. 16, 1998).

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4. Interim trail use/rail banking is subject to the future restoration of rail service.
5. This decision is effective on its service date.

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

Vernon A. Williams
Secretary