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SERVICE DATE - APRIL 6, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-439 (Sub-No. 5X)

DALLAS AREA RAPID TRANSIT--ABANDONMENT
EXEMPTION--IN DALLAS COUNTY, TX

Decided: April 4, 2000

Dallas Area Rapid Transit (DART) and Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances for DART to abandon and UP to discontinue service over approximately 1.585 miles of rail line from milepost 213.024 at Malcolm X Boulevard to what was identified as milepost 211.439 near Fletcher Street, just west of the switch to the Age of Steam Museum in the City and County of Dallas, TX. Notice of the exemption was served and published in the Federal Register on February 17, 2000 (65 FR 8232), and the exemption was scheduled to take effect on March 18, 2000.

On March 7, 2000, Southwest Railroad Historical Society d/b/a Age of Steam Railroad Museum (Museum) filed a comment requesting a technical correction to the milepost designation and also questioned the 2 year out-of-service certification contained in the abandonment notice of exemption.

By decision served March 17, 2000, the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA) and the exemption was made subject to the conditions that DART: (a) consult with the U.S. Army Corps of Engineers (Corps) prior to salvage operations to determine if the proposed project is consistent with the applicable Federal, state and local water quality standards, and if permits are required under section 404 of the Clean Water Act; and (b) consult with the National Geodetic Survey (NGS) at least 90 days prior to disturbing or destroying any geodetic marker in order to plan for its relocation. In the same decision the effective date of the exemption was extended to April 7, 2000, to permit full evaluation of the issues raised by the Museum before the exemption took effect.

In its comment, the Museum expresses concern about the abandonment leaving it landlocked, argues that the milepost identified by applicants in the verified notice is in error and requests that the Board revise the notice to show the correct ending milepost. The Museum states that its switch is located at milepost 211.7 and it requests that milepost 211.7 be designated as the appropriate ending milepost instead of the one previously identified by applicants. The Museum also requests that the abandonment stop 800 feet west of the switch at milepost 211.7. The Museum states that, contrary to the "no-traffic" certification of Messrs. Blaydes and Allamong included with the notice, traffic has moved over the line into and out of the museum during the past several years.

In their reply, applicants state that, due to an inadvertent error, the milepost designation contained in the notice of exemption was listed as milepost 211.439 near Fletcher Street and they request that the Board correct the ending milepost for the line to be abandoned to reflect milepost 211.7 near Fletcher Street, but they oppose the Museum's requests that 800 feet of track west of the switch be excluded from the abandonment. Applicants also state that the 800-foot segment has been used only for storing and assembling historical railroad equipment for the past two years and that the segment is not needed to provide the Museum access to rail service. Applicants state that the Museum has been moving and receiving equipment by trackage east of this segment of track, and that, after abandonment of the track, the Museum will retain the ability to move and/or receive equipment from the east. Applicants also dispute the Museum's contention that traffic has moved over the line, stating that the nonrevenue movements and others cited would not disqualify the line from coverage under the class exemption.¹

All parties agree that the applicants erred in their original identification of the ending milepost. Therefore, applicants' request to modify the notice of exemption will be granted. The request by the Museum to modify the notice to end the abandonment 800 feet west of the switch to the Age of Steam Museum at milepost 211.7 will be denied. The movements cited by the Museum would not qualify as traffic that would remove the line from coverage under the abandonment class exemption. Nor would including the 800-foot segment in the abandonment leave the Museum without access to rail service.

The Corps has informed SEA that it has been determined that the abandonment will not require permits under section 404 of the Clean Water Act. Therefore, SEA recommends that the section 404 condition imposed in the March 17 decision be removed.²

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. The notice published in the Federal Register on February 17, 2000, exempting the abandonment of the line described is modified as requested to change the referenced milepost

¹ Applicants certified that: no local traffic has moved over the line for at least 2 years; and there has been no overhead traffic on the line during the past 2 years; and no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period.

² The NGS condition imposed in the March 17, 2000 decision remains in effect.

STB Docket No. AB-439 (Sub-No. 5X)

211.439 to milepost 211.7, and the line is redescribed to extend “from milepost 213.024 . . . to milepost 211.7”

3. The Museum’s request is otherwise denied.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary