

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFICATION OF
NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 295 (Sub-No. 7X)

THE INDIANA RAIL ROAD COMPANY—ABANDONMENT EXEMPTION—
IN MARTIN AND LAWRENCE COUNTIES, IND.

Decided: August 19, 2011

By decision and notice of interim trail use or abandonment (NITU) served on March 26, 2010, the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903 the abandonment by The Indiana Rail Road Company (INRD) of 22.80 miles of rail line in Martin and Lawrence Counties, Ind. (the Line). The Line is comprised of a 21.15-mile line of railroad between milepost 241.35 east of Crane, Ind., and milepost 262.50 in Bedford, Ind. (Crane-Bedford Line) and a track extending from the Crane-Bedford Line at approximately milepost 262.40 and proceeding in an open counter-clockwise loop (east-north-west-south) for approximately 1.65 miles (Bedford Industrial Track). The exemption was granted subject to public use, historic preservation, environmental, and standard employee protective conditions, as well as a trail use condition authorizing a 180-day period for either the Indiana Trails Fund, Inc. (ITF), or the Greenways Foundation and the City of Bedford, Ind., or both, to negotiate an interim trail use/rail banking agreement with INRD for the right-of-way involved in this proceeding.¹

By petition filed on July 29, 2011, INRD requests that the Board remove from the NITU the Bedford Industrial Track and the 0.39-mile portion of the Line between milepost 262.11 and milepost 262.50. INRD states that the parties engaged in trail use negotiations have agreed that a trail use agreement will cover only that portion of the Line between milepost 241.35 and milepost 262.11. INRD further indicates that it has reached agreement to sell the trackage to be removed from the NITU to the City of Bedford and that the purpose of INRD's request is to permit INRD to abandon those portions and consummate their sale to the City. By letter filed on July 29, 2011, as corrected by letter filed August 18, 2011, ITF states that it consents to the NITU modification.

The National Trails System Act, 16 U.S.C. § 1247(d), permits only interim trail use that is voluntary between the carrier and the trail sponsor. See Rail Abans.—Use of Rights-of-Way As Trails, 2 I.C.C.2d 591 (1986). Here, INRD no longer consents to negotiate for interim trail

¹ The period for INRD and ITF to negotiate an interim trail use/railbanking agreement under the NITU has been extended twice, most recently (by decision served March 18, 2011) to September 17, 2011.

use with respect to the Bedford Industrial Track and the portion of the Line between milepost 262.11 and milepost 262.50. Therefore, INRD's request to modify the NITU to remove those portions of the Line will be granted. As a result, because no conditions constituting a legal or regulatory barrier to consummation remain with respect to the Bedford Industrial Track and the portion of the Line between milepost 262.11 and milepost 262.50,² INRD may consummate the authority it has received to abandon those portions of the Line and must do so within 60 days of service of this decision or the authority will automatically expire. See 49 C.F.R. § 1152.29(e)(2).

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. The NITU served on March 26, 2010, is modified to remove from its scope the Bedford Industrial Track and the 0.39-mile portion of the Line between milepost 262.11 and milepost 262.50.
3. This decision is effective on its service date.

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

² The public use condition expired on October 22, 2010 and may not be renewed; the historic preservation condition was removed by decision served June 9, 2010; and the remaining environmental conditions are not barriers to consummation.