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SERVICE DATE - MAY 11, 1998

SURFACE TRANSPORTATION BOARD

DECISION AND CERTIFICATE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB-425

LONE STAR RAILROAD, INC.--ABANDONMENT AND DISCONTINUANCE
OF TRACKAGE RIGHTS--IN WICHITA, ARCHER, BAYLOR,
KNOX, HASKELL AND JONES COUNTIES, TX

Decided: May 6, 1998

By decision served and published in the Federal Register on June 9, 1995 (60 FR 30584), the ICC granted Lone Star Railroad, Inc. (Lone Star) authority: (1) to abandon a portion of its line of railroad between milepost 142.8 near Lanius, TX, and milepost 8.0 near Howard, TX; and (2) to discontinue trackage rights over the line of Burlington Northern Railroad Company between milepost 8.0 near Howard and milepost 0.0 at Valley Junction, TX, and from Valley Junction east for 331 feet to the switching point in Sunshine Yard at Wichita Falls, TX, a total distance of 142.86 miles in Wichita, Archer, Baylor, Knox, Haskell and Jones Counties, TX.¹

On November 3, 1995, a decision and certificate of interim trail use or abandonment was served, which authorized a 120-day period for the American Trails Association, Inc. (ATA), to negotiate an interim trail use/rail banking agreement with Lone Star for the 128.5-mile portion of the right-of-way between milepost 8.0 in Wichita Falls and milepost 136.5 in North Abilene.

On October 16, 1997, ATA requested that the Board partially vacate the NITU for the line segment between milepost 111.27 at the Haskell County-Jones County boundary line and milepost 136.5 at the end of the line near the City of Hawley, a distance of 25.23 miles in Jones County, TX. ATA states that it is the owner of the right-of-way, and requests that the partial vacation be made effective November 1, 1997. ATA's request complies with the Board rule applicable to such modifications, 49 CFR 1152.29(d)(2).

On March 23, 1998, the North Texas Rural Rail Transportation District (NTR) filed a request for its substitution as interim trail operator in lieu of ATA pursuant to 49 CFR 1152.29(f), for the approximately 7-mile portion of the right-of-way between milepost 8 near Howard and milepost 15 in Wichita and Archer Counties, TX. NTR has filed a statement of willingness to

¹ In the same decision, in Docket No. AB-426, Southern Switching Company--Discontinuance of Service--In Wichita, Archer, Baylor, Knox, Haskell and Jones Counties, TX, the ICC granted authority to Southern Switching Company to discontinue service that it performed over the 142.86-mile rail line pursuant to an operating agreement with Lone Star. The grant was subject to the standard employee protective conditions and to a public use condition. The public use condition expired on October 7, 1995.

assume financial responsibility which conforms to the requirements for implementing 16 U.S.C. 1247(d), as set forth in 49 CFR 1152.29. On March 26, 1998, ATA filed a statement in support of NTR's request and stated that it had reached an agreement for the transfer of the right-of-way segment to NTR.

NTR has made the required showing under 49 CFR 1152.29(f) for the substitution of an interim trail user. Accordingly, NTR's request will be granted. In addition, the certificate of interim trail use will be vacated for the segment of the line between milepost 111.27 and milepost 136.5.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The decision and certificate of interim trial use served November 3, 1995, is modified as requested and vacated with the respect to the line segment between milepost 111.27 at the Haskell County-Jones County boundary line and milepost 136.5 at the end of the line near the City of Hawley, in Jones County, TX, and this line segment may be fully abandoned.
3. As to the segment between milepost 8 near Howard and milepost 15 in Wichita and Archer Counties, TX, NTR is authorized to replace ATA as the new trail user for that approximately 7-mile portion of the right-of-way, effective on the service date of this decision.
4. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way.
5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user's continuing to meet the financial obligation for the right-of-way.
6. If the new trail user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

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7. This decision is effective on its service date.

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

Vernon A. Williams
Secretary