

SURFACE TRANSPORTATION BOARD

DECISION AND MODIFICATION OF  
NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 855 (Sub-No. 1X)<sup>1</sup>

A & R LINE, INC.—ABANDONMENT EXEMPTION—  
IN CASS AND PULASKI COUNTIES, IND.

Decided: April 5, 2011

By decision and notice of interim trail use or abandonment (NITU) served on November 18, 2003, as revised by decision served on March 5, 2004, the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903 the abandonment by A & R Line, Inc. (A&R) of a line of railroad known as the A&R line.<sup>2</sup> At the same time, the Board exempted the discontinuance of service by Toledo, Peoria & Western Railway Corporation (TP&W) over the same line. The line extends from milepost 0.0W at Kenneth to the end of the line at milepost 21.0W at Winamac, a distance of 21.0 miles in Cass and Pulaski Counties, Ind. The exemption was granted subject to environmental and employee protective conditions, and conditions requested by Indiana Trails Fund, Inc. (ITF) for rail banking/interim trail use under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act), and for public use. The exemption permitting abandonment of the 21-mile line became effective, subject to those conditions, on the April 22, 2004 service date of the decision terminating the offer of financial assistance process.<sup>3</sup> By decision served on June 15, 2009, the proceeding was reopened and the NITU served on November 18, 2003, as revised by decision served on March 5, 2004, was vacated and a replacement NITU was issued substituting Friends of the Panhandle Pathway, Incorporated (FPP) as the new interim trail user.

On March 22, 2011, FPP filed a notice of intent to terminate trail use for a portion of the right-of-way consisting of an 0.82 acre strip of land. FPP describes this portion of the right-of-

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<sup>1</sup> Prior decisions in this proceeding also have embraced Toledo, Peoria & Western Railway Corporation—Discontinuance of Service Exemption—in Cass and Pulaski Counties, Ind., STB Docket No. AB-847 (Sub-No. 2X).

<sup>2</sup> The March 5, 2004 decision revised the November 18, 2003 decision and NITU to correct the description of the subject line to cover 21 miles of rail line, rather than 15.9 miles as the petitioners originally had indicated.

<sup>3</sup> By a decision served on April 13, 2004, the Board denied a request filed by Pulaski County asking that the Board require the railroad or not-for-profit interim trail user to be bonded or to escrow funds and be obligated for clean-up costs.

way as a strip of ground, a rectangular parcel approximately 376 feet in length and approximately 100 feet in width, laying directly east of, adjacent to, and parallel with the 100 foot corridor right-of-way, but not part of the 100 foot corridor, containing approximately 0.82 acre. According to FPP, this parcel lies directly east of the 100 foot wide double track corridor of the Panhandle Pathway right-of-way, bordered on the North by Oak Street (an unpaved gravel road), and on the South by the Star City Cemetery, in Section 8, Township 29 North, Range 1 West in Van Buren Township, Pulaski County, Ind. FPP states that the purpose of terminating the interim trail use on this portion of property is to permit its abandonment and unencumbered conveyance by FPP to the Star City Regional Sewer District for the construction and operation of a Pumping Station as part of the sewage collection system for the area in and around Star City, Ind. FPP states that the transfer of this strip of ground would not impact the 100 foot right-of-way corridor, nor would it remove any of that corridor from rail banking and interim trail use. FPP will remain as the trail user for the remainder of the right-of-way. And FPP states that this sale will in no way now, or in the future, interfere with restoration of railroad service and/or interim trail use.

FPP requests expedited consideration of its request so that A&R may consummate abandonment for the above-described portion of the right-of-way by April 10, 2011. FPP states that the Star City Regional Sewer District needs to acquire the property in the very near future to preserve the funding it has received for this project.

FPP has complied with the requirements of 49 C.F.R. § 1152.29(d)(2) regarding its request to vacate the NITU for a portion of the right-of-way. FPP's request to vacate the above-described portion of the NITU will therefore be granted, effective on the service date of this decision. Thus, A&R may consummate the authority it has received to abandon the line for that portion of the right-of-way and must do so within 60 days of the issuance of this decision, or else the authority will lapse. Pursuant to 49 C.F.R. § 1152.29(d)(2), copies of this decision will be served on A&R and FPP.

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 in this proceeding on June 15, 2009, is vacated with respect to the above-described portion of the right-of-way. FPP will remain the trail user for the remainder of the right-of-way.

3. This decision is effective on its service date.

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