

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-397 (Sub-No. 4X)

TULARE VALLEY RAILROAD COMPANY—ABANDONMENT—
EXEMPTION—IN TULARE COUNTY, CA

Decided: April 17, 2002

Tulare Valley Railroad Company (TVR) filed a notice of exemption under 49 CFR 1152, Subpart F—Exempt Abandonments to abandon approximately 5 miles of railroad from milepost 15.1 at Tulare, to milepost 20+1191.3 at Loma, in Tulare County, CA.¹ On September 17, 1996, a decision and notice of interim trail use or abandonment (NITU) was served that authorized a 180-day period for the City of Tulare (City) to negotiate an interim trail use/rail banking agreement with TVR for the right-of-way involved in this proceeding. The negotiation period expired on March 18, 1997. By decision served on March 26, 1997, American Trails Association (ATA), as a new negotiation party, was authorized to negotiate an interim trail use/rail banking agreement with TVR for the 5-mile line of railroad. By decision served December 19, 1997, the proceeding was reopened and the March 26, 1997 NITU was vacated as to the segment between milepost 12+5055 and milepost 17+3025, and the City was authorized to replace ATA as the new trail user over the involved right-of-way, effective on December 19, 1997.²

On January 28, 1998, ATA filed a notice of intent to terminate trail use, pursuant to 49 CFR 1152.29(d)(2), for the right-of-way between milepost 20+1191.3 near Loma and milepost 17+3025 in Tulare, a distance of approximately 3 miles. By decision served February 6, 1998, the proceeding was reopened and the March 26, 1997 NITU was vacated with respect to the line segment between milepost 20+1191.3 near Loma and milepost 17+3025 in Tulare, effective February 13, 1998, and TVR was permitted to fully abandon that line segment.

¹ Notice of the exemption was served and published in the Federal Register on August 20, 1996 (61 FR 43117).

² The NITU issued on March 26, 1997, evidently led to a trail use agreement between TVR and ATA that covered at least the segment between milepost 15.1 and milepost 17+3025 because the City's filing indicated that this segment had been in ATA's possession since April 1997. The segment between milepost 12+5055 and milepost 15.1 had previously been authorized for abandonment in Tulare Valley Railroad Company—Abandonment Exemption—in Kings and Tulare Counties, CA, Docket No. AB-397 (Sub-No. 1X), and ATA had been authorized to negotiate, and had successfully negotiated, a trail use agreement with TVR with respect to that segment.

In a pleading filed on April 22, 1998, the City requested that the Board: (1) partially vacate the NITU served December 19, 1997, with respect to the line segment between a point located on the center line of "I" Street approximately 1,051.06 feet westerly of milepost 15 (railroad station 2847+57.16) and a point about 1,999.6 feet easterly of milepost 15 (railroad station 2817+06.5); and (2) and modify the decision to permit the City to remain as trail user for the former TVR right-of-way between a point about 1,999.6 feet easterly of milepost 15 (railroad station 2817+06.5) and milepost 17+3025 (north side of Prosperity Avenue in Tulare), and permit the portion of the former TVR right-of-way traversing Pine Street to be fully abandoned. By decision served June 15, 1998, these requests were granted.

On March 14, 2002, the City petitioned the Board to: (1) reopen the proceeding to partially vacate the NITU served June 15, 1998, that pertains to the former TVR right-of-way covered by Docket No. AB-397 (Sub-No. 4X), extending between a point 1999.6 feet easterly of milepost 15 (railroad station 2817+06.5), and milepost 17+3025 (north side of Prosperity Avenue in Tulare); (2) issue a modified NITU permitting the City to remain as trail user for the former TVR right-of-way between a point 2637.6 feet easterly of milepost 15 (railroad station 2810+68.5) and milepost 17 +3025 (north side of Prosperity Avenue in Tulare); and (3) reissue the appropriate exemption to permit the portion of the former TVR right-of-way extending between railroad station 2817+06.5 and railroad station 2810+68.5 to be fully abandoned. The City states that, in view of current efforts to accommodate community interests and to modify City plans, which envision timely abandonment of the relevant 638-foot segment at the end of the right-of-way, it requests that the partially vacated and modified NITU for the line segment be made effective on or before June 15, 2002.

The City has complied with the requirements of 49 CFR 1152.29(d)(2) regarding a request to vacate a NITU and for modification. Under the circumstances, TVR will be permitted to fully abandon the line between railroad station 2817+06.5 and railroad station 2810+68.

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 NITU served June 15, 1998, is vacated with respect to the line segment between a point 1999.6 feet easterly of milepost 15 (railroad station 2817+06.5), and a point 2637.6 feet easterly of milepost 15 (railroad station 2810+68.5), the NITU is modified to permit the City to remain as the trail user between a point 2637.6 feet easterly of milepost 15 (railroad station 2810+68.5), and milepost 17 +3025 (north side of Prosperity Avenue in Tulare, CA), and TVR may fully abandon the segment for which the NITU has been vacated.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary