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SERVICE DATE – DECEMBER 13, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-844X

SANTA MARIA VALLEY RAILROAD COMPANY–ABANDONMENT
EXEMPTION–IN SANTA BARBARA COUNTY, CA

Decided: December 12, 2002

Santa Maria Valley Railroad Company (SMVRR) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 4.87-mile line of railroad between milepost 9.75 at College Drive and milepost 14.62 at Gates Station, in the city of Santa Maria, in Santa Barbara County, CA. Notice of the exemption was served and published in the Federal Register on November 14, 2002 (67 FR 69071-72). The exemption is scheduled to become effective on December 14, 2002.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on November 19, 2002. In the EA, SEA indicated that the California Department of Parks and Recreation, Office of Historic Preservation (SHPO) and the National Geodetic Survey (NGS) had not completed their evaluations of the potential impact of this project on environmental and historic resources. Therefore, SEA initially recommended that SMVRR be required to: (a) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; and (b) retain the integrity of the rail line until the NGS has completed its review of the abandonment and determined if any geodetic markers could be adversely affected. In a letter response dated November 8, 2002, and received by the Board on December 2, 2002, the SHPO concluded that the proposed abandonment would have no effect on historic properties. SEA also states that NGS did not respond to the EA, and that a lack of response from the NGS indicates that there are no geodetic station markers on the subject line that could be adversely affected by the proposed abandonment. Therefore, SEA states that there is no need to impose the historic preservation and NGS conditions.

SEA indicated that the right-of-way may be suitable for other public use following abandonment. By petition filed December 2, 2002, the City of Santa Maria (City) filed a request for issuance of a notice of interim trail use (NITU) for the entire line under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and for a public use condition under 49 U.S.C. 10905, so that it can

negotiate with SMVRR for acquisition of the right-of-way for use as a recreational trail.¹ The City requests that SMVRR be prohibited from disposing of the corridor, other than the tracks, ties, and signal equipment, along the right-of-way, except for public use on reasonable terms, and that SMVRR be barred from removing or destroying any trail-related structures, such as bridges, trestles, culverts and tunnels for a 180-day period from the effective date of the abandonment exemption.

By reply filed December 4, 2002, SMVRR states that it is not willing to negotiate with the City for interim trail use. Because 16 U.S.C. 1247(d) permits only voluntary interim trail use, the Board cannot issue a NITU in this proceeding. See Rail Abandonment–Use of Rights-of-Way as Trails, 2 I.C.C.2d 591 (1986) (Trails).

As an alternative to interim trail use under the Trails Act, the right-of-way may be acquired for public use as a trail under 49 U.S.C. 10905. See Trails, 2 I.C.C.2d 591, 609. To justify a public use condition, a party must set forth: (i) the condition sought; (ii) the public importance of the condition; (iii) the period of time for which the condition would be effective; and (iv) justification for the imposition of the period of time requested.² See 49 CFR 1152.28(a)(2). The City has met these requirements, and a 180-day public use condition will be imposed. A public use condition is not imposed for the benefit of any one potential purchaser, but rather to provide an opportunity for any interested person to acquire the right-of-way that has been found suitable for public purposes.³

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ The November 14 notice provided that trail use/rail banking requests had to be filed by November 25, 2002. In revising its abandonment rules in Aban. and Discon. of R. Lines and Transp. Under 49 U.S.C. 10903, 1 S.T.B. 894 (1996) and 2 S.T.B. 311 (1997), the Board retained the policy of accepting filings after the due date when good cause is shown. Because there is no indication that the City's late-filed request will prejudice any party, it will be accepted. See Wheeling & Lake Erie Railway Company–Abandonment Exemption–In Starke County, OH, STB Docket No. AB-227 (Sub-No. 10X), slip op. at 1 n.1 (STB served Nov. 7, 1997).

² The City states that the justification for the public use condition is that the rail corridor is within a scenic portion of the Santa Maria Valley, and will connect major residential areas to rural and scenic areas, and would make an excellent recreational trail.

³ Under 49 U.S.C. 10905, the Board may prohibit the disposal of rail properties that are proposed to be abandoned and are suitable for public purposes for a period of not more than 180 days after the effective date of the decision approving or exempting the abandonment.

It is ordered:

1. This proceeding is reopened.
2. The request for issuance of a notice of interim trail use/rail banking is denied.
3. The request for imposition of a public use condition is granted. The exemption of the abandonment of the 4.87-mile segment is subject to the condition that SMVRR keep intact all of the right-of-way underlying the tracks, including bridges, trestles, culverts and tunnels (but not track, ties and signal equipment), for a period of 180 days from the December 14, 2002 effective date of the abandonment exemption (i.e., until June 12, 2003), to enable any state or local government agency or other interested person to negotiate the acquisition of the line for public use.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary