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SERVICE DATE – LATE RELEASE JANUARY 9, 2006

SURFACE TRANSPORTATION BOARD

DECISION AND CERTIFICATE OF INTERIM TRAIL USE OR ABANDONMENT

Finance Docket No. 32609

CHESAPEAKE RAILROAD COMPANY–CERTIFICATE OF INTERIM TRAIL USE AND
TERMINATION OF MODIFIED RAIL CERTIFICATE

Finance Docket No. 29830¹

MARYLAND AND DELAWARE RAILROAD COMPANY–
TERMINATION OF MODIFIED RAIL CERTIFICATE

Decided: January 9, 2006

In Chesapeake Railroad Company–Modified Rail Certificate, Finance Docket No. 32609 (ICC served Nov. 23, 1994), Chesapeake Railroad Company (CHRR) was issued a modified certificate of public convenience and necessity (modified certificate) under 49 CFR 1150, subpart C, to operate approximately 54.1 miles of rail line owned by the State of Maryland between milepost 00.0 at Clayton, DE, and milepost 45.3 at Easton, MD, and a connecting branch line between milepost 00.0 at Queen Anne, MD, and milepost 8.8 at Denton, MD (collectively, Clayton-Easton line).

On July 28, 2005, the Maryland Transit Administration (MTA), on behalf of the State of Maryland, filed notice on behalf of CHRR of its intent to terminate service under the modified certificate over the Clayton-Easton line.² On that same date, MTA filed a request for issuance of a certificate of interim trail use (CITU) under the National Trails System Act, 16 U.S.C. 1247(d), for the Clayton-Easton line. MTA submitted a statement indicating its willingness to assume financial responsibility for management of the right-of-way (ROW) as required at 49 CFR 1152.29, and acknowledged that the use of the ROW for trail purposes is subject to future reconstruction and reactivation for rail service.

¹ These proceedings are not consolidated but are being considered in the same decision for administrative convenience.

² Under 49 CFR 1150.24, an operator must provide 60 days' notice of its intent to terminate service over a line covered by a modified certificate. However, according to MTA, CHRR, the operator, has ceased operating over the Clayton-Easton line, the operating agreement between CHRR and MTA was terminated on October 31, 1998, and CHRR has subsequently forfeited its status as a corporate entity in Maryland.

In Maryland and Delaware Railroad Company–Modified Rail Certificate, Finance Docket No. 29830 (ICC served Feb. 9, 1982), Maryland and Delaware Railroad Company (M&D) was issued a modified certificate under then 49 CFR 1120A to provide service in Maryland and Delaware, including service over the Clayton-Easton line. On August 17, 2005, M&D filed notice of its intent to terminate service under a modified certificate over the Clayton-Easton line.

Because MTA's request complies with the requirements of 49 CFR 1152.29, a CITU will be issued for the above-described line. MTA is free to negotiate an agreement during the 180-day period prescribed below. If an agreement is executed, then no further Board action is necessary. If no agreement is reached within 180 days, the line may be fully abandoned. See 49 CFR 1152.29(c)(1). Use of the ROW for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(c)(2).

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

It is ordered:

1. The request for a CITU under 16 U.S.C. 1247(d) is accepted.
2. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, 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 owner against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the ROW.
3. Interim trail use/rail banking is subject to the future restoration of rail service and the user's continuing to meet the financial obligations for the ROW.
4. If interim trail use is implemented, and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and certificate and request that it be vacated on a specified date.
5. If an agreement for interim trail use/rail banking has been reached by the 180th day after service of this decision and certificate, interim trail use may be implemented. If no agreement is reached by that time, the line may be fully abandoned.

6. This decision is effective on its service date.

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

Vernon A. Williams
Secretary