

SERVICE DATE - APRIL 17, 1997

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-336 (Sub-No. 5)

INDIANA HI-RAIL CORPORATION, DEBTOR--ABANDONMENT

Decided: April 14, 1997

By application filed April 1, 1997, Indiana Hi-Rail Corporation, Debtor (IHRC) seeks authority under 49 U.S.C. 10903-05 to abandon two segments of rail line. The line segments are described as follows: (1) 52.3 miles of track from milepost TS 65.5 to milepost 117.8 on the Eastern Segment known as St. Mary's District (the St. Mary's District segment), except for about 3.8 miles of track from about milepost 73.7 (valuation point 3891 +00.9 at Delphos, OH) to about milepost 77.5 (valuation point 4090 +00 at Landeck, OH), together with the interchange trackage between this line and Conrail's line, over which segment Central Soya proposes to provide service; and (2) 18 miles of track from milepost TS 99.8 to milepost 117.8 on the Eastern Segment known as the St. Mary's District.

Because the application does not comply with the Board's regulations set forth in *Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903*, STB Ex Parte No. 537 (STB Notice of Proposed Rulemaking (NPR) served March 15, 1996; Final Rules served Dec. 24, 1996), the application is being rejected.¹

In proposing to eliminate the separate procedures for abandonment filings by bankrupt carriers, formerly contained at 49 CFR 1152.40-43, we noted that our proposed streamlined process would pare back the filing requirements for all applications, obviating the need for separate summary procedures for bankrupt railroads. NPR at 15. At the same time, we were careful to make provision in our general abandonment regulations for the special needs of bankrupt railroads, as well as the statutory mechanism for processing abandonment applications contained in 11 U.S.C. 1170, which applicant has not invoked in filing this application. See NPR at 15-16; Final Rules at 7.²

¹ Rejection is without prejudice to filing a new application in compliance with 49 U.S.C. 10903 and the current regulations at 49 CFR part 1152. A new application must have a new subnumber and be accompanied by a new filing fee.

² As a simple application for abandonment (i.e., not one filed pursuant to 11 U.S.C. 1170), the application is deficient in many respects. Some of the more significant deficiencies are: (1) applicant states that the application is filed pursuant to the regulations at 49 CFR 1152.40-1152.43, which no longer exist; (2) applicant did not file and publish a notice of intent to abandon the line before filing the application; (3) applicant did not comply with the environmental and historic preservation reporting requirements; (4) applicant's description of the line and its location is unclear and applicant did not submit a detailed map indicating in clear relief the exact location of the rail lines to be abandoned; (5) applicant did not submit its entire case in chief, e.g., the revenue and cost data submitted do not comport with the requirements of 49 CFR 1152.22(d), and are, thus, inadequate; (6) applicant did not submit a copy of a draft *Federal Register* notice on a computer diskette compatible with the Board's current word processing capabilities; and (7) applicant did not file the application on the bankruptcy court.

It is ordered:

1. IHRC's application is rejected.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary