

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 1052X

ALMANOR RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN PLUMAS
AND LASSEN COUNTIES, CAL.

Decided: April 26, 2010

Almanor Railroad Company (AL) filed a notice of exemption under 49 C.F.R. § 1152 Subpart F—Exempt Abandonments to abandon a 12.3-mile line of railroad between milepost 0.0, in Chester, and milepost 12.3, near Clear Creek, in Plumas and Lassen Counties, Cal. Notice of the exemption was served and published in the Federal Register on February 9, 2010 (75 FR 6432-33). The exemption became effective on March 11, 2010.¹

On March 17, 2010, the Collins Pine Company (Collins) late filed a request for issuance of a notice of interim trail use (NITU) for the line under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act), and 49 C.F.R. § 1152.29.² Collins has submitted a statement of willingness to assume full financial responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way (ROW), as required at 49 C.F.R. § 1152.29, and has acknowledged that the use of the ROW for trail purposes is subject to future reconstruction and reactivation for rail service. In a letter filed on March 17, 2010, AL states it is willing to negotiate with Collins for interim trail use.

Because Collins' request complies with the requirements of 49 C.F.R. § 1152.29 and AL is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an

¹ The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) on February 12, 2010, recommending that environmental conditions be imposed on the proposed abandonment. By decision served on March 11, 2010, the exemption was made subject to these conditions.

² In the EA, SEA indicated that the right-of-way (ROW) may be suitable for other public use following abandonment. The February 9, 2010 notice provided that trail use/rail banking requests were to be filed by February 19, 2010. However, in Aban. and Discontinuance of R.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 Collins' late-filed request will prejudice any party, it will be accepted. See Wheeling & Lake Erie Ry.—Aban. Exemption—in Starke County, Ohio, AB 227 (Sub-No. 10X), slip op. at 1 n.1 (STB served Nov. 7, 1997).

agreement during the 180-day period prescribed below. If the parties reach a mutually acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, AL may fully abandon the line, provided that the environmental and historic preservation conditions imposed in this proceeding are met. See 49 C.F.R. § 1152.29(d)(1). Use of the ROW for trail purposes is subject to any future use of the property for restoration of railroad operations.

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 late-filed request for a NITU, under 16 U.S.C. § 1247(d), is granted.
3. Upon reconsideration, the notice served and published in the Federal Register on February 9, 2010, exempting the abandonment of the 12.3-mile line of railroad described above, is modified to the extent necessary to implement interim trail use/ rail banking as set forth below to permit Collins to negotiate with AL for trail use of the subject line, for a period of 180 days commencing from the service date of this decision and notice.
 4. 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, for 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 railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the ROW.
 5. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the ROW.
 6. 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 notice and request that it be vacated on a specified date.
 7. If an agreement for interim trail use/rail banking is reached by October 23, 2010, interim trail use may be implemented. If no agreement is reached by that time, AL may fully abandon the line, provided the environmental and historic preservation conditions imposed in this proceeding are met. See 49 C.F.R. § 1152.29(d)(1).
8. This decision is effective on its date of service.

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