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SERVICE DATE - JUNE 2, 1998

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-103 (Sub-No. 12X)

THE KANSAS CITY SOUTHERN RAILWAY COMPANY--ABANDONMENT
EXEMPTION--IN WEBSTER, BIENVILLE, NATCHITOCHES AND WINN PARISHES, LA

Decided: May 28, 1998

The Kansas City Southern Railway Company (KCS) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 61.62-mile line of railroad between milepost 83.02 at or near Sibley, and milepost 144.64 at or near Carla, in Webster, Bienville, Natchitoches and Winn Parishes, LA. Notice of the exemption was served and published in the Federal Register on June 6, 1997 (62 FR 31188-89). On July 3, 1997, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding to implement interim trail use/rail banking for the entire line under 49 CFR 1152.29 and the National Trails System Act, 16 U.S.C. 1247(d) and provided a 180-day period for the National Salvage & Service Corp. (Commenter), to negotiate an interim trail use/rail banking agreement with KCS for the right-of-way involved in this proceeding. The negotiation period under the NITU expired on January 2, 1998.¹ On November 26, 1997, a NITU was served, which authorized a 180-day period for the Louisiana Department of Culture, Recreation and Tourism (DCRT), to negotiate an interim trail use/rail banking agreement with KCS for the right-of-way involved in this proceeding. The negotiation period under the NITU expired on May 25, 1998.

On May 22, 1998, the Louisianans for Parks and Tourism (LPT), a new negotiating party, filed a request for a NITU for the entire line.² LPT submitted a statement indicating its willingness to assume full financial responsibility for the management of, and for payment of taxes for, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to future reactivation for rail service. Also on May 22, 1998, KCS indicated its willingness to negotiate with LPT over trail use/rail banking of the line.

¹ The July 3 decision also imposed a 180-day public use condition that expired on January 2, 1998, and an environmental condition that required KCS to consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying the 58 geodetic markers identified on the line.

² LPT stated that DCRT did not wish to continue its NITU negotiations with KCS beyond May 25, 1998. By letter dated May 27, 1998, DCRT confirmed that it does not wish to continue negotiations with KCS beyond May 25, 1998.

Trail use requests are accepted as long as the Board retains jurisdiction over the involved railroad right-of-way³ and the carrier is willing to enter into negotiations. Inasmuch as KCS has not consummated the abandonment and is willing to negotiate with LPT for trail use over the right-of-way, a NITU will be issued, with the trail use negotiation period running for 180 days from the service date of this decision, or until November 29, 1998. If no agreement is reached within that time period, KCS may fully abandon the line. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(d)(2).

This decision 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. Upon reconsideration, the notice of exemption served and published in the Federal Register on June 6, 1997, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below until November 29, 1998.
3. 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 right-of-way.
4. 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 of the right-of-way.
5. 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 specific date.
6. If an agreement for interim trail use/rail banking is reached by November 29, 1998, interim trail use may be implemented. If no agreement is reached by that time, KCS may fully abandon the line.

³ See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Soo Line Railroad Company--Exemption--Abandonment in Waukesha County, WI, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and Missouri-Kansas-Texas Railroad Company--Abandonment--In Pettis and Henry Counties, MO, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).

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7. The decision is effective on the service date.

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

Vernon A. Williams
Secretary