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SURFACE TRANSPORTATION BOARD¹

DECISION

Docket No. AB-462 (Sub-No. IX)

SOUTHEASTERN INTERNATIONAL CORPORATION--ABANDONMENT
EXEMPTION--IN JEFFERSON AND CHAMBERS COUNTIES, TX

Decided: October 29, 1996

In a decision and a notice of exemption served and published in the Federal Register on June 24, 1996 (61 FR 32474), respectively, Southeastern International Corporation (SIC) was exempted under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 10903-04 to abandon 13.57 miles of rail line between milepost 62.57 near Fannett and milepost 49.00 near Stowell in Jefferson and Chambers Counties, TX. The exemption was made subject to labor protective conditions and a 90-day public use condition. The exemption became effective on July 24, 1996.

On September 18, 1996, County Judge Oscar Nelson, on behalf of Chambers County, TX (Chambers), requested issuance of notice of interim trail use or abandonment (NITU) under 16 U.S.C. 1247(d). Chambers states that the right-of-way is suitable for rail banking and submitted a statement of willingness to assume financial responsibility as required under 49 CFR 1152.29.

On October 7, 1996, SIC replied stating that nearly all of the line's track and crossties have been removed, but that the right-of-way has been retained and all bridges, trestles, and culverts have been kept intact, as required by the public use condition. SIC states that it is willing, and has made at least two efforts, to negotiate with Chambers for the sale of the right-of-way for public use purposes, but it otherwise argues that Chambers' trail use request is untimely and should be rejected. Because 16 U.S.C. 1247(d) permits only voluntary interim trail use negotiations and SIC's response must be viewed as a refusal to negotiate with Chambers for interim trail use, the Board cannot issue a NITU in this proceeding. See Rail Abandonments--Use of Rights-of-Way as Trails, 2 I.C.C.2d 591 (1986).

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

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA. This decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this decision applies the law in effect prior to the ICCTA, and citations are to the former sections of the statute, unless otherwise indicated.

Docket No. AE-462 (Sub-No. 1X)

It is ordered:

1. The request for issuance of a notice of interim trail use is denied.
2. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary

