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SERVICE DATE - NOVEMBER 14, 2000

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-439 (Sub-No. 4X)¹

DALLAS AREA RAPID TRANSIT--ABANDONMENT EXEMPTION--IN
DALLAS COUNTY, TX

Decided: November 8, 2000

Dallas Area Rapid Transit (DART) and Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances for DART to abandon and UP to discontinue service over a 3.04-mile line of railroad known as the Athens Branch East between milepost 308.80 at Pleasant Drive and the end of the track at milepost 305.76 at Rylie Road, in Dallas County, TX.² Notice of the exemption was served and published in the Federal Register on November 4, 1999 (64 FR 60261-62).³ On December 3, 1999, a decision and notice of interim trail use or abandonment (NITU) was served, which 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) (Trails Act), and provided a 180-day period for the City of Dallas Trinity River Corridor Project (City) to negotiate an interim trail use/rail banking agreement with DART for the right-of-way involved in this proceeding.⁴ The negotiation period under the NITU expired on June 1, 2000.

By petition filed November 2, 2000, DART filed a request for issuance of a NITU under the Trails Act and the regulations at 49 CFR 1152.29 in order to rail bank the Athens Branch

¹ The notice issued on November 4, 1999, embraced STB Docket No. AB-33 (Sub-No. 139X), Union Pacific Railroad Company--Discontinuance of Service Exemption--in Dallas County, TX.

² By letter filed April 19, 2000, UP notified the Board that, on December 6, 1999, it had discontinued service over the Athens Branch East.

³ DART, a rail common carrier, is a political subdivision of the State of Texas that is charged with developing and operating a public transit system in the greater Dallas area.

⁴ The December 3, 1999 decision also imposed environmental conditions that required DART to: (a) consult with Mr. Clyde Bohmfalk, Policy and Regulations Division, concerning surface and ground water, and Mr. Ken Gathright, Air Quality Planning and Assessment, concerning air quality; (b) notify the community floodplain administrator to ensure that all construction is in compliance with the community's Flood Hazard Prevention Ordinance/Court Order; (c) contact Mr. Mike Howard, regarding water quality; and (d) contact Mr. Randy Arnett if there are questions regarding waste remediation.

East in its own name.⁵ DART states that it did not reach an agreement on trail use with the City during the negotiation period and states that it has not consummated abandonment of the Athens Branch East. In its petition, DART indicates that it: (1) will retain ownership of the right-of-way; and (2) will remain fully responsible for management and use of the right-of-way, payment of any applicable taxes, and any liability arising out of its ownership and use.

In light of DART's statement that it will remain financially responsible for the right-of-way, acknowledging that use of the right-of-way is subject to possible future restoration of rail service, the requirements of the Trails Act and the regulations have been met, and a NITU will be issued.

As conditioned, 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. The notice of exemption served and published in the Federal Register on November 4, 1999, exempting the abandonment of the line described above, is modified to the extent necessary to implement interim trail use/rail banking for the rail line known as the Athens Branch East.
3. DART must notify the Board if it is going to discontinue rail banking and consummate the abandonment.
4. Interim trail use/rail banking is subject to the future restoration of rail service.

⁵ A railroad is permitted to rail bank its own line where the railroad represents that the property is suitable for interim trail use and that it will assume financial responsibility for the line. See Roaring Fork Railroad Holding Authority--Abandonment Exemption--in Garfield, Eagle and Pitkin Counties, CO, STB Docket No. AB-547X, slip op. at 4 n.11 (STB served Oct. 16, 1998).

5. This decision is effective on its service date.

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

Vernon A. Williams
Secretary