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SERVICE DATE – JANUARY 25, 2010

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-1050X

REGIONAL RAIL RIGHT OF WAY COMPANY—ABANDONMENT EXEMPTION—  
IN COLLIN AND DALLAS COUNTIES, TX

Decided: January 22, 2010

Regional Rail Right of Way Company (RRROW) filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 5.34-mile line of railroad known as the Cotton Belt, extending between milepost 592.43 at Renner Junction and milepost 597.77 at Knoll Trail Road in Collin and Dallas Counties, TX.<sup>1</sup> Notice of the exemption was served and published in the Federal Register on December 28, 2009 (74 FR 68656-57). The exemption is scheduled to become effective on January 27, 2010.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on December 31, 2009, requesting comments by January 15, 2010. In the EA, SEA recommended that the Board not impose environmental conditions on any decision granting abandonment authority. No comments to the EA were filed by the January 15, 2010 due date. Therefore, no condition will be imposed. Because no environmental or historic preservation issues have been raised by any party or identified by SEA, a Finding of No Significant Impact under 49 CFR 1105.10(g) will be made pursuant to 49 CFR 1011.7(b)(9).

In the EA, SEA indicated that the right-of-way (ROW) may be suitable for other public use following abandonment of the line. On January 7, 2010, Dallas Area Rapid Transit (DART) filed a request for issuance of a notice of interim trail use (NITU) for the 5.34-mile line under the National Trails System Act, 16 U.S.C. 1247(d), and 49 CFR 1152.29.<sup>2</sup> DART states that it will retain ownership of the ROW and will remain fully responsible for the management and use of

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<sup>1</sup> In the same decision, the Board also exempted the discontinuance of any existing trackage rights over the line. See Dallas, Garland and Northeastern Railroad, Inc.—Discontinuance Exemption—in Collin and Dallas Counties, TX, STB Docket No. AB-585 (Sub-No. 4X), and Union Pacific Railroad Company—Discontinuance Exemption—in Collin and Dallas Counties, TX, STB Docket No. AB-33 (Sub-No. 288X).

<sup>2</sup> DART currently owns the right, title, and ownership interest in the right-of-way, trackage, and other physical assets associated with the subject line. RRROW owns a freight rail operating easement over the line (including the residual common carrier obligation to provide freight service). RRROW is a wholly owned subsidiary of DART.

the ROW, for payment of any applicable taxes, and for any legal liability arising out of its ownership and use. DART acknowledges that the use of the ROW for trail purposes is subject to future restoration of rail service. By letter dated January 15, 2010, RRROW states it is willing to negotiate with DART for interim trail use.

Because DART's request meets the requirements of 49 CFR 1152.29 and RRROW is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an 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, RRROW may fully abandon the line, subject to any outstanding conditions. See 49 CFR 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. Abandonment of the involved rail line will have no significant effect on the quality of the human environment or the conservation of energy resources or on historic resources.
3. Upon reconsideration, the notice served and published in the Federal Register on December 28, 2009, exempting the abandonment of the 5.34-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 DART to negotiate with RRROW for trail use of the subject line for a period of 180 days commencing from the January 27, 2010 effective date of the exemption (until July 26, 2010).
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. Use of the ROW for interim trail use/rail banking is subject to any future use of the property for restoration of railroad operations 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 July 26, 2010, interim trail use may be implemented. If no agreement is reached by that time, RRROW may fully abandon the line. See 49 CFR 1152.29(d)(1).

8. This decision is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.