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SURFACE TRANSPORTATION BOARD¹NOTICE OF EXEMPTION AND MODIFICATION OF
NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB-397 (Sub-No. 1X)

TULARE VALLEY RAILROAD COMPANY--ABANDONMENT EXEMPTION--
IN KINGS AND TULARE COUNTIES, CA

Decided: May 7, 1997

By decision served on March 24, 1994,² the ICC granted an exemption under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 10903-04 permitting Tulare Valley Railroad Company (TVR) to abandon 29.5 miles of rail line: (1) between milepost 0.3 at Corcoran and milepost 15.1 at Tulare, and (2) between milepost 23.8 at Visalia and milepost 38.5 at Cutler, in Kings and Tulare Counties, CA. A decision and notice of interim trail use or abandonment (NITU) was served on May 3, 1994, establishing a 180-day period for American Trails Association (ATA) to negotiate an interim trail use/rail banking agreement under 16 U.S.C. 1247(d) (Trails Act). By letter filed April 20, 1995, ATA stated that an interim trail use/rail banking agreement had been timely reached.

On April 22, 1997, ATA requests that the Board partially vacate the NITU for the line segment between milepost 0.3 at Corcoran and milepost 12+5055 at the west side of Inyo Avenue in Tulare, a distance of approximately 12 miles, in Kings and Tulare Counties, CA. ATA states that it is both the owner and trail user involved and requests that the partial vacation be made effective April 23, 1997.

ATA's request complies with the Board rule applicable to such modifications, 49 CFR 1152.29(d)(2). Therefore, this proceeding will be reopened in order to vacate partially the NITU and reinstate the exemption as provided for in the rule.

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

It is ordered:

1. The proceeding is reopened.
2. The notice of interim trail use served May 3, 1994, is modified as requested and vacated with respect to the line segment between milepost 0.3 at Corcoran and milepost 12+5055 at the west side of Inyo Avenue in Tulare, in Kings and Tulare Counties, CA, and this line segment may be fully abandoned under this notice of exemption.

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 and 16 U.S.C. 1247(d). 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.

² Notice of the exemption was published in the *Federal Register* on March 24, 1994 (59 FR 14000).

3. This notice is effective on the date of service.

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

Vernon A. Williams
Secretary