

29058  
DO

SERVICE DATE - APRIL 10, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1182X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT  
EXEMPTION--IN INDIANA COUNTY, PA

Decided: April 9, 1998

Consolidated Rail Corporation (Conrail) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon an 11.80-mile portion of the Blairsville Secondary Track between milepost 5.70± and milepost 17.50±, in Indiana County, PA. Notice of the exemption was served and published in the Federal Register on March 12, 1998 (63 FR 12148-49).

The exemption was scheduled to become effective on April 11, 1998, but a formal expression of intent to file an offer of financial assistance (OFA) has been filed by the Kovalchick Corporation (KOVC) to purchase the entire line, which has the effect of staying the effective date of the exemption for 10 days until April 21, 1998.<sup>1</sup> KOVC simultaneously requested that Conrail provide it with the financial data and information prescribed in 49 CFR 1152.27(a). On March 30, 1998, Conrail filed a request for a 60-day extension in accordance with 49 CFR 1152.27(c)(2)(ii)(D), to develop and submit the required information requested by KOVC.

By petition filed March 18, 1998, the Cambria and Indiana Trail Council (CITC) filed a request for the issuance of a notice of interim trail use (NITU), under the National Trails System Act (Trails Act), 16 U.S.C. 1247(d), and for a public use condition under 49 U.S.C. 10905, in order to negotiate with Conrail for acquisition of the right-of-way for use as a trail.

CITC requests that Conrail be prohibited from disposing of the corridor, other than the tracks, ties, and signal equipment, except for public use on reasonable terms, and that Conrail be barred from removing or destroying any trail-related structures, such as bridges, trestles, culverts and tunnels, for a 180-day period from the effective date of abandonment exemption. CITC submitted a statement of willingness to assume financial responsibility for interim trail use and rail banking in compliance with 49 CFR 1152.29, and acknowledged that the use of the right-of-way for trail purposes is subject to future reactivation for rail service. CITC states that it needs the full 180-day period because it has not had the opportunity to assemble or to review title information or commence negotiations with Conrail. By reply filed March 30, 1998, Conrail indicated its willingness to negotiate with CITC for interim trail use.

---

<sup>1</sup> 49 CFR 1152.27(c)(2)(i).

As an alternative to interim trail use under the Trails Act, the right-of-way may be acquired for public use as a trail under 49 U.S.C. 10905. See Rail Abandonments--Use of Rights-of Way as Trails, 2 I.C.C.2d 591, 609 (1986). Under section 10905, the Board may prohibit the disposal of rail properties that are proposed to be abandoned and are appropriate for public purposes for a period of not more than 180 days after the effective date of the decision approving or exempting the abandonment.

To justify a public use condition, a party must set forth: (i) the condition sought; (ii) the public importance of the condition; (iii) the period of time for which the condition would be effective; and (iv) justification for the imposition of the period of time requested. See 49 CFR 1152.28(a)(2). CITC has satisfied the requirements for both a public use condition and a NITU and, therefore, imposition of both would be appropriate commencing with the effective date of the exemption. However, an OFA takes priority over any requests for a NITU or for a public use condition. Therefore, issuance and effectiveness of a NITU and a public use condition will be delayed until the OFA process has been completed. If agreement is reached on sale or subsidy of the line, public use and trail use conditions would be unnecessary and unavailable. If no agreement is reached on the OFA, the appropriate decision and notice of interim trail use will be issued.

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

It is ordered:

1. If the OFA process terminates, a decision effective on its service date will be issued to impose the notice of interim trail use and the public use condition.
2. The requests for issuance of a notice of interim trail use and for issuance of a public use condition are held in abeyance pending completion of the OFA process.
3. Conrail is directed to provide KOVC with the requested information to enable KOVC to file an OFA. The deadline for KOVC to file its OFA is extended to June 10, 1998.

STB Docket No. AB-167 (Sub-No. 1182X)

4. The effective date of the exemption is postponed until June 20, 1998.
5. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary