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SERVICE DATE - APRIL 22, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-855 (Sub-No. 1X)¹

A & R LINE, INC.–ABANDONMENT EXEMPTION–
IN CASS AND PULASKI COUNTIES, IN

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: April 21, 2004

By decision and notice of interim trail use or abandonment served on November 18, 2003, as revised by decision served on March 5, 2004, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by A & R Line, Inc. (A&R) of, and discontinuance of service by Toledo, Peoria & Western Railway Corporation (TP&W) over, a line of railroad known as the A&R line, extending from milepost 0.0W at Kenneth to the end of the line at milepost 21.0W at Winamac, a distance of 21.0 miles in Cass and Pulaski Counties, IN, subject to environmental, trail use, public use, and employee protective conditions.

On March 15, 2004, Kokomo Grain Company (Kokomo) filed a revised offer of financial assistance (OFA) to acquire the 21-mile line. In a decision served March 19, 2004, Kokomo was found to be financially responsible and the effective date of the exemption was postponed to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed. The March 19 decision provided that, if A&R and Kokomo could not agree on the purchase price, either party could request the Board to establish the terms and conditions of the purchase on or before April 14, 2004.

In a letter dated April 15, 2004, A&R states that an agreement has not been reached with Kokomo under the OFA process. Also, neither party has requested that the Board set the terms and conditions for the sale.

If no agreement is reached within 30 days after the offer to purchase is made and no request is made for the Board to set the conditions and amount of compensation, the Board will serve a decision vacating the prior decision that postponed the effective date of the decision granting the exemption. See 49 U.S.C. 10904 and 49 CFR 1152.27(g)(2). Accordingly, the OFA

¹ Prior decisions in this proceeding also have embraced Toledo, Peoria & Western Railway Corporation–Discontinuance of Service Exemption–in Cass and Pulaski Counties, IN, STB Docket No. AB-847 (Sub-No. 2X).

process will be terminated and the March 19, 2004 decision will be vacated to the extent it postponed the effective date of the abandonment exemption. The exemption permitting abandonment of the 21-mile line will become effective on the service date of this decision.²

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

It is ordered:

1. The OFA process in this proceeding is terminated.
2. The decision served March 19, 2004, is vacated to the extent it postponed the effective date of the abandonment exemption to permit the OFA process to proceed, and the abandonment exemption, as conditioned, is effective on the service date of this decision.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² Because the line was not sold under the OFA procedures, the trail use and public use processes may proceed. A request by Pulaski County that the Board require the railroad or not-for-profit interim trail user to be bonded or to escrow funds and be obligated for clean-up costs will be considered in a separate decision.