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SEC

SERVICE DATE - OCTOBER 20, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-487 (Sub-No. 3X)

PITTSBURG & SHAWMUT RAILROAD, INC.--ABANDONMENT EXEMPTION--
IN JEFFERSON AND CLARION COUNTIES, PA

Decided: October 19, 1998

By decision served January 14, 1998, the Board granted Pittsburg & Shawmut Railroad, Inc. (PSRR), an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon its line of railroad known as the Piney Branch, extending from milepost 0.00 (milepost 40.60 on the main line of the Laurel Subdivision), located at or near Coder to milepost 23.80 located at or near Piney, a distance of 23.80 miles, in Jefferson and Clarion Counties, PA. Among the conditions imposed by the Board was a requirement that PSRR shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line, including the Coder Viaduct bridge, located at milepost 1.41, and the railroad tunnel located at milepost 23.52, until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (historic preservation condition). The exemption became effective on February 13, 1998. On September 10, 1998, PSRR filed a notice of consummation stating that it "has discontinued operations, canceled tariffs and intends that the property be removed from the interstate rail network."¹

The Board's regulations adopted in Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, STB Ex Parte No. 537 (STB served Dec. 24, 1996, and June 27, 1997), include a provision at 49 CFR 1152.29(e)(2), that is designed to provide clear evidence of when an authorized abandonment has been consummated and thus is designed to avoid litigation over whether or not a line has been abandoned. Section 1152.29(e)(2) requires that:

A railroad that receives authority from the Board to abandon a line (in a regulated abandonment proceeding under 49 U.S.C. 10903, or by individual or class exemption issued under 49 U.S.C. 10502) shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line (e.g., discontinued operations, salvaged the track, canceled tariffs, and intends that the property be removed from the interstate rail network). The notice shall provide the name of the STB proceeding and its docket number, a brief

¹ By letter filed September 16, 1998, PSRR confirmed that its notice of consummation filed on September 10, 1998, was intended only to signify that PSRR has discontinued its service obligations on the line.

description of the line, and a statement that the railroad has consummated, or fully exercised, the abandonment authority on a certain date. The notice shall be filed within 1 year of the service date of the decision permitting the abandonment (assuming that the railroad intends to consummate the abandonment). Notices will be deemed conclusive on the point of consummation if there are no legal or regulatory barriers to consummation (such as outstanding conditions . . .).

The historic preservation condition imposed in this proceeding is a regulatory barrier to consummation and, accordingly, PSRR's filing cannot provide valid notice of the consummation of the proposed abandonment. Therefore, the notice of consummation will be rejected.

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

It is ordered:

1. The notice of consummation filed on September 10, 1998, is rejected.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary