

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 1022 (Sub-No. 1X)

ARIZONA & CALIFORNIA RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN SAN BERNARDINO AND RIVERSIDE COUNTIES, CAL.

Decided: June 21, 2010

By decision served on June 30, 2009, the Board granted a petition filed by Arizona & California Railroad Company (ARZC) for an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 to abandon a 49.40-mile rail line between milepost 0.0 at Rice and milepost 49.4 at Ripley, in San Bernardino and Riverside Counties, Cal. Notice of the exemption filing was served and published in the Federal Register on April 1, 2009 (74 Fed. Reg. 14,862). The grant was made subject to an environmental condition, a section 106 historic preservation condition, and labor protective conditions.¹

The abandonment exemption was originally scheduled to become effective on July 30, 2009, but effectiveness was delayed until January 14, 2010, when the Board served a decision terminating the offer of financial assistance process in this proceeding.

On June 10, 2010, San Pedro Trails, Inc. (SP Trails) filed a request for the issuance of a notice of interim trail use or abandonment (NITU) for the line under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act) in order to negotiate with ARZC for acquisition of the right-of-way for use as a recreational trail. SP Trails also submitted a statement of willingness to assume financial responsibility for the 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 payment of any and all taxes that may be levied or assessed against, the right-of-way, as required by 49 C.F.R. § 1152.29, and acknowledged that the use of the right-of-way for trail purposes is subject to possible future reactivation for rail service. By letter filed June 15, 2010, ARZC has indicated its willingness to negotiate with SP Trails for interim trail use.

Because SP Trails' request complies with the requirements of 49 C.F.R. § 1152.29 and ARZC 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

¹ The environmental condition was a self-executing condition requiring ARZC, prior to any salvage activities, to consult with Mr. Greg Holmes, Unit Chief, Brownfields and Environmental Restoration Program, California Department of Toxic Substances Control. The section 106 condition was removed by decision served March 30, 2010.

acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, ARZC may fully abandon the line. See 49 C.F.R. § 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

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. Upon reconsideration, the decision served on June 30, 2009, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below for a period of 180 days commencing from the service date of this decision and notice, until December 18, 2010.
3. 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 right-of-way.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.
5. 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.
6. If an agreement for interim trail use/rail banking is reached by December 18, 2010, interim trail use may be implemented. If no agreement is reached by that time, ARZC may fully abandon the line.
7. This decision and notice is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.