

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-501X<sup>1</sup>

LONGHORN RAILWAY COMPANY--DISCONTINUANCE EXEMPTION--  
IN BURNET, TX

Decided: April 1, 1997

By petition filed March 12, 1997, Longhorn Railway Company (LHRR), seeks an exemption under 49 U.S.C. 10502<sup>2</sup> from the prior approval requirements of 49 U.S.C. 10903 to discontinue service over approximately a .25-mile segment of the Burnet City track owned by the City of Austin, TX (Austin), extending between Polk Street and the end of the line at Washington Street in Burnet, TX.<sup>3</sup>

Petitioner has not submitted an environmental or historic report as required by 49 CFR 1105.7 and 1105.8. Rather, petitioner relies on an environmental site evaluation conducted to determine the potential presence of hazardous waste contamination near the rail line. The Board's Section of Environmental Analysis (SEA) has reviewed the site evaluation and determined that it does not adequately substitute for the required environmental and historic reports because it does not address potential impacts to water quality, air quality, threatened or endangered species, or historic resources. Moreover, petitioner has neither consulted with nor notified the required agencies set forth in 49 CFR 1105.7(b) and 1105.8(c).

The petition indicates that, in addition to the discontinuance of service by LHRR, the line segment will be

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<sup>1</sup> Petitioner incorrectly filed this petition for exemption using AB docket number 410, the number assigned to the previous operator of the line, Austin Railroad Company, Inc. (ARC).

<sup>2</sup> Petitioner has failed to specifically address the exemption criteria of 49 U.S.C. 10502.

<sup>3</sup> Austin acquired approximately 162 miles of rail lines, including the Burnet City track, from the Southern Pacific Transportation Company in City of Austin, TX--Acquisition--Southern Pacific Transportation Company, Finance Docket No. 30861(A) (ICC served Nov. 4, 1986); ARC was simultaneously authorized to operate the lines in Austin Railroad Co., Inc.--Operation--City of Austin, TX, Finance Docket No. 30861(B) (ICC served Nov. 4, 1986). Thereafter, Austin was exempted from the provisions of 49 U.S.C. Subtitle IV in connection with its acquisition of the involved rail lines in City of Austin, TX--Exemption--From 49 U.S.C. Subtitle IV, Finance Docket No. 30861(A) (Sub-No. 1) (ICC served Apr. 23, 1987). LHRR subsequently replaced ARC as the operator of the lines in Central of Tennessee Railway & Navigation Company Incorporated d/b/a The Longhorn Railway Company--Change of Operator Exemption--The City of Austin, TX, STB Finance Docket No. 32885 (Sub-No. 1) (STB served Apr. 18, 1996).

abandoned and salvaged by Austin. Although Austin does not need to obtain abandonment authority because it was exempted from the provisions of 49 U.S.C. Subtitle IV in 1987, we are required to undertake an appropriate analysis of the potential environmental impacts of the abandonment. See Caldwell County Economic Development Commission--Exemption from 49 U.S.C. Subtitle IV, Finance Docket No. 32659 (ICC served Aug. 3, 1995). Therefore, Austin must submit any environmental and historic data which may be required of it and comply with any conditions that might be imposed before consummating abandonment and salvage of the line segment.

SEA recommends rejection of LHRR's petition for failure to comply with the environmental rules. Accordingly, the petition for exemption will be rejected pursuant to 49 CFR 1011.8(c)(14).<sup>4</sup>

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

It is ordered:

1. LHRR's petition for exemption is rejected without prejudice to refiling with the appropriate environmental information.
2. LHRR is directed to serve a copy of this decision on Austin within 5 days after the service date of this decision and certify to the Board that it has done so.
3. This decision is effective on the date served.

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

Vernon A. Williams  
Secretary

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<sup>4</sup> This action is without prejudice to LHRR refiling its petition for exemption with the appropriate environmental reports. Petitioner is advised to use the next available sub number under STB Docket No. AB-501 and include a new filing fee if the petition is refiled. For assistance in complying with the environmental rules, LHRR and Austin should call SEA at (202) 565-1545 or write to: Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423-0001. Any future petition for exemption should specifically address the exemption criteria of 49 U.S.C. 10502.