

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 766N)

CONRAIL ABANDONMENT OF THE WEEHAWKEN
BRANCH—IN HUDSON COUNTY, NJ

STB Docket No. AB-167 (Sub-No. 1067N)

CONRAIL ABANDONMENT OF THE RIVER
LINE—IN HUDSON COUNTY, NJ¹

Decided: January 17, 2002

On November 14, 2000, the Consolidated Rail Corporation (Conrail) filed two applications under section 308 of the Regional Rail Reorganization Act of 1973, 45 U.S.C. 748,² to abandon its interest in approximately 3.84 miles of the Weehawken Branch³ and 6.95 miles of

¹ These proceedings are not consolidated. They are being considered together because the lines at issue are operated as a single line as a result of changes made to track alignment and operations.

² Section 308 was adopted in the Northeast Rail Service Act of 1981 (NERSA), enacted as Subtitle E of the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35. NERSA established unique, expedited procedures for Conrail abandonments. Section 308(c) applies to lines for which Conrail filed a Notice of Insufficient Revenue (NIR) prior to a certain date (originally November 1, 1983, but extended to November 1, 1985, by Pub. L. No. 98-181). Section 308 provides that abandonment authority would automatically be granted within 90 days of the filing of an application unless an offer of financial assistance (OFA) pursuant to 49 U.S.C. 10904 is made to purchase, or subsidize operations over, the line. Conrail filed NIRs for the lines at issue here on October 31, 1983, and October 31, 1985, respectively.

³ This segment of the Weehawken Branch extends from the “point of switch in Jersey City[, NJ]” (approximately MP [milepost] 0.00) “to the southerly R.O.W. [right-of-way] line of Baldwin Avenue in Weehawken[, NJ]” (approximately MP 2.84), and includes “the former DL&W [Delaware, Lackawanna & Western] Railroad Lead to the Hoboken Freight Yard in Jersey City.” Conrail Application in STB Docket No. AB-167 (Sub-No. 1067N) at 2.

the River Line,⁴ in Hudson County, NJ. For convenience, the two lines are referenced jointly as the River Line. Under section 308, the requested abandonment authorizations would have become effective in 90 days, or on February 12, 2001, absent the timely filing of an OFA.

On February 12, 2001, Cognis Corporation (Cognis), one of two businesses that used rail service on the River Line within the past 2 years,⁵ filed a two-pronged OFA to subsidize the continued operation of the River Line for a 1-year period⁶ and to obtain the option to purchase Conrail's interest in the River Line at any time prior to the expiration of the subsidy period. In a decision served on February 16, 2001, Cognis was found financially responsible and the abandonment authorizations were postponed to allow the OFA process to proceed under 49 U.S.C. 10904 and 49 CFR 1152.27. Cognis filed a petition asking that conditions and compensation be set for its subsidy and purchase of the River Line on April 13, 2001.⁷ Conrail filed a reply on April 23, 2001, and the New Jersey Transit Corporation, an instrumentality of the State of New Jersey, filed a reply on May 3, 2001.

On January 9, 2002, Cognis withdrew its OFA. Because no other bona fide offer was filed, Conrail will be authorized to abandon the River Line. The abandonment may not be consummated, however, until related petitions for exemption to discontinue service over the River Line, filed by Norfolk Southern Railway Company on November 14, 2000, see Norfolk Southern Railway Company—Discontinuance Exemption—in Hudson County, NJ, STB Docket No. AB-290 (Sub-No. 212X), and CSX Transportation, Inc., on November 20, 2000, see CSX

⁴ This segment is composed of the following parts: (1) the River Line, from the connection to the Passaic and Harismus Branch at Controller Point (CP) “Waldo” in Jersey City (approximately MP 0.00) to the south side of Clifton Road in Weehawken (approximately MP 4.7), including the River Yard; (2) the River Line, from the south side of Clifton Road in Weehawken (approximately MP 0.00) to the northwest side of Tonnelle Avenue (excluding the portion of line, associated track, and underlying right-of-way necessary to retain access and continue service to Durkee Foods) in North Bergen, NJ (approximately MP 1.53); (3) the National Docks Secondary in Jersey City, from where it connects with the River Line at CP “Nave” to the east side of Newark Avenue (approximately 1,350 feet); and (4) the Weehawken Branch (Chicken Yard) in Weehawken, from where it connects with the River Line on the east side of Willow Avenue to the end of the track (approximately 2,450 feet).

⁵ Dykes Lumber Company, Inc., the other business, agreed to share in the costs of preparing, negotiating, and executing the OFA.

⁶ Under section 10904(f)(4)(B), subsidy arrangements may not remain in effect for more than a year unless agreed to by the parties.

⁷ The deadline for requesting a decision establishing terms and conditions was extended in a decision served on March 13, 2001.

Transportation, Inc.—Discontinuance Exemption—in Hudson County, NJ, STB Docket No. AB-55 (Sub-No. 584X), are granted and services are discontinued.

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

It is ordered:

1. Conrail is authorized to abandon the River Line as described and provided above.

2. Pursuant to the provisions of 49 CFR 1152.29(e)(2), Conrail shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by Conrail's filing of a notice of consummation by January 17, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If a legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed no later than 60 days after satisfaction, expiration, or removal of the legal or regulatory barrier.

3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary