

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-318 (Sub-No. 4X)

LOUISIANA & DELTA RAILROAD, INC.--ABANDONMENT
EXEMPTION--IN LAFOURCHE AND ASSUMPTION PARISHES, LA

Decided: October 15, 1997

By decision served August 26, 1997, the Board granted Louisiana & Delta Railroad, Inc. (L&D), an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a line of railroad, the Napoleonville Branch, extending from milepost 1.0 near Thibodaux, Lafourche Parish, LA, to milepost 15.28 near Supreme, Assumption Parish, LA, a distance of 14.28 miles. In the decision, a public use condition was imposed at the request of the City of Thibodaux, LA (City), that required L&D to keep the right-of-way intact, including bridges, culverts and tunnels (but not track or other rail assets), for a period of 180 days after the September 25, 1997 effective date of the exemption to permit the City, any other state or local government agency, or other interested person to negotiate for acquisition of the line for public use.¹ The 180-day period will expire on March 24, 1998.

On September 22, 1997, American Trails Association, Inc. (ATA), filed a request for a notice of interim trail use/rail banking (NITU) for the line under the National Trails System Act, 16 U.S.C. 1247(d), so that it could negotiate with L&D for use of the line as a trail. ATA submitted a statement indicating its willingness to assume full financial responsibility for the management of, and liability for payment of taxes for, the right-of-way, as required by 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to future reactivation for rail service. By letter dated September 29, 1997, L&D indicated that it has not consummated the abandonment and that it is willing to negotiate with ATA for trail use/rail banking.

Trail use requests may be accepted as long as the Board retains jurisdiction over the involved railroad right-of-way² and the carrier is willing to enter into negotiations. Inasmuch as L&D has not consummated the abandonment and is willing to negotiate with the ATA for the right-of-way, a NITU will be issued under 49 CFR 1152.29. The parties may negotiate an agreement during the 180-day period prescribed below. If the parties reach a mutually acceptable final agreement, our further approval is unnecessary. If no agreement is reached during this period, L&D may fully abandon the line. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(d)(2).

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

It is ordered:

1. This proceeding is reopened.

¹ A request by the City for issuance of a notice of interim trail use was denied because the railroad was not willing at that time to negotiate for trail use.

² See Rail Abandonment--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Soo Line Railroad Company--Exemption--Abandonment in Waukesha County, WI, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and Missouri-Kansas-Texas Railroad Company--Abandonment--In Pettis and Henry Counties, MO, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).

2. Upon reconsideration, the decision served August 26, 1997, exempting the abandonment by L&D of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below until April 22, 1998. If an interim trail use/rail banking agreement is executed within the 180-day period, the public use condition will expire (if it has not previously expired) to the extent the agreement covers the same line segment.

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 specific date.

6. If an agreement for interim trail use/rail banking is reached by April 22, 1998, interim trail use may be implemented. If no agreement is reached by that time, L&D may fully abandon the line.

7. This decision is effective on the service date.

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

Vernon A. Williams
Secretary