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SERVICE DATE - NOVEMBER 26, 1997

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-103 (Sub-No. 12X)

THE KANSAS CITY SOUTHERN RAILWAY COMPANY--ABANDONMENT
EXEMPTION--IN WEBSTER, BIENVILLE, NATCHITOCHES AND WINN PARISHES, LA

Decided: November 20, 1997

The Kansas City Southern Railway Company (KCS) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 61.62-mile line of railroad between milepost 83.02 at or near Sibley, and milepost 144.64 at or near Carla, in Webster, Bienville, Natchitoches and Winn Parishes, LA. Notice of the exemption was served and published in the Federal Register on June 6, 1997 (62 FR 31188-89). The exemption was scheduled to become effective on July 6, 1997. On July 3, 1997, a decision and notice of interim trail use or abandonment (NITU) was served, which authorized a 180-day period for the National Salvage & Service Corp. (Commenter), to negotiate an interim trail use/rail banking agreement with KCS for the right-of-way involved in this proceeding. The negotiation period under the NITU is scheduled to expire on January 2, 1998.¹

On November 4, 1997, the Louisiana Department of Culture, Recreation and Tourism (DCRT), a new negotiation party, filed a request for a notice of interim trail use (NITU) for the entire line, under the National Trails System Act (Trails Act), 16 U.S.C. 1247(d).² DCRT submitted a statement indicating its willingness to assume full financial responsibility for management of, and liability for payment of taxes for, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to future reactivation

¹ The July 3 decision also imposed a 180-day public use condition requiring KCS to leave the right-of-way intact, including bridges, culverts, bridges, and similar structures (but not tracks and signal equipment) for a period of 180 days from the July 6, 1997 effective date of the exemption (i.e., until January 2, 1998). The scheduled January 2, 1998 expiration of the public use condition is unaffected by the present decision. The decision also imposed an environmental condition that required KCS to consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying the 58 geodetic markers identified on the line.

² DCRT states that it is aware that Commenter and KCS are in the process negotiating a NITU for the same line. By letter filed November 4, 1997, Commenter indicated that it supports the issuance of a NITU between KCS and DCRT that would be concurrent to the existing NITU between itself and KCS.

for rail service. Also on November 4, 1997, KCS indicated its willingness to negotiate with DCRT over trail use/rail banking of the line.

Trail use requests are accepted as long as the Board retains jurisdiction over the involved railroad right-of-way³ and the carrier is willing to enter into negotiations. Inasmuch as KCS has not consummated the abandonment and is willing to negotiate with DCRT for trail use over the right-of-way, a NITU will be issued, with the trail use negotiation period running for 180 days from the service date of this decision, or until May 25, 1998. If no agreement is reached within that time period, KCS 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 decision 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 notice of exemption served and published in the Federal Register on June 6, 1997, 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 until May 25, 1998.
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 of 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.

³ See Rail Abandonments--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).

STB Docket No. AB-103 (Sub-No. 12X)

6. If an agreement for interim trail use/rail banking is reached by May 25, 1998, interim trail use may be implemented. If no agreement is reached by that time, KCS may fully abandon the line.

7. The decision is effective on the service date.

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

Vernon A. Williams
Secretary

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