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SERVICE DATE – LATE RELEASE JUNE 19, 2013

SURFACE TRANSPORTATION BOARD

DECISION AND CERTIFICATE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 167 (Sub-No. 1004N)

CONRAIL ABANDONMENT OF THE SNOW SHOE INDUSTRIAL TRACK IN CENTRE
AND CLEARFIELD COUNTIES, PA.

Decided: June 18, 2013

In 1990, Consolidated Rail Corporation (Conrail) received authority to abandon a rail line extending between milepost 64.5 near Winburne, Pa., and milepost 45.5 near Gillintown, Pa., a distance of approximately 19 miles in Clearfield and Centre Counties, Pa. (the Snow Shoe Industrial Track). Conrail Aban. of the Snow Shoe Indus. Track in Centre & Clearfield Cntys., Pa., AB 167 (Sub-No. 1004N) (ICC served Feb. 15, 1990). In a decision served on November 5, 1993, the Interstate Commerce Commission issued a Certificate of Interim Trail Use (CITU) under the National Trails System Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29(c)(2), pursuant to which Conrail entered into an agreement for rail banking/interim trail use with the Headwaters Charitable Trust (HCT).

Norfolk Southern Railway Company (NSR) acquired Conrail's rights with respect to the Snow Shoe Industrial Track through the transactions approved by the Board in CSX Corp.—Control—Conrail Inc., 3 S.T.B. 196 (1998), and CSX Corp. & CSX Transportation, Inc., Norfolk Southern Corp. and Norfolk Southern Railway—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corp., FD 33388 (Sub-No. 94) (STB served Nov. 7, 2003).

On May 20, 2008, R.J. Corman Railroad Company/Pennsylvania Lines Inc. (RJCP), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to invoke the class exemption from 49 U.S.C. § 10902 to acquire the residual common carrier rights and obligations of NSR on the Snow Shoe Industrial Track in R.J. Corman Railroad /Pennsylvania Lines Inc.—Acquisition and Operation Exemption—Line of Norfolk Southern Railway, Docket No. FD 35143. Along with the notice of exemption, RJCP filed a petition for waiver of the requirements pertaining to labor notification at 49 C.F.R. § 1150.42(e). Notice of RJCP's exemption was served and published in the Federal Register on June 5, 2008 (73 Fed. Reg. 32,078). Also on May 20, 2008, in this docket, RJCP filed a petition to vacate the outstanding rail banking/interim trail use condition for a portion of the Snow Shoe Industrial Track, extending 9.3 miles between milepost 64.5 near Winburne and milepost 55.2 in Gorton, Pa., but leaving intact the rail banking/interim trail use agreement over the remaining 9.7-mile portion, between milepost 55.2 and milepost 45.5 (the Issue Section). The Board granted both RJCP's petition for waiver of the labor notification requirements and its petition to vacate the CITU for

the portion of the line requested. R.J. Corman R.R./Pa. Lines Inc.—Constr. & Operation Exemption—in Clearfield Cnty., Pa., FD 35116, et al. (STB served May 21, 2012). As a result, HCT is the trail user under the CITU for the Issue Section, over which RJCP has the right to reinstitute rail service.

On March 29, 2013, HCT and Snow Shoe Rails-to-Trails Association (SSRTA) filed a joint application pursuant to 49 C.F.R. § 1152.29(f) to reopen the above-captioned abandonment exemption proceeding, to vacate the existing CITU for the Issue Section, and to issue an appropriate replacement CITU to the new trail sponsor, SSRTA. On May 6, 2013 applicants filed a supplement to their application. On May 23, 2013, RJCP filed a reply stating that it has no objection to the transfer of the CITU for the Issue Section. Applicants have submitted a copy of the extant CITU and a statement by SSRTA of its willingness to assume financial responsibility for interim trail use and rail banking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29. SSRTA has acknowledged that use of the right-of-way is subject to possible future reconstruction and reactivation of the right-of-way for rail service. Applicants' submission meets the requirements of 49 C.F.R. § 1152.29(f). Accordingly, applicants' request will be granted and a replacement CITU will be issued.

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. The CITU served on November 5, 1993, is vacated.
3. A replacement CITU applicable to SSRTA as interim trail sponsor is issued, effective on the service date of this decision.
4. The new trail sponsor is required to assume, for the term of the agreement, full responsibility for: (i) managing the right-of-way; (ii) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability); and (iii) the payment of any and all taxes that may be levied or assessed against the right-of-way.
5. Interim trail use/rail banking is subject to possible future reconstruction and reactivation of the right-of-way for rail service and to the new trail sponsor's continuing to meet its responsibilities for the right-of-way described in ordering paragraph 4 above.
6. If the new trail sponsor intends to terminate trail use on all or any portion of the right-of-way covered by the CITU, it must send the Board a copy of this decision and CITU and request that it be vacated on a specified date.

7. This decision is effective on its service date.

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