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SERVICE DATE - FEBRUARY 14, 1997

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-3 (Sub-No. 137X)

MISSOURI PACIFIC RAILROAD COMPANY--ABANDONMENT EXEMPTION--
IN RED RIVER AND BOWIE COUNTIES, TX

Decided: February 11, 1997

By decision served and published in the Federal Register (61 FR 66748) on December 18, 1996, the Missouri Pacific Railroad Company (MP) was granted as exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a railroad line extending from milepost 23.0 at New Boston, to the end of the track at milepost 61.5 near Clarksville, in Red River and Bowie Counties, TX.¹ The exemption became effective on January 17, 1997.

On December 30, 1996, Rails to Trails Conservancy (RTC) filed a timely request for issuance of a notice of interim trail use (NITU) for the railroad line to be abandoned by MP. RTC submitted a statement indicating its willingness to assume full responsibility for management of, legal liability for, and payment of taxes on, the right-of-way, as required by 49 CFR 1152.29, and acknowledged that the use of the right-of-way for trail purposes is subject to restoration for rail purposes. On January 3, 1997, the Union Pacific Railroad Company (UP) agreed to the imposition of a trail use condition in this proceeding.²

The trail use request was made by the date required in the abandonment decision, and RTC has stated that it will assume financial responsibility for interim trail use/rail banking and has acknowledged that the use of the right-of-way as a trail is subject to future reactivation of rail service. Moreover, the carrier by its agreement to the imposition of trail use has indicated a willingness to enter into negotiations. Accordingly, a NITU will be issued under 49 CFR 1152.29. The parties may negotiate a trail use agreement during the 180-day period prescribed below. If the parties reach a mutually acceptable final agreement, further Board approval will not be necessary. If no agreement is reached within the 180 days, MP may fully abandon the line. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for rail purposes.

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

¹ In the same decision, the Board also exempted discontinuance of service on the line. Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance of Service Exemption--In Red River and Bowie Counties, TX, STB Docket No. AB-364 (Sub-No. 3X).

² MP has recently merged with and into UP. In this decision, however, the abandoning railroad will continue to be referred to as MP.

It is ordered:

1. This proceeding is reopened.
2. Upon consideration, the decision served and published in the Federal Register on December 18, 1996, is modified to the extent necessary to implement interim trail use/rail banking as set forth below, for a period of 180 days from the effective date of the exemption.
3. MP may discontinue service and salvage track and related materials consistent with interim trail use/rail banking after the effective date of this decision and NITU.
4. 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 taxes imposed on, the right-of-way.
5. Interim trail use/rail banking is subject to the future restoration of rail service and to the user continuing to meet the financial obligations for the right-of-way.
6. If the user intends to terminate trail use, it must send the Board a copy of this decision and NITU and request that it be vacated on a specified date.
7. If an agreement for interim trail use/rail banking is reached by July 16, 1997, interim trail use may be implemented. If no agreement is reached by that date, MP may fully abandon the line.
8. This decision is effective on its service date.

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

Vernon A. Williams
Secretary