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INTERSTATE COMMERCE COMMISSION

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB-12 (Sub-No. 151X)

~~SOUTHERN PACIFIC TRANSPORTATION COMPANY--ABANDONMENT~~
EXEMPTION--IN VENTURA COUNTY, CA

File

Decided: October 30, 1995

Southern Pacific Transportation Company (SPT) filed a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments to abandon 5.38 miles of its Ventura Branch from milepost 397.3, at or near the Ventura Junction rail station, to milepost 402.68, at or near the Canet rail station, in Ventura County, CA. A notice of exemption was served and published in the Federal Register on August 21, 1995 (60 FR 43477). The exemption became effective on September 20, 1995.

In a decision served September 19, 1995, this proceeding was reopened and a condition was imposed requiring SPT to retain its interest in and take no steps to alter the historic integrity of the line in its entirety until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.¹

On September 29, 1995, the City of San Buenaventura (the City) filed a request for a notice of interim trail use/rail banking (NITU) under the National Trails System Act (Trails Act), 16 U.S.C. 1247(d) and 49 CFR 1152.29, and a 180-day public use condition under 49 CFR 1152.28, so that it could negotiate with SPT for use of the right-of-way as a recreational trail. The City submitted a statement of willingness to assume financial responsibility for interim trail use and rail banking in compliance with 49 CFR 1152.29 and acknowledged that use of the right-of-way as a trail is subject to future reactivation for rail service.

On October 13, 1995, we issued a decision imposing the requested 180-day public use condition. We did not issue a NITU at that time because SPT had not indicated its willingness to negotiate interim trail use.

The California Office of Historic Preservation, by letter dated October 17, 1995, informed the Commission's Section of Environmental Analysis (SEA) that the proposed abandonment will have no effect on historic properties. SEA, therefore, recommends that the historic preservation condition imposed in the decision served September 19, 1995, be removed. Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.

Also, by letter dated October 20, 1995, SPT indicates its willingness to negotiate interim trail use. In light of SPT's willingness to negotiate, a NITU will be issued under 49 CFR 1152.29. The parties may negotiate an agreement during the 180-day period prescribed below. The negotiating period commences with the effective date of the exemption and may be extended on request if SPT remains willing to negotiate. Qualified entities other than the City may file requests for interim trail use/rail banking so long as the abandonment has not been consummated and

¹ In the September 19, 1995 decision, we also imposed a condition requiring SPT, prior to conducting salvage activities, to consult with the U.S. Army Corps of Engineers, Los Angeles District, Ventura Field Office; the U.S. Department of Agriculture, Natural Resources Conservation Service, Somis Field Office; and the California Coastal Commission.

SPT is willing to negotiate with them. SPT shall respond to any additional requests filed. 49 CFR 1152.29(b)(5). If the parties reach a mutually acceptable final agreement, no further action by the Commission is necessary. If no agreement is reached within 180 days, SPT may fully abandon the line, provided that the consultation condition imposed in the decision served September 19, 1995, is met. 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

As conditioned, 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.
2. Upon reconsideration, the notice of exemption published in the Federal Register on August 21, 1995, exempting the abandonment of the line described above, is further modified to the extent necessary: (1) to remove the historic preservation condition imposed in the decision served September 19, 1995, and (2) to implement interim trail use/rail banking as set forth below, for 180 days commencing September 20, 1995, the effective date of the exemption. If an interim trail use/rail banking agreement is executed within the 180-day period specified above, the public use condition will expire to the extent the trail use/rail banking agreement covers the same line segment.
3. Subject to the consultation condition imposed in the decision served September 19, 1995, SPT may discontinue service, cancel tariffs for the line on not less than 10 days' notice to the Commission, and salvage track and related materials consistent with interim trail use/rail banking after the effective date of this decision and notice. Tariff cancellations must refer to this decision and notice by date and docket number.
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 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 levied or assessed against the right-of-way.
5. 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.
6. If interim trail use/rail banking is implemented, and subsequently the user intends to terminate trail use, it must send the Commission a copy of this decision and notice and request that it be vacated on a specified date.
7. If an agreement for interim trail use/rail banking is reached by the 180th day after service of this decision and notice, interim trail use may be implemented. If no agreement is reached by the 180th day, SPT may fully abandon the line.
8. This decision is effective on its service date.

By the Commission, Joseph H. Dettmar, Acting Director,
Office of Proceedings.

Vernon A. Williams
Secretary

(SEAL)