

SERVICE DATE – OCTOBER 10, 2023

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 1252 (Sub-No. 1X)

EASTERN IDAHO RAILROAD, L.L.C.—ABANDONMENT EXEMPTION—
IN BONNEVILLE COUNTY, IDAHO

Decided: October 10, 2023

Eastern Idaho Railroad, L.L.C. (EIRR), filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 0.76-mile portion of a railroad line known generally as the Old Butte Main Line, extending between milepost 184.14 (immediately southeast of the grade crossing with Yellowstone Highway) and milepost 184.90 (north of the grade crossing with W. Broadway Street), in Idaho Falls, Bonneville County, Idaho (the Line). Notice of the exemption was served and published in the Federal Register on March 13, 2020 (85 Fed. Reg. 14,720).

By decision and notice of interim trail use or abandonment (NITU) served June 5, 2020 (June 2020 Decision), the proceeding was reopened, and the City of Idaho Falls (City) was authorized to negotiate an interim trail use/railbanking agreement with EIRR for a period of one year, until June 5, 2021, pursuant to the National Trails System Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29. June 2020 Decision, AB 1252 (Sub-No. 1X), slip op. at 3-4 (STB served June 5, 2020). The June 2020 Decision also imposed a public use condition¹ and several environmental conditions. Id. at 3-5. Subsequently, two extensions of the NITU negotiating period were granted, which extended the negotiating period until June 5, 2023.

On May 16, 2023, the City and EIRR jointly filed a notice under 49 C.F.R. § 1152.29(h), informing the Board that they reached an interim trail use/railbanking agreement for the segment of the Line between milepost 184.14 and milepost 184.50 (NITU Segment). The City and EIRR therefore request that the Board vacate the NITU issued in the June 2020 Decision and issue a replacement NITU that covers only the NITU Segment, in accordance with the interim trail use/railbanking agreement.

Pursuant to 49 C.F.R. § 1152.29(h), the parties have notified the Board that an interim trail use/railbanking agreement has been reached for a lesser portion of the right-of-way than is covered by the current NITU and have requested that the Board vacate the NITU and issue a replacement. The request to vacate the NITU issued in the June 2020 Decision will be granted and a replacement NITU issued for the NITU Segment. EIRR's authority to abandon the segment of the Line between milepost 184.50 and milepost 184.90 (Remaining Line) will be

¹ The public use condition expired on December 2, 2020.

reinstated, subject to the outstanding environmental conditions imposed in the June 2020 Decision.²

It is ordered:

1. This proceeding is reopened.
2. The NITU issued in the June 2020 Decision is vacated.
3. A replacement NITU covering the NITU Segment is issued.
4. Interim trail use/railbanking is subject to the future restoration of rail service and to the City's continuing to meet the financial obligations for the right-of-way.
5. If the trail sponsor 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 specified date.
6. This decision and notice is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

² The authority to abandon the Remaining Line expires on December 9, 2023, 60 days from service of this decision. See 49 C.F.R. § 1152.29(e)(2) & (h). The Remaining Line is subject to the Board's jurisdiction until the abandonment is consummated. See T&P Ry.—Aban. Exemption—in Shawnee, Jefferson, & Atchison Ctys., Kan., 2 S.T.B. 36, 40 (1997).