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SERVICE DATE - SEPTEMBER 18, 1998

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-544X

SEA LION RAILROAD--ABANDONMENT EXEMPTION--IN KING COUNTY, WA

Decided: September 16, 1998

In a decision served August 11, 1998,¹ the Board granted Adventure Trail, Inc., doing business as Sea Lion Railroad (Sea Lion), an exemption to abandon a line of railroad known as the Ballard Line, between milepost 0.09 and the end of the line at milepost 2.70, a distance of almost 3 miles in the Ballard District of Seattle, King County, WA, subject to standard employee protective conditions. In its decision, the Board deferred action on a request by the City of Seattle that the Board impose interim trail use/rail banking under 16 U.S.C. 1247(d).

Although the Board noted that Seattle had filed an appropriate "statement of willingness" to assume financial responsibility for the right-of-way under 49 CFR 1152.29, and that Sea Lion had consented to the issuance of a notice of interim trail use (NITU), the Board determined that it should defer action on Seattle's request pending final action on any offer of financial assistance (OFA) that might be filed under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). OFAs were due August 21, 1998.

No OFA has been filed with the Board. Accordingly, action on the NITU request can now be taken.

The request by Seattle complies with the requirements of section 1152.29 and Sea Lion is willing to negotiate for trail use. Therefore, a NITU will be issued. The parties may negotiate an agreement during the 180-day period prescribed below. If Sea Lion negotiates a mutually acceptable final agreement with Seattle, no further Board action is necessary. If no agreement is reached within 180 days, Sea Lion may fully abandon the line. See 49 CFR 1152.29(d)(2). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

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

¹ The prior decision was issued on a consolidated record with Ballard Terminal Railroad Company, L.L.C.--Modified Rail Certificate, STB Finance Docket No. 33594, and Adventure Trail D/B/A Sea Lion Railroad--Acquisition and Operation Exemption--The Burlington Northern and Santa Fe Railway Company, STB Finance Docket No. 33486.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the decision served August 11, 1998, exempting Sea Lion's abandonment of the Ballard Line, 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 service date of this decision and notice.
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 specified date.
6. 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 that time, Sea Lion may fully abandon the line, provided that the labor protective conditions imposed in the August 11 decision are met.
7. This decision is effective on its service date.

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

Vernon A. Williams
Secretary