



City of GADSDEN

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February 19, 2020

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BY E-FILING

Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

ENTERED
Office of Proceedings
February 19, 2020
Part of
Public Record

Re: The Alabama Great Southern Railroad Company – Abandonment Exemption
– In Gadsden, Etowah County, Alabama, AB-290 (Sub-No. 335X)

Dear Ms. Brown:

Through this request and pursuant to newly revised 49 C.F.R. § 1152.29(d),¹ the City of Gadsden, Alabama (“City”) a government agency interested in transportation, hereinafter referred to as “City” or “Proponent,” is requesting an additional one-year extension² to wrap up NITU negotiations and afford the City the time necessary to go to settlement with The Alabama Great Southern Railroad Company (“AGS”) on the City’s acquisition of a 3.1-mile AGS

¹ See Limiting Extensions of Trail Use Negotiation Periods, EP 749 (Sub-No. 1); Rails-To-Trails Conservancy – Petition for Rulemaking, EP 753 (STB served Dec. 4, 2019) (“EP 753”)

The final rule amends, effective February 2, 2020, current regulations as follows: (1) provides that the initial term for a certificate of interim trail use or abandonment or NITU will be one year (instead of the current 180 days); (2) permits up to three one-year extensions of the initial period if the trail sponsor and the railroad agree; and (3) permits additional one-year extensions if the trail sponsor and the railroad agree and extraordinary circumstances are shown.

While the rule states, a showing of extraordinary circumstances would be required for any request that would extend the interim trail use/railbanking negotiating period to a date after the four-year anniversary of the issuance of the CITU or NITU, the rule also states that parties (such as the City, AGS, and TAG), which were engaged in negotiations under an existing CITU or NITU that was originally issued before February 2, 2017, may request **one** additional extension of one year, beyond the four-year anniversary without showing extraordinary circumstances.

² The Notice of Interim Trail Use (“NITU”) in place in this proceeding was established by the Board in a decision served April 3, 2013. As such, due to the transitional measure adopted by the Board in EP 753, the regulations do not require the City to show extraordinary circumstances in support of its request.

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City of Champions

segment, which extends between milepost 2.40 AG (near Cabot Ave) and milepost 5.50 AG (near the intersection of River and Coosa Streets) ("AGS Segment"). The City had originally intended to go to settlement prior to the current NITU extension deadline, which is February 27, 2020,³ and had taken substantial steps in anticipation of settlement including on January 27, 2019 filing a Request to Modify and Partially Vacate the Notice of Interim Trail Use Issued April 3, 2013.⁴ Unfortunately, due to final due diligence preparations, the City will not be in a position to close by February 27, 2019 and as such an extension of time is necessary to complete the NITU negotiations and enter into a Trails Use Agreement with AGS for the AGS Segment.

As such the City is seeking an additional one-year extension to continue to work with AGS toward the desired outcome for all parties, which is the preservation of the corridor pursuant to a Trails Use Agreement. Therefore, the City of Gadsden hereby requests an additional one-year extension from February 27, 2020, to allow the Proponent and AGS to complete final tasks and close the transaction. AGS has advised the City it is amenable to this extension. The City and AGS apologize for the lateness of the request, but as stated previously it was originally anticipated that the transaction would close prior to February 27, 2020.

By my signature below, I have served a copy of this statement upon AGS by email. This letter will be E-filed by the City of Gadsden's behalf. Thank you for your consideration.

Respectfully Submitted,

Name:

Title:

Nick Hall
Director of Planning
The City of Gadsden, AL

cc: Parties of Record

³ See The Alabama Great Southern Railroad Company – Abandonment Exemption – In Gadsden, Etowah County, ALA, AB-290 (Sub-No. 335X); Tennessee, Alabama, and Georgia Railway Company – Abandonment Exemption – In Gadsden, Etowah County, ALA, AB-290 (Sub-No 340X) (STB served Sept. 25, 2019).

⁴ The PSA reached only covers the AGS Segment and does not extend to the TAG Segment, as such the City requested that the Board vacate the NITU for the TAG Segment, which extends from milepost TA 90.30 (located between the north end of Brookside Drive and Owls Hollow Road) to milepost TA 91.45 (at the TAG segment's connection with the AGS Segment west of N 5th Street), and issue a replacement NITU covering just the AGS Segment. Upon removal of the TAG Segment from the NITU, the City has been told that TAG plans to consummate discontinuance authority over that segment.