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SERVICE DATE – APRIL 5, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 794X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN PINELLAS
COUNTY, FLA.

Decided: April 5, 2024

On August 20, 2019, CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 0.86-mile segment of rail line located between mileposts ARE 897.57 and ARE 898.43 in downtown St. Petersburg, Pinellas County, Fla. (the Line).¹ Notice of the exemption was served and published in the Federal Register on September 9, 2019 (84 Fed. Reg. 47,339), and the exemption became effective on October 9, 2019.

On August 29, 2019, the City of St. Petersburg (the City) filed a request for issuance of a public use condition under 49 U.S.C. § 10905 and (as supplemented on September 4, 2019) a request for issuance of a notice of interim trail use or abandonment (NITU) under the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29. The Georgetown and High Line Railway Company, LLC (GHL), also requested a NITU on August 29, 2019. In a response filed on September 3, 2019, CSXT notified the Board that it was willing to negotiate an agreement for interim trail use/railbanking with GHL but not with the City.

By decision and NITU served January 13, 2020 (Director Order), GHL's request for a NITU was granted, authorizing GHL and CSXT to negotiate for interim trail use/railbanking until July 11, 2020. The Director Order also denied the City's request for a NITU because CSXT did not agree to negotiate with the City. Director Order, AB 55 (Sub-No. 794X), slip op. at 2.²

¹ A more detailed history of this proceeding is contained in the Board's decisions served in this docket on June 22, 2020, CSX Transp., Inc.—Aban. Exemption—in Pinellas Cnty., Fla. (June 2020 Decision), AB 55 (Sub-No. 794X) (STB served June 22, 2020), and November 14, 2023, CSX Transp., Inc.—Aban. Exemption—in Pinellas Cnty., Fla. (November 2023 Decision), AB 55 (Sub-No. 794X) (STB served Nov. 14, 2023).

² The City subsequently appealed to the Board the Director Order's grant of GHL's NITU. In the June 2020 Decision, the Board denied the City's appeal.

Following a one-year extension of GHL's NITU negotiating period,³ on June 23, 2021, CSXT and GHL jointly notified the Board that they had entered into an interim trail use/railbanking agreement for the Line, pursuant to 49 C.F.R. § 1152.29(h).

Subsequently, for the reasons stated in the November 2023 Decision, the Board revoked the NITU issued to GHL and reinstated CSXT's authority to abandon the Line. See Nov. 2023 Decision, AB 55 (Sub-No. 794X). The Board noted that CSXT filed a status report on June 15, 2023, stating that it was engaged in negotiations with the City concerning the Line. Id. at 6. The Board explained that the City could submit a renewed request for a NITU authorizing interim trail use/railbanking negotiations between it and CSXT. Id. at 8 n.9. The Board stated that if CSXT agreed to negotiate, and the Board granted the City's NITU request, the NITU would allow for continuation of negotiations referenced in CSXT's June 15 status report. Id.

On December 14, 2023, the City filed a request for issuance of a NITU, to which CSXT replied on December 20, 2023, agreeing to negotiate with the City. By decision and NITU served January 12, 2024, the Board granted the City's request for a NITU. CSX Transp., Inc.—Aban. Exemption—in Pinellas Cnty., Fla., AB 55 (Sub-No. 794X), slip op. at 3-4 (STB served Jan. 12, 2024).

That same day, the National Association of Reversionary Property Owners (NARPO) filed a motion requesting that the Board "terminate" the NITU issued to the City and CSXT. (NARPO Mot. 1, Jan. 12, 2024.) NARPO cites the rule adopted in Limiting Extensions of Trail Use Negotiating Periods, EP 749 (Sub-No. 1) et al. (STB served Dec. 4, 2019), which, among other things, provides that interim trail use/railbanking negotiations are generally limited to four years unless extraordinary circumstances are shown. (See NARPO Mot. 1, Jan. 12, 2024); see also 49 C.F.R. § 1152.29(d) (stating that after the initial one-year negotiating period, "[u]p to three one-year extensions of the negotiating period may be granted"). NARPO appears to argue that the Board's issuance of the NITU to the City and CSXT contravenes that rule because the City's new NITU extends the interim trail use/railbanking negotiation period beyond the four-year anniversary of the NITU issued to GHL and CSXT in January 2020. (See NARPO Mot. 1, Jan. 12, 2024.)

NARPO's motion will be denied. In revoking GHL's NITU and reinstating CSXT's abandonment authority, the Board expressly provided that the City thereafter could seek its own NITU. See Nov. 2023 Decision, AB 55 (Sub-No. 794X), slip op. at 8 n.9. The City did so, CSXT consented, and the Board issued a new NITU to the City. It is also worth noting that GHL and CSXT concluded their negotiations and notified the Board that they reached an interim trail use/railbanking agreement on June 23, 2021; hence, the Line has not been under continuous interim trail use/railbanking negotiations under the Trails Act as NARPO suggests.

³ See CSX Transp., Inc.—Aban. Exemption—in Pinellas Cnty., Fla., AB 55 (Sub-No. 794X), slip op. at 5 (STB served Aug. 19, 2020).

It is ordered:

1. NARPO's January 12, 2024, motion is denied.
2. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.