



City of **Montgomery**, Alabama

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August 13, 2014

Ms. Cynthia Brown
Chief, Section of Administration
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ENTERED
Office of Proceedings
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Part of
Public Record

RE: City of Montgomery, Alabama Response to Docket No. AB-290 (Sub-No. 278X), Central of Georgia Railroad Company/Norfolk Southern - Abandonment - in Montgomery County, Alabama

City of Montgomery, Alabama Response to Docket No. AB-55 (Sub-No. 728X), CSX Transportation, Inc. - Discontinuance of Operating Rights - in Montgomery County, Alabama

Dear Ms. Brown:

This request is filed on behalf of the City of Montgomery which is a local governmental municipality in the state of Alabama interested in the proposed abandonment and discontinuance of operating rights for the rail line from milepost H411.50 to H413.62 for transportation purposes, which is hereinafter referred to as 'proponent'.

While not taking a position on the merits of this abandonment, proponent requests issuance of a Public Use Condition between milepost H411.50 to H413.62.

A. Public Use Condition

Proponent requests the STB to find that this property is suitable for other public use, specifically joint trail use and possible passenger rail use, and to place the following conditions on the abandonment and discontinuance of operating rights:

1. An order prohibiting the carrier disposing of the corridor, and allowing public use on reasonable terms. The justification for this condition is that the proposed abandonment of the rail line between Milepost H 413.62 to H 411.50 is consistent with multiple long range neighborhood land use plans adopted by the City of Montgomery. *The Capitol Heights Neighborhood Plan* (page 38), *the Centennial Hill Neighborhood Plan* (page 38) and *The Plan for Oak Park & Centennial Hill* (pages 4.13, 5.3, and 5.4) are posted on the city website (<http://montgomeryal.gov/index.aspx?page=203>) under the Long Range Planning Division of the Planning Department. These plans were adopted in 2007, 2008 and 2011 respectively.

In addition, the proposed action to abandon this section of rail line is consistent with long range plans adopted by the Montgomery Metropolitan Planning Organization (MPO), the regional planning authority for federal transportation planning and programming. The *Montgomery MPO Year 2035 Long Range Transportation Plan* adopted in July of 2010 details on pages 5-43 to 5-44 a proposed rails-to-trail facility. The *Montgomery MPO 2012 Bicycle and Pedestrian Plan* also details the proposed rails-to-trail project with additional discussion of the planned project indicating its high priority. Section 5.2 page 32 details the project, and figure 5.2 on page 34 illustrates the location along with other planned (high priority) and existing multi-modal facilities. The listed plans can be found at <http://www.montgomerympo.gov>.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail and passenger rail purposes. The time period requested is 180 days from the date of the abandonment and discontinuance of operating rights authorization for the same reason indicated above.

B. Interim Trail Use

The railroad right of way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, proponent also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail and passenger rail uses and rail banking under section 8(d) of the National Trails Systems Act, 16 U.S.C. & 1247(d), and 49 C.F.R. & 1152.29, the City of Montgomery is willing to assume full responsibility for management of, for any legal liability arising out of the transfer of 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 owned by Norfolk Southern (NS) and operated by CSX or NS.

The property owned by NS is between mileposts H411.50 to milepost H413.62 and is a distance of 2.12 miles in length.

A map depicting the abandonment and discontinuance of right of way is attached.

The City of Montgomery acknowledges that use of the right of way is subject to the user's continuing to meet its responsibilities described above and subject to possible future construction and reactivation of the right of way for rail service.

By my signature below, I certify service a copy of this statement upon NS by email and U.S. Mail and to the STB by mail.

Thank you for your efforts to coordinate and complete the consultation process. I look forward to further discussion in the future.

If you have any questions please feel free to give Robert Smith, Director of Planning a call at (334) 625-2218.

See attached long range plans that are consistent with your proposed abandonment and discontinuance of operating rights.

Sincerely,



Todd Strange, Mayor
City of Montgomery, AL

cc: Anita L. Archie, Chief of Staff, City of Montgomery
Kim Fehl, City Attorney, City of Montgomery
Robert Smith, Director of Planning, City of Montgomery
Chris Conway, Director of Public Works, City of Montgomery
Patrick Dunson, City Engineering Director, City of Montgomery