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SERVICE DATE – OCTOBER 2, 2007

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-55 (Sub-No. 613X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–
IN JEFFERSON COUNTY, AL

Decided: September 28, 2007

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 16.47-mile rail line extending from milepost ONC 384.00 at Black Creek to milepost ONJ 400.47 at West Jefferson, in Jefferson County, AL. Notice of the exemption was served and published in the Federal Register on September 22, 2003 (68 FR 55085).

By decision and notice of interim trail use or abandonment (NITU) served October 21, 2003,¹ the proceeding was reopened and a 180-day period was authorized for the Jefferson County Commission (County) to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The trail use negotiation period under the NITU was extended several times, with the most recent decision, served on April 5, 2007, extending the negotiation period until October 3, 2007.

By letter dated September 17, 2007, the City of Fultondale, AL (the City), requests that the Board substitute it for the County as the interim trail use proponent with respect to the 16.47-mile rail line and authorize a new negotiation period for 180 days. By letter dated September 14, 2007, the County supports the City's substitution request. By letter dated September 10, 2007, CSXT concurs with the City's request to be substituted for the County as the interim trail use proponent.

The City has submitted a copy of the extant NITU and its statement of willingness to assume financial responsibility for interim trail use and rail banking in compliance with 49 CFR 1152.29. The City also acknowledges that use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation for rail service. Accordingly, the request will be

¹ The October 21, 2003 decision also imposed an environmental condition that required CSXT to provide the National Geodetic Survey with 90 days' notice prior to any salvage activities in order to plan the relocation of three geodetic station markers that may be affected by the abandonment. The condition remains in effect.

granted.

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

It is ordered:

1. This proceeding is reopened.
2. The NITU served on October 21, 2003, is vacated.
3. A replacement NITU applicable to the City as interim trail user is issued for a period of 180 days from the service date of this decision and notice (until March 30, 2008), subject to the environmental condition that remains in effect.
4. The new trail user is required 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.
5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user's continuing to meet the financial obligations for the right-of-way.
6. If the new trail 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.
7. This decision and notice is effective on its date of service.

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

Vernon A. Williams
Secretary