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SERVICE DATE - OCTOBER 21, 2003

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: October 20, 2003

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). The exemption is scheduled to become effective on October 22, 2003.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on September 26, 2003. Comments on the EA were due by October 14, 2003, but no comments were filed. In the EA, SEA stated that the National Geodetic Survey (NGS) has advised that three geodetic station markers have been identified that may be affected by the proposed abandonment. Therefore, SEA recommends that CSXT provide NGS with 90 days' notice prior to salvage activities in order to plan the relocation of the three geodetic station markers.

On October 1, 2003, the Jefferson County Commission (County) timely filed a request for the issuance of a notice of interim trail use (NITU) for the subject line under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), in order to negotiate with CSXT for acquisition of the right-of-way for use as a trail. The County submitted a statement of willingness to assume financial responsibility for the 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 payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 40 CFR 1152.29, and acknowledged that the use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation for rail service. In a response submitted on October 6, 2003, CSXT indicated its willingness to negotiate with the County.

Because the County's request complies with the requirements of 49 CFR 1152.29 and CSXT is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an agreement during the 180-day period prescribed below. If the parties reach a mutually acceptable

final agreement, no further Board action is necessary. If no agreement is reached within 180 days, CSXT may fully abandon the line. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on September 22, 2003, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below, for a period of 180 days commencing from the October 22, 2003 effective date of the exemption (until April 19, 2004), and subject to the condition that CSXT provide NGS 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.
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 for 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 April 19, 2004, interim trail use may be implemented. If no agreement is reached by that time, CSXT may fully abandon the line.

7. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary