

SERVICE DATE – JULY 5, 2018

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1000 (Sub-No. 1X)

GEORGIA SOUTHWESTERN RAILROAD, INC.—ABANDONMENT AND
DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION—IN HARRIS AND
MERIWETHER COUNTIES, GA.

Decided: July 3, 2018

On August 22, 2007, Georgia Southwestern Railroad, Inc. (GSWR), filed a petition under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 10903 to abandon a 43-mile line of railroad between milepost R-12.0 at Florida Rock and milepost R-55.0 at Allie, in Harris and Meriwether Counties, Ga. (the Line).¹ Notice of the exemption was served and published in the Federal Register on September 11, 2007 (72 Fed. Reg. 51,902), and the exemption became effective on February 15, 2008.²

By decision and notice of interim trail use and abandonment (NITU) served August 29, 2008, the proceeding was reopened and modified to implement interim trail use/rail banking under the National Trails System Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29. The NITU authorized a period extending until February 9, 2009, for TYO, Inc. (TYO), to negotiate an interim trail use/rail banking agreement with GSWR for a 21.5-mile portion of the Line, extending from milepost R-33.5, at the Harris County-Meriwether County line, to milepost R-55.0, at Allie. According to TYO, it and GSWR entered into an agreement for interim trail use/rail banking for that 21.5-mile portion of the Line on August 29, 2008.

¹ GSWR's petition also sought authority from the Board to discontinue overhead trackage rights over a line owned by Central of Georgia Railroad Company between milepost R-2.0 north of Columbus and milepost R-12.0 at Florida Rock, in Harris County. By decision served December 10, 2007, the Board exempted the discontinuance from the prior approval requirements of 49 U.S.C. § 10903.

² The abandonment exemption was originally scheduled to become effective on January 9, 2008, but the effective date was postponed in order to permit the offer of financial assistance (OFA) process under 49 U.S.C. § 10904 and 49 CFR § 1152.27 to proceed. See Ga. Sw. R.R.—Aban. & Discontinuance Exemption—in Harris & Meriwether Cts., Ga., AB 1000 (Sub-No. 1X), slip op. at 1-2 (STB served Dec. 21, 2007). By decision served February 15, 2008, the OFA process was terminated, and the abandonment exemption was made effective on the service date of that decision. See Ga. Sw. R.R.—Aban. & Discontinuance Exemption—in Harris & Meriwether Cts., Ga., AB 1000 (Sub-No. 1X), slip op. at 1 (STB served Feb. 15, 2008).

On May 1, 2018, as supplemented on June 22, 2018, TYO filed a petition pursuant to 49 C.F.R. § 1152.29(d)(2) requesting that the Board vacate the NITU.

TYO's petition complies with the requirements of 49 C.F.R. § 1152.29(d)(2) regarding a request to vacate a NITU. Therefore, the request will be granted. Because the existing NITU is being vacated, GSWR's abandonment authority, issued December 10, 2007,³ will be reinstated with respect to the 21.5-mile portion of the Line.⁴ If GSWR chooses to abandon this portion of the Line, it must file a notice of consummation as set forth under the Board's rules at 49 C.F.R. § 1152.29(e)(2) by September 4, 2018. If GSWR does not timely file a notice of consummation, and there are no legal or regulatory barriers to consummation, the abandonment authority will automatically expire.

It is ordered:

1. This proceeding is reopened.
2. The NITU served on August 29, 2008, for the 21.5-mile portion of the Line between mileposts R-33.5 and R-55.0 is vacated.
3. The abandonment authority issued on December 10, 2007, is reinstated with respect to the 21.5-mile portion of the Line between mileposts R-33.5 and R-55.0.
4. If GSWR chooses to abandon this portion of the Line, notice of consummation of abandonment must be filed by September 4, 2018.
5. This decision will be served on TYO and GSWR's representative: Karl Morell, Karl Morell & Associates, 440 1st Street, N.W., Suite 440, Washington, DC 20001.

³ In its December 10, 2007 decision, the Board made the exemption subject to two environmental conditions. By letter dated March 5, 2008, GSWR notified the Board's Office of Environmental Analysis of its compliance with these conditions. See GSWR Environmental Correspondence ECT No. EI-6737 at 1, Ga. Sw. R.R.—Aban. & Discontinuance Exemption—in Harris & Meriwether Ctys., Ga., AB 1000 (Sub-No. 1X), [https://www.stb.gov/ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/6E8CEBC7A20AE0948525740B00779DA0/\\$File/EI-6737.pdf?OpenElement](https://www.stb.gov/ect1/ecorrespondence.nsf/PublicIncomingByDocketNumber/6E8CEBC7A20AE0948525740B00779DA0/$File/EI-6737.pdf?OpenElement).

⁴ The abandonment authority reinstated in this decision does not apply to the portion of the Line between milepost R-12.0 and milepost R-33.5, which was subject to a separate NITU. See Ga. Sw. R.R.—Aban. & Discontinuance Exemption—in Harris & Meriwether Ctys., Ga., AB 1000 (Sub-No. 1X), slip op. at 4-5 (STB served Dec. 10, 2007); see also Ga. Sw. R.R.—Aban. & Discontinuance Exemption—in Harris & Meriwether Ctys., Ga., AB 1000 (Sub-No. 1X), slip op. at 2 (STB served Aug. 28, 2008) (extending the negotiation period).

6. This decision is effective on its service date.

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