

SERVICE DATE - JULY 5, 2002

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-55 (Sub-No. 614X)

CSX TRANSPORTATION, INC.–ABANDONMENT
EXEMPTION–IN RICHMOND COUNTY, GA

Decided: July 3, 2002

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon approximately 1.60 miles of railroad from Valuation Station 0+00 at milepost ANS 0.2 to Valuation Station 84+44, in Augusta, Richmond County, GA. Notice of the exemption was served and published in the Federal Register on June 6, 2002 (67 FR 39097-98). The exemption is scheduled to become effective on July 6, 2002.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on June 17, 2002, preliminarily concluding that abandonment of the line will not significantly affect the quality of the human environment. SEA requested comments by June 25, 2002.

SEA states that the Georgia Department of Natural Resources, Historic Preservation Division (HPD), has submitted a comment stating that insufficient information was provided and that, in order to complete the historic review process, it will require additional information.¹ Therefore, in order to resolve outstanding historic concerns, SEA recommends that a condition be imposed requiring CSXT to consult with HPD to resolve outstanding historic resource concerns, and to retain its interest in and take no steps to alter the historic integrity of the line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

SEA also indicates that the right-of-way may be suitable for public use following abandonment. On June 14, 2002, the Augusta-Richmond County, GA (County), a political subdivision, filed a request for the issuance of a notice of interim trail use (NITU) for the entire line under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and for a public use condition under 49 U.S.C. 10905 so

¹ HPD states that, based on the information provided by CSXT, it has been determined that no archaeological resources that are listed or eligible for listing in the National Register of Historic Places will be affected by this undertaking.

that it can negotiate with CSXT for acquisition of the right-of-way for use as a recreational trail. The County's request indicated that it was being served on CSXT on June 11, 2002. When the railroad did not respond to the County's request as required under 49 CFR 1152.29(b)(5), a Board staff member contacted the railroad's representative advising that the County had filed a NITU request.² The abandoning railroad is normally required to respond to a request for interim trail use within 5 days after it is filed. Under the circumstances presented here, the railroad will be given 10 days from the date of service of this decision to respond. Because 16 U.S.C. 1247(d) permits only voluntary interim trail use, the Board cannot impose a NITU without a statement from the railroad indicating its willingness to negotiate.

As an alternative to interim trail use under the Trails Act, the right-of-way may be acquired for public use as a trail under 49 U.S.C. 10905. See Trails, 2 I.C.C.2d at 609.³ To justify a public use condition, a party must set forth: (i) the condition sought; (ii) the public importance of the condition; (iii) the period of time for which the condition would be effective; and (iv) justification for the imposition of the period of time requested. See 49 CFR 1152.28(a)(2). The County has satisfied these requirements and, therefore, a 180-day public use condition will be imposed commencing with the effective date of the exemption. The County states that it needs the full 180-day period because it has not had an opportunity to assemble and review title information, complete a trail plan or commence negotiations with CSXT. A public use condition is not imposed for the benefit of any one potential purchaser, but rather to provide an opportunity for any interested person to acquire the right-of-way that has been found appropriate for public 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. This proceeding is reopened.
2. CSXT is directed to inform the Board within 10 days of the service date of this decision whether it is willing to negotiate for trail use. The request for a NITU will be addressed in a separate decision.

² A Board staff member telefaxed a copy of the County's NITU to the railroad's representative for review and consideration.

³ Under 49 U.S.C. 10905, the Board may prohibit the disposal of rail properties that are proposed for abandonment and are suitable for public purposes for a period of not more than 180 days after the effective date of the decision approving or exempting the abandonment.

3. Upon reconsideration the notice of exemption served and published in the Federal Register on June 6, 2002, exempting the abandonment of the line described above is subject to the condition that CSXT consult with HPD to resolve outstanding historic resource concerns and retain its interest in and take no steps to alter the historic integrity of the line until completion of the section 106 process of the NHPA.

4. The request for imposition of a public use condition is granted and CSXT shall leave intact the right-of-way underlying the track, including bridges, trestles, culverts and tunnels (but not track or track materials), for a period of 180 days from the July 6, 2002 effective date (until January 2, 2003), to enable any state or local government agency, or other interested person to negotiate the acquisition of the line for public use.

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

Vernon A. Williams
Secretary