

222993

LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LA SALLE STREET - SUITE 1890
CHICAGO, ILLINOIS 60604-1112
TELEPHONE (312) 236-0204
FAX (312) 201-9695
mcfarland@aol.com

THOMAS F. MCFARLAND

July 21, 2008

By e-filing

Anne K. Quinlan, Esq
Acting Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

Re STB Docket No AB-868X, *Mississippi Tennessee Holdings, LLC --
Abandonment Exemption -- in Union, Pontotoc and Chickasaw Counties, MS*

STB Docket No AB-868 (Sub-No 1X), *Mississippi Tennessee Holdings, LLC --
Abandonment Exemption -- in Hardeman County, TN and Tippah and Union
Counties, MS*

Dear Ms Quinlan

This is to advise the Board that on July 18, 2008, Mississippi Tennessee Holdings, LLC

- (1) conveyed the right-of-way between Milepost No 281.0 at or near Houston, MS and Milepost No 325 53 at a point seventy feet south of the centerline of the Burlington Northern Santa Fe Railroad mainline, at or near New Albany, MS, to the GM&O Rails-to-Trails Recreational District of North Mississippi for railbanking and interim recreational trail use, and
- (2) conveyed its right to reinstitute rail service over that right-of-way to the Mississippi Transportation Commission.

Attached to this communication are copies of Board decisions that authorized those transactions, i.e.

- (1) in Docket No 868X, *Mississippi Tennessee Holdings, LLC -- Aband Exempt -- in Union, Pontotoc and Chickasaw Counties, MS*, decision served June 16, 2008, and

THOMAS F. MCFARLAND

Anne K. Quinlan, Esq
July 21, 2008
Page 2

- (2) in Docket No. 868 (Sub-No. 1X), *Mississippi Tennessee Holdings, LLC -- Aband Exempt -- in Hardeman County, TN and Tippah and Union Counties, MS*, decision served June 25, 2008

Very truly yours,

Tom McFarland

Thomas F. McFarland
*Attorney for Mississippi
Tennessee Holdings, LLC*

TMCF kl enc wp8 01985,11170wjSTB3

cc: Roy Tipton, Esq , *by e-mail to rmtipton@ndot.state.ms.us*
Robert M. Carter, Esq , *by e-mail to rmclaw1973@hotmail.com*
Mr. Greg Cundiff - *by e-mail to gregcundiff@ironhorseresources.com*
Mr. Barry McClure - *by e-mail bmmclure@ironhorseresources.com*

SURFACE TRANSPORTATION BOARD DECISION DOCUMENT
Decision Information

Docket Number: **AB_868_0_X**

Case Title: **MISSISSIPPI TENNESSEE HOLDINGS, LLC--ABANDONMENT
EXEMPTION--IN UNION, PONTOTOC, AND CHICKASAW COUNTIES,
MS**

Decision Type: **Decision**

Deciding Body: **Director Of Proceedings**

Decision Summary

Decision Notes: **DECISION: (1) REOPENED THIS PROCEEDING; (2) VACATED THE
NOTICE OF INTERIM TRAIL USE OR ABANDONMENT (NITU)
SERVED ON JULY 6, 2006; AND (3) ISSUED A REPLACEMENT NITU
APPLICABLE TO THE CITY OF NEW ALBANY, MS AND THE GM&O
RAILS-TO-TRAILS RECREATIONAL DISTRICT OF NORTH
MISSISSIPPI AS INTERIM TRAIL USER UNTIL JULY 26, 2008.**

Full Text of Decision



39127
DO

SERVICE DATE - LATE RELEASE JUNE 16, 2008

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

[1]
STB Docket No AB-868X

**MISSISSIPPI TENNESSEE HOLDINGS, LLC--ABANDONMENT EXEMPTION--
IN UNION, PONTOTOC AND CHICKASAW COUNTIES, MS**

Decided June 16, 2008

By decision and notice of interim trail use or abandonment (NTTU) served on July 26, 2004, the Board granted a petition for exemption under 49 U.S.C. 10502 permitting Mississippi Tennessee Holdings, LLC (MTH) to abandon, and Mississippi Tennessee Railroad, LLC (MTR) to discontinue service over, a 43 2-mile line of railroad in Union, Pontotoc and Chickasaw Counties, MS, extending from milepost 324 2 near New Albany to the end of the line at milepost 281 0 near Houston, MS. A NITU served on July 6, 2006, established a 90-day period (until October 4, 2006) for the City of New Albany, MS (City), to negotiate an interim trail use/rail banking agreement with MTH for the entire 43 2-mile rail line. Decisions served on October 4, 2006, April 19 and August 1, 2007, and February 5, 2008, extended the trail use negotiating period until July 26, 2008.

By letter filed on June 6, 2008, MTH, the City and the GM&O Rails-to-Trails Recreational

District of North Mississippi (GM&O), pursuant to 49 CFR 1152.29(f), jointly request that the Board vacate the existing NITU and issue an appropriate replacement NITU to GM&O

The parties have submitted a copy of the extant NITU and a statement of willingness to assume financial responsibility by GM&O. The parties have also indicated that MTH and GM&O have reached agreement for purchase and sale of the right-of-way and intend to close the purchase and sale on July 15, 2008. The parties' submission meets the requirements of 49 CFR 1152.29(f). Accordingly, this proceeding will be reopened and the requested relief will be 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 July 6, 2006, is vacated

3. A replacement NITU applicable to GM&O as interim trail user is issued, effective on the service date of this decision and notice, for a period ending on July 26, 2008.

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, Joseph H. Dettmar, Acting Director, Office of Proceedings

Anne K. Quinlan
Acting Secretary

[1]

Some of the prior decisions in this proceeding have also embraced Mississippi Tennessee Railroad, LLC-Discontinuance of Service Exemption-in Union, Pontotoc and Chickasaw Counties, MS, STB Docket No. AB-869X.

Decision Attachments

39127.pdf

10 KB

Approximate download time at 28.8 kb: 18 Seconds

① Note:

If you do not have Acrobat Reader, or if you have problems reading our files with your current version of Acrobat Reader, the latest version of Acrobat Reader is available free at www.adobe.com.

SURFACE TRANSPORTATION BOARD DECISION DOCUMENT
Decision Information

Docket Number: **AB_868_1_X**

Case Title: **MISSISSIPPI TENNESSEE HOLDINGS, LLC-ABANDONMENT
EXEMPTION-IN HARDEMAN COUNTY, TN AND TIPPAAH AND UNION
COUNTIES, MS**

Decision Type: **Decision**

Deciding Body: **Director Of Proceedings**

Decision Summary

Decision Notes: **DECISION: (1) REOPENED THIS PROCEEDING; AND (2) MODIFIED
THE NOTICE SERVED AND PUBLISHED ON SEPTEMBER 28, 2006,
IN THIS PROCEEDING.**

Full Text of Decision

39145
DO

SERVICE DATE - LATE RELEASE JUNE 25, 2008

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE AND ABANDONMENT

STB Docket No AB-868 (Sub-No 1X)

**MISSISSIPPI TENNESSEE HOLDINGS, LLC—ABANDONMENT EXEMPTION—IN
HARDEMAN COUNTY, TN AND TIPPAAH AND UNION COUNTIES, MS**

Decided June 23, 2008

Mississippi Tennessee Holdings, LLC (MTH) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon (1) an approximately 19.55-mile rail line extending between approximately milepost 367.65 in Middleton, Hardeman County, TN, and milepost 348.1 in Ripley, Tippah County, MS, and (2) an approximately 1.36-mile rail line between milepost 325.56 in New Albany, Union County, MS, and milepost 324.2 in Union County, MS, a total distance of 20.91 miles. Notice of the exemption was served and published in the Federal Register on September 28,

2006 (71 FR 57020-21), as corrected in a decision served on March 20, 2007. [1] The notice provided that, if consummation of the abandonment had not been effected by MTH's filing of a notice of consummation by September 28, 2007, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. See 49 CFR 1152.29(e)(2). By decision served on November 16, 2007, the Board granted MTH's request to extend the deadline for consummation of [2] the abandonment as to the 1.36-mile segment until September 28, 2008.

On June 6, 2008, GM&O Rails-to-Trails Recreational District of North Mississippi (GM&O) and MTH jointly filed a letter in which GM&O requests the issuance of a notice of interim trail use (NITU) for the 1 36-mile line segment pursuant to section 8(d) of the National Trails System Act, 16 U S C 1247(d) (Trails Act), and 49 CFR 1152.29. GM&O has 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 potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way as required at 49 CFR 1152.29, and has acknowledged that the use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation for rail service. Also, in the letter, MTH states that it agrees to negotiate with GM&O.

Because the GM&O's request complies with the requirements of 49 CFR 1152.29, and MTH 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, MTH 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.

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 Upon reconsideration, the notice served and published in the Federal Register on September 28, 2006, as corrected in a decision served on March 20, 2007, exempting the abandonment of the 1 36-mile line segment described above, is modified to the extent necessary to implement interim trail use/rail banking as set forth below to permit MTH to negotiate with GM&O for trail use of the subject line, for a period of 180 days commencing from the service date of this decision and notice until December 22, 2008.

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 December 22, 2008, interim trail use may be implemented. If no agreement is reached by that time, MTH may fully abandon the line.

7 This decision is effective on its service date

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings

Anne K. Quinlan
Acting Secretary

[1]

In STB Docket No. AB-869 (Sub-No. 1X), Mississippi Tennessee Railroad, LLC—Discontinuance of Service Exemption—in Hardeman County, TN and Tippah and Union Counties, MS, Mississippi Tennessee Railroad, LLC (MTRR) filed a notice of exemption under 40 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service for MTRR to discontinue service over the same lines described above. Notice of the exemption was served and published and later corrected along with MTH's notice.

[2]

On June 15, 2007, MTH and MTRR filed a notice stating that MTH had consummated abandonment and MTRR had consummated discontinuance of rail service over the 19.55-mile line originating in Tennessee.

[3]

On June 12, 2008, GM&O and MTH filed a letter stating that, in its June 6, 2008 filing, one ending milepost was incorrectly identified as Milepost 324.3, and that the correct location of that ending milepost is Milepost 324.2. On June 16, 2008, GM&O filed a letter stating that the NITU it seeks is for 180 days from the date of the Board's decision issuing the NITU.

Decision Attachments

[39145.pdf](#)

13 KB

Approximate download time at 28.8 kb: 21 Seconds

Note:

If you do not have Acrobat Reader, or if you have problems reading our files with your current version of Acrobat Reader, the latest version of Acrobat Reader is available free at www.adobe.com.