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CITY OF ATHENS

Austin Fesmire, CPRP
Director
Parks and Recreation Department
236417

August 8, 2014

Secretary
Surface Transportation Board
395 E Street SW
Washington, DC 20423-0001

ENTERED
Office of Proceedings
August 8, 2014
Part of
Public Record

**Re: CSX Transportation Abandonment of the Athens Branch in McMinn County, Tennessee,
(STB Docket No. AB-55/Sub No. 694X)**

Dear Secretary:

I am writing on behalf of McMinn County, Tennessee to request another 180 day extension of the deadline for negotiations with CSX Transportation, Inc. ("CSXT"), regarding the Notice of Interim Trail Use in the above captioned proceeding with respect to the 6.4 mile portion of the line ("the Athens Branch") that extends northwest from near Englewood to Athens. (between OKW327.0 and OKW333.4 including both spurs located after OKW 332). Pursuant to the attached April 25, 2014 decision ("the Decision") of the Surface Transportation Board ("the Board"), an agreement for interim trail use/rail banking expires August 17, 2014 ("Negotiating Deadline").

As previously reported, McMinn County has completed the purchase of OKW332.61 to OKW328.47 and would request that the extension be relative to the remainder of the above mentioned line which is from OKW328.47 to OKW327.0. We are in the process of requesting further funding through the federal RTP program and private donors so that we might complete this purchase however we need additional time to pursue this funding opportunity.

The County respectfully requests an extension to February 13, 2015 (180 calendar days for the Negotiating Deadline). In addition, the County respectfully requests a waiver of the Boards filing fees in accordance with 49 CFR 1002.2(e)(1).

Respectfully submitted,

Austin Fesmire
City of Athens

cc: Kevin Hurley, CSX
John Gentry, McMinn County Mayor
Mitchell Moore, Athens City Manager

Attachment: April 25 Decision

FILING FEE WAIVED

43706
DO

SERVICE DATE – APRIL 25, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 694X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN MCMINN COUNTY, TENN.

Decided: April 25, 2014

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 6.4-mile rail line, known as the Athens Branch, on its Southern Region, Huntington-West Division, KD Subdivision, extending between milepost OKW 327.0, at Englewood, and milepost OKW 333.4, at Athens, in McMinn County, Tenn. Notice of the exemption was served and published in the Federal Register on May 21, 2009 (74 Fed. Reg. 23,926).

By decision and notice of interim trail use or abandonment (NITU) served on August 13, 2009 (August 2009 decision), the proceeding was reopened and a 180-day period was authorized for McMinn County (the County), the City of Athens, and the City of Englewood to negotiate with CSXT for an interim trail use/rail banking agreement for the 6.4-mile line under § 8(d) of the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29.¹ By a series of decisions, with the latest decision served on August 19, 2013, the NITU negotiating period was extended until February 18, 2014.

In a letter filed on March 12, 2014, the County notified the Board that it had completed the purchase of a portion of the line extending from milepost OKW 333.4 to milepost OKW 328.47. In the letter, the County also requests a further extension of the NITU negotiation period for 180 days, until August 17, 2014, for the remaining portion of the line extending from milepost OKW 328.47 to milepost OKW 327.0. The County states that the extension is needed because they are in the process of pursuing additional Federal funding to complete the purchase of the remaining portion of the line, and also to continue negotiations. In a letter filed on March 20, 2014, CSXT states that it agrees to the extension request.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period for a portion of the line and is willing to continue trail use negotiations for that portion of the line, the Board retains jurisdiction, and the NITU negotiating

¹ The August 2009 decision also imposed two salvage-related conditions that remain in effect.

period may be extended.² Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Vill. v. Mo. Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996). An extension of the NITU negotiation period will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period for the portion of the line from milepost OKW 328.47 to milepost OKW 327.0 will be extended for an additional 180 days from February 18, 2014, until August 17, 2014. If an interim trail use agreement is reached (and thus interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) and (h); Nat'l Trails Sys. & R.R. Rights-of-Way, EP 702 (STB served Apr. 30, 2012).

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

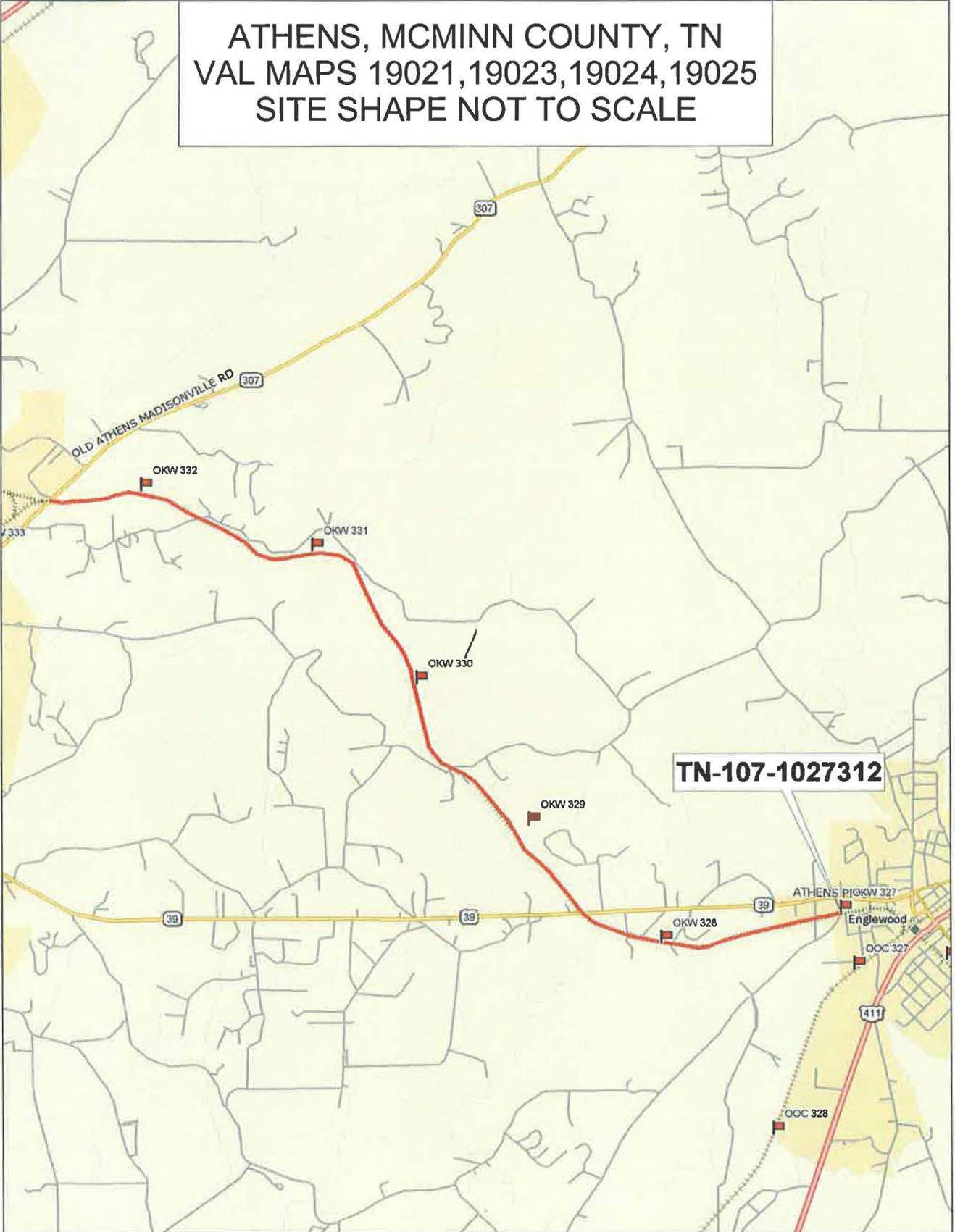
It is ordered:

1. The County's request to extend the NITU negotiating period for an additional 180 days is granted.
2. The NITU negotiating period is extended from February 18, 2014 to August 17, 2014, for the portion of the line from milepost OKW 328.47 to milepost OKW 327.0.
3. If an interim trail use/rail banking agreement is reached, the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) and (h).
4. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

² See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

**ATHENS, MCMINN COUNTY, TN
VAL MAPS 19021,19023,19024,19025
SITE SHAPE NOT TO SCALE**



TN-107-1027312

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Scale 1 : 43,750



1" = 3,645.8 ft Data Zoom 12-2