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October 16, 2012

BY HAND DELIVERY

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, SW
Washington, DC 20423

**ENTERED
Office of Proceedings**

OCT 16 2012

**Part of
Public Record**

Re: Docket No. AB-1097, Pickens Railway Company – Abandonment in
Pickens County, South Carolina

Dear Ms. Brown:

On October 15, 2012, Pickens Railway Company ("Pickens") received a copy of a filing made by Junius Smith, Practitioner for the Home Owners, in the above-referenced proceeding. Mr. Smith appears to request that the Surface Transportation Board (the "Board") prohibit the subject rail line from being converted into a trail pursuant to the National Trail Systems Act, 16 U.S.C. § 1247(d) (the "Trails Act"). This request must be denied.

As the Board previously has noted "if a prospective trail user requests a trail condition and the carrier indicates its willingness to negotiate a trail agreement, the Board's role under the Trails Act is largely ministerial". See STB Docket No. AB-295 (Sub-No. 7X), *The Indiana Rail Road Company -- Abandonment Exemption -- In Martin and Lawrence Counties, IN*, 2010 STB LEXIS 125, at *29, served March 26, 2010 (noting if the prospective trail sponsor files a request with the required statement assuming liability and acknowledgment of the potential resumption of rail service, and the railroad is willing to negotiate, the Board "must" issue a notice of interim trail use).

On September 27, 2012, the City of Easley and the City of Pickens filed a request for interim trail use that included a statement of willingness to assume liability and an

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acknowledgment of potential reinstatement of rail service. On October 9, 2012, Pickens replied that it was willing to negotiate interim trail use. Under these circumstances, a notice of interim trail use ("NITU") must be issued.

Moreover, Mr. Smith's assertion that Pickens provided improper notice to landowners is unfounded. *First*, under 49 C.F.R. § 1105.12, Pickens is required only to publish notice of the proposed abandonment in a newspaper that has general circulation in the county(ies) where the line is located. The subject line in this proceeding is located wholly within Pickens County. Prior to Pickens publishing its notice in the Greenville News, Ms. Susan Mullinax, a legal advertising representative for the newspaper, advised Pickens that the Greenville News is a newspaper of general circulation in several counties, including Pickens County. Mr. Smith makes no assertion to the contrary.

Second, there is no requirement that Pickens notify property owners of an abandonment by certified mail. *Cf. National Trails System Act and Railroad Rights-of-Way*, Docket No. EP 702, at 13-14, served April 30, 2012 (noting that providing actual notice to landowners that an NITU had been issued would be impractical). *Third*, Mr. Smith's filing is clear evidence that landowners received actual and timely notice of this proceeding.

An NITU will enable the rail corridor to be preserved for possible reactivation of rail service in the future. Without an NITU, rail service over the subject right-of-way may be lost forever. The Trails Act was intended to preserve rail corridors, and Mr. Smith's attempts to contravene the Trails Act should be rejected.

Enclosed are 10 copies of this letter. Please acknowledge receipt of this letter by date-stamping the acknowledgment copy and returning it to our messenger.

Very truly yours


Rose-Michele Nardi

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that the foregoing letter was served on October 16, 2012, by first-class mail, postage pre-paid, on the following parties:

Junius Smith
Practitioner for Home Owners
814 Belle Shoals Road
Pickens, SC 29671

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Rose-Michele Nardi