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SERVICE DATE - JANUARY 29, 1998

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-192 (Sub-No. 1)]

The Birmingham Southern Railroad Company—Abandonment and Discontinuance of
Trackage Rights—in Jefferson County, AL

On January 9, 1998, the Birmingham Southern Railroad Company (BS) amended an application it filed with the Surface Transportation Board (Board) on December 22, 1997, to abandon a portion of its line of railroad known as the Birmingham Branch, extending from BS Milepost 146+97.22 near East Thomas Station to the end of the line near Birmingham Station, a distance of 3.869 miles, in Jefferson County, AL;¹ and to discontinue its trackage rights over Norfolk Southern Railway Company's (NSR) line between NSR's Mileposts 143 and 144 near Birmingham Station, a distance of .614 miles in Jefferson County, AL. The trackage rights include the right of BS to travel over approximately 500 feet of main line track over which NSR continues to maintain traffic, and approximately 2,741 feet of yard

¹ BS amended its original filing to clarify that the portion of the Birmingham Branch sought to be abandoned consists of only two segments: (1) the Birmingham Running Track, extending a distance of 2.78 miles between BS station 0+00 and BS station 146+97.22; and (2) the Birmingham Yard, extending a distance of 1.08 miles between BS station 0+00 and BS station 56+83.94. BS maintains that a third segment originally included in its December 22, 1997 filing (the Ingalls Iron Works Track, extending a distance of .29 miles between BS station 3+20.28 and BS station 18+41.48), is actually exempt industry/switching track that should not have been included in the abandonment application. Accordingly, BS does not seek abandonment authorization for the Ingalls Iron Works Track. The abandonment application will be deemed to have been filed on January 9, 1998, the date the clarification was filed, and hence the procedural schedule will run from that date.

track which was removed by NSR approximately 10 years ago. The line includes only one station, Birmingham Station No. 605, near BS Milepost 25+67.42 and traverses United States Postal Service ZIP Codes 35203, 35204 and 35233.

The line does not contain federally granted rights-of way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment and discontinuance was filed with the application.

The Birmingham Branch has appeared on the applicant's system diagram map or has been included in its narrative in category 1 since 1990.

The interest of railroad employees will be protected by the conditions in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

Any interested person may file with the Board written comments concerning the proposed abandonment and discontinuance or protests (including the protestant's entire opposition case), by February 23, 1998. All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) or for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by February 23, 1998. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27). The applicant's reply to any opposition statements and its response to trail use requests must be filed by March 10, 1998. See 49 CFR 1152.26(a).

Persons opposing the proposed abandonment and discontinuance that wish to participate actively and fully in the process should file a protest. Persons who may oppose

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the abandonment and discontinuance but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses containing detailed evidence should file comments. Persons interested only in seeking public use or trail use conditions should also file comments.

In addition, a commenting party or protestant may provide:

- (i) An offer of financial assistance (OFA) for continued rail service under 49 U.S.C. 10904 (due 120 days after the application is filed or 10 days after the application is granted by the Board, whichever occurs sooner);
- (ii) Recommended provisions for protection of the interests of employees;
- (iii) A request for a public use condition under 49 U.S.C. 10905; and
- (iv) A statement pertaining to prospective use of the right-of way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

All filings in response to this notice must refer to STB Docket No. AB-192 (Sub-No. 1) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) Maria A. Sandala, Attorney, 135 Jamison Lane, P. O. Box 68, Monroeville, PA 15146. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

The lines sought to be abandoned and discontinued will be available for subsidy or sale for continued rail use if the Board decides to permit the abandonment and discontinuance in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49

CFR 1152.27). Each OFA must be accompanied by a \$900 filing fee. See 49 CFR 1002.2(f)(25). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is Mr. J. L. Neis, General Superintendent, Birmingham Southern Railroad Company, 6200 E. J. Oliver Blvd., P. O. Box 579, Fairfield, AL 35064.

Persons seeking further information concerning the abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1545. [TDD for the hearing impaired is available at (202) 565-1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

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Decided: January 22, 1998.

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

Vernon A. Williams

Secretary