

SERVICE DATE – MARCH 27, 2008

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-347 (Sub-No. 3X)

FLORIDA WEST COAST RAILROAD COMPANY, INC. — ABANDONMENT  
EXEMPTION — IN ALACHUA AND GILCHRIST COUNTIES, FL

Decided: March 26, 2008

By decision served on June 14, 2004, the Board granted the petition for exemption filed by Florida West Coast Railroad Company, Inc. (FWCR), for abandonment of an approximately 13-mile line of railroad extending from milepost 734.0, in Trenton, to milepost 721.0, in Newberry, in Alachua and Gilchrist Counties, FL. The exemption was subject to public use, environmental, and standard employee protective conditions.<sup>1</sup> The decision stated that, if consummation had not been effected by FWCR's filing of a notice of consummation by June 14, 2005, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. The deadline for FWCR to file its notice of consummation was extended through January 10, 2009, as a result of decisions served on June 28, 2005, October 7, 2005, March 15, 2006, June 14, 2006, January 16, 2007, and February 4, 2008.

On February 28, 2008, Georgetown and High Line Railway Company, LLC (G&H), filed a request for 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). G&H 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, 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. By filing dated March 19, 2008, FWCR states that it is willing to negotiate for trail use.

Because G&H's request complies with the requirements of 49 CFR 1152.29 and FWCR 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, FWCR may fully abandon the line, subject to compliance with the environmental conditions imposed in the June 14, 2004 decision. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to possible future restoration for railroad purposes.

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<sup>1</sup> The public use condition has expired.

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 request for a NITU under the Trails Act is granted.
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 new 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 September 23, 2008, interim trail use may be implemented. If no agreement is reached by that time, FWCR may fully abandon the line provided that the environmental conditions imposed in the June 14, 2004 decision are met.
7. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary