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SERVICE DATE – DECEMBER 17, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 323X)

THE ALABAMA GREAT SOUTHERN RAILROAD COMPANY—  
DISCONTINUANCE EXEMPTION—IN SAINT BERNARD PARISH, LA.<sup>1</sup>

Decided: December 17, 2013

The Alabama Great Southern Railroad Company (AGS) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 3.50-mile rail line (the Line) between mileposts 1.00-PT and 4.50-PT, near Toca, in Saint Bernard Parish, La. Notice of the exemption was served and published in the Federal Register on April 7, 2011 (76 Fed. Reg. 19,523-24). The exemption became effective on May 7, 2011.

On September 10, 2013, AGS filed a letter requesting leave to partially withdraw the exemption without prejudice so that it would be authorized only to discontinue service over, but not abandon, the Line. AGS states that it has not consummated the proposed abandonment but, consistent with the authority implicit in the notice of exemption, has discontinued common carrier service over the Line. Further, AGS states that, as required by a condition in the Board's decision served May 3, 2011, it has consulted with Louisiana's Office of Coastal Management (Coastal Office) regarding the steps needed to be taken to abandon and salvage the Line, based upon its location within the Louisiana Coastal Zone. As a result of these consultations, AGS states that it has decided not to abandon the Line. Should it later elect to abandon the Line or any part of it, AGS acknowledges that it will need to seek appropriate authority in a new proceeding, subject also to the then-applicable environmental review process.<sup>2</sup>

When a rail carrier is authorized to abandon a line, that authority is permissive, not mandatory. The rail carrier can choose to exercise that authority or not. Abandonment authority, as noted by ASR, implicitly includes discontinuance authority. Here, AGS has discontinued service but has not exercised its full abandonment authority. Thus, the Line has not been abandoned, and the Board's primary jurisdiction over it continues. ASR's request to partially withdraw the exemption will be treated as a motion to modify its grant of authority from abandonment authority to discontinuance authority, and it will be granted on that basis.<sup>3</sup>

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<sup>1</sup> The case title has been changed to reflect the nature of the action being taken here.

<sup>2</sup> Norfolk Southern Railway Company (NSR), AGS' corporate parent, made the acknowledgement. In a letter filed on September 12, 2013, AGS pointed out that the acknowledgement should have been made by it, not NSR, and requested that the record be updated to reflect the correction.

<sup>3</sup> The abandonment authorization was subject to the Coastal Office consultation

It is ordered:

1. This proceeding is reopened.
2. The notice served in this proceeding and published in the Federal Register on April 7, 2011, is modified to authorize only discontinuance authority and not abandonment authority.
3. This decision is effective on its service date.

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

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requirement and to two other environmental conditions related to salvage. As salvage will not be undertaken pursuant to the discontinuance authority, these three conditions will no longer apply.