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SERVICE DATE – SEPTEMBER 25, 2015

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 55 (Sub-No. 613X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN JEFFERSON COUNTY, ALA.

Decided: September 24, 2015

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 16.47-mile rail line extending from milepost ONC 384.00 at Black Creek to milepost ONJ 400.47 at West Jefferson, in Jefferson County, Ala. Notice of the exemption was served and published in the Federal Register on September 22, 2003 (68 Fed. Reg. 55,085).

By decision and notice of interim trail use or abandonment (NITU) served on October 21, 2003, the proceeding was reopened and a 180-day period was authorized for the Jefferson County Commission (the County) to negotiate with CSXT for an interim trail use/rail banking agreement for the 16.47-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 The trail use negotiation period under the NITU was extended several times, with the decision served April 5, 2007, extending the negotiation period until October 3, 2007.

By decision served on October 2, 2007, the Board vacated the NITU served on October 21, 2003, and issued a replacement NITU substituting the City of Fultondale, Ala. (the City), as the interim trail sponsor in place of the County with respect to the 16.47-mile line. By a series of decisions, with the latest decision served on March 5, 2015, the NITU negotiating period was extended until February 22, 2016.

In a letter filed on August 27, 2015, The Five Mile Creek Capitol Improvement Cooperative District (the District) requests that it be authorized to replace the City as the interim trail sponsor. The District has submitted a statement of willingness to assume financial responsibility for interim trail use and rail banking in accordance with 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, and has acknowledged that the use of the right-of-way is subject to possible future reconstruction and reactivation for rail service. In a response filed on August 31, 2015, CSXT agrees to the District replacing the City as the interim trail sponsor and to negotiate with the District for interim trail use/railbanking for the 16.47-mile line.

¹ That decision also imposed a salvage-related condition that remains in effect.

The District has complied with the requirements of 49 C.F.R. § 1152.29. Accordingly, the District's request will be granted and a replacement NITU will be issued.

As conditioned, 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 NITU served in this proceeding on October 2, 2007, is vacated.
3. A replacement NITU is issued to the District as the new interim trail sponsor for the 16.47-mile line, effective on the service date of this decision and notice.
4. If an interim trail use/railbanking agreement is reached, it must require the trail sponsor to assume, for the term of the agreement, full responsibility for: (i) managing the right-of-way; (ii) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability); and (iii) the payment of any and all taxes that may be levied or assessed against the right-of-way.
5. Interim trail use/railbanking is subject to possible future reconstruction and reactivation of the right-of-way for rail service and to the trail sponsor's continuing to meet its responsibilities for the right-of-way described in ordering paragraph 4 above.
6. 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).
7. If interim trail use is implemented, and subsequently the trail sponsor intends to terminate trail use on all or any portion of the right-of-way covered by the interim trail use agreement, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
8. This decision and notice is effective on its service date.

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