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SERVICE DATE – NOVEMBER 13, 2006

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-490 (Sub-No. 1X)

GREENVILLE COUNTY ECONOMIC DEVELOPMENT
CORPORATION—ABANDONMENT AND DISCONTINUANCE EXEMPTION—IN
GREENVILLE COUNTY, SC

Decided: November 9, 2006

By decision and notice of interim trail use or abandonment (NITU) served on October 12, 2005, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by Greenville County Economic Development Corporation (GCEDC) of an 11.8-mile line of railroad, extending from milepost 0.0 in Greenville, SC, to milepost 11.8 in Travelers Rest, SC (Northern Segment), and the discontinuance of service over 3.29 miles of rail line, extending from milepost AJK 585.34 in East Greenville, SC, to milepost AJK 588.63 in Greenville (Southern Segment), Greenville County, SC. The NITU authorized a 180-day period for Upstate Forever to negotiate an agreement with GCEDC for interim trail use/rail banking for the Northern Segment. A 180-day public use condition was also imposed for the Northern Segment under 49 U.S.C. 10905. The public use condition expired on May 10, 2006, and by statute may not be extended beyond the 180-day period.

By letter filed on September 27, 2006, Upstate Forever requested that the Board vacate the existing NITU and issue an appropriate replacement NITU to the Greenville County Recreation District (GCRD).

GCRD, in a letter filed on September 27, 2006 (and supplemented in a letter filed on October 19, 2006), submitted a request for a public use condition and a NITU, along with a statement of willingness to assume financial responsibility for the right-of-way. GCRD also acknowledged that interim trail use is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

As noted, the public use condition may not be extended and, therefore, the request for a public use condition will be denied. GCRD's request for a NITU, however, meets the requirements of 49 CFR 1152.29(a) and will be granted. Accordingly, this proceeding will be reopened and the existing NITU vacated and replaced with a NITU issued to GCRD.

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 on October 12, 2005, is vacated.
3. A replacement NITU applicable to GCRD as interim trail user is issued, effective on the service date of this decision and notice.
4. A trail user is required 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.
5. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.
6. If GCRD enters into a trail use agreement with GCEDC, and subsequently 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.
7. GCRD's request for a public use condition is denied as the statutory time period for such a condition has expired.
8. This decision is effective on its service date.

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

Vernon A. Williams
Secretary