

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-55 (Sub-No. 675X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN WARE
COUNTY, GA

Decided: February 1, 2008

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 1.08-mile rail line on CSXT's Southern Region, Jacksonville Division, Fitzgerald Subdivision, between mileposts AP 588.84 and AP 587.76 in Waycross, Ware County, GA. On January 3, 2008, notice of the exemption was served and published in the Federal Register (73 FR 539).¹ The exemption is scheduled to become effective on February 2, 2008.

The Board's Section of Environmental Analysis (SEA) issued an environmental assessment (EA) in this proceeding which was served on January 8, 2008. In the EA, SEA indicates that the National Geodetic Survey (NGS) has advised SEA that five geodetic station markers have been identified that may be affected by the proposed abandonment. Therefore, SEA recommends a condition requiring CSXT to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

Comments to the EA were due on January 23, 2008. SEA did not receive any additional comments. Accordingly, the condition recommended by SEA in the EA will be imposed.

On January 9, 2008, the City of Waycross, GA (Waycross), filed a request for the issuance of a notice of interim trail use (NITU) under the National Trails System Act, 16 U.S.C. 1247(d), and 49 CFR 1152.29, to enable it to negotiate with CSXT for use of the line for interim trail use. Waycross also has submitted a statement of willingness to assume full responsibility for 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, and has acknowledged that the use of the right-of-way for trail purposes is subject to future reactivation for rail service. In a response filed on January 10, 2008, CSXT indicates a willingness to negotiate with Waycross for interim trail use and rail banking.

¹ By petition for exemption filed on December 14, 2007, CSXT sought an exemption from the offer of financial assistance (OFA) requirements of 49 U.S.C. 10904. Because no notice of intent to file an OFA was submitted by the January 14, 2008 due date for such notices, the request for an exemption from the OFA provisions is moot and requires no Board action.

Because Waycross's request complies with the requirements of 49 CFR 1152.29 and CSXT 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, CSXT may fully abandon the line, subject to the environmental condition imposed in this decision. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(d)(2).

As conditioned, this action 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. Upon reconsideration, the notice served and published in the Federal Register on January 3, 2008, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking for a period of 180 days commencing from the February 2, 2008 effective date of the exemption (until July 31, 2008), and subject to the condition that CSXT shall consult with NGS and notify NGS 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
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 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 July 31, 2008, interim trail use may be implemented. If no agreement is reached by that time, CSXT may fully abandon the line, subject to the environmental condition imposed in this decision. See 49 CFR 1152.29(d)(1).

7. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary