

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-868X¹

MISSISSIPPI TENNESSEE HOLDINGS, LLC–ABANDONMENT EXEMPTION–
IN UNION, PONTOTOC AND CHICKASAW COUNTIES, MS

Decided: June 16, 2008

By decision and notice of interim trail use or abandonment (NITU) served on July 26, 2004, the Board granted a petition for exemption under 49 U.S.C. 10502 permitting Mississippi Tennessee Holdings, LLC (MTH) to abandon, and Mississippi Tennessee Railroad, LLC (MTR) to discontinue service over, a 43.2-mile line of railroad in Union, Pontotoc and Chickasaw Counties, MS, extending from milepost 324.2 near New Albany to the end of the line at milepost 281.0 near Houston, MS. A NITU served on July 6, 2006, established a 90-day period (until October 4, 2006) for the City of New Albany, MS (City), to negotiate an interim trail use/rail banking agreement with MTH for the entire 43.2-mile rail line. Decisions served on October 4, 2006, April 19 and August 1, 2007, and February 5, 2008, extended the trail use negotiating period until July 26, 2008.

By letter filed on June 6, 2008, MTH, the City and the GM&O Rails-to-Trails Recreational District of North Mississippi (GM&O), pursuant to 49 CFR 1152.29(f), jointly request that the Board vacate the existing NITU and issue an appropriate replacement NITU to GM&O.

The parties have submitted a copy of the extant NITU and a statement of willingness to assume financial responsibility by GM&O. The parties have also indicated that MTH and GM&O have reached agreement for purchase and sale of the right-of-way and intend to close the purchase and sale on July 15, 2008. The parties' submission meets the requirements of 49 CFR 1152.29(f). Accordingly, this proceeding will be reopened and the requested relief will be granted.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ Some of the prior decisions in this proceeding have also embraced Mississippi Tennessee Railroad, LLC–Discontinuance of Service Exemption–in Union, Pontotoc and Chickasaw Counties, MS, STB Docket No. AB-869X.

It is ordered

1. This proceeding is reopened.
2. The NITU served on July 6, 2006, is vacated.
3. A replacement NITU applicable to GM&O as interim trail user is issued, effective on the service date of this decision and notice, for a period ending on July 26, 2008.
4. The new 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 new user's continuing to meet the financial obligations for the right-of-way.
6. If the new trail 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.
7. This decision and notice is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary