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SERVICE DATE - AUGUST 15, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-297 (Sub-No. 101X)

COLUMBUS AND GREENVILLE RAILWAY COMPANY—ABANDONMENT
EXEMPTION—IN BOLIVAR AND WASHINGTON COUNTIES, MS

Decided: August 9, 2002

Columbus and Greenville Railway Company (C&G) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon 49.14 miles of rail line between milepost 109.3 near the City of Cleveland and milepost 158.44 near the City of Hollandale, in Bolivar and Washington Counties, MS. The Board's authorization imposed a deadline of February 4, 2000, for consummation of the abandonment by C&G.

On March 5, 1999, a decision and notice of interim trail use or abandonment (NITU) was served, authorizing a 180-day period for C&G to negotiate an agreement with: (1) the City of Cleveland for a portion of the right-of-way between milepost 113 + 1700 and milepost 113 + 1850, between Hollandale and Cleveland; (2) the City of Hollandale for a portion of the right-of-way between milepost 140.1 in Leland and milepost 158.44 in Hollandale, a distance of 18.3 miles in Washington County, MS; and (3) the City of Shaw for a portion of the right-of-way from approximately milepost 123 near the north end of Shaw to approximately milepost 126 near the south end of Shaw, a distance of approximately 3 miles in Bolivar County, MS. By decision served March 19, 1999, a decision and notice of interim trail use or abandonment was served authorizing a 180-day period for the Town of Boyle to negotiate with C&G for interim trail use for the portion of the right-of-way from 3,432 feet north of milepost 116 to milepost 117 in Boyle, Bolivar County, MS. By decision served May 11, 1999, the proceeding was reopened and the decision and notice of interim trail use was vacated at the request of the City of Hollandale with respect to the line segments between milepost 140.1 and milepost 155.5 and between milepost 157.1 and milepost 158.44. Negotiation opportunities were preserved for the portion of the right-of-way between milepost 155.5 and milepost 157.1. The 180-day trail use negotiation period was scheduled to expire on September 2, 1999, but was extended to October 2, 1999 by decision served September 2, 1999.¹

¹ On September 13, 1999, as supplemented on September 27, 1999, the City of Cleveland advised the Board that it had purchased a portion of the right-of-way within the City of Cleveland. On September 21, 1999, the Town of Boyle advised the Board that it had purchased a portion of the right-of-way within Boyle, and on October 20, 1999, the City of Shaw advised the Board that it had

On July 9, 2002, C&G filed a notice of consummation along with a petition requesting an extension that would permit it to file its notice of consummation. C&G states that, following the conveyance of the segments of the rail line to the cities and before it was able to complete removal of the rail and other track materials from the remaining portions of the line and to file its notice of consummation with the Board, a number of landowners adjacent to the rail line filed a lawsuit seeking title to the right-of-way of the line that was being abandoned.² The lawsuit has been subsequently removed to Chancery Court of Washington County, MS, where it is pending. According to C&G, an agreement has been reached to settle and dismiss the lawsuit with prejudice, contingent only upon the filing of its notice of consummation and its acceptance by the Board. C&G maintains that the pending court proceeding delayed the filing of its notice of consummation as required under 49 CFR 1152.29(e)(2).

Under the circumstances described, C&G's request for an extension will be granted and its notice of consummation will be accepted.³

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

It is ordered:

1. C&G's request for an extension of time to exercise the abandonment authority for the above-described line is granted and its notice of consummation is accepted as having been timely filed.
2. C&G may consummate the abandonment on the effective date of this decision for the right-of-way except for the portions of the right-of-way that C&G has transferred to Cleveland, Boyle, Shaw, and Hollandale.⁴

purchased a portion of the right-of-way with the City of Shaw from C&G.

² In its pleading, C&G attached a copy of a quitclaim deed advising that the City of Hollandale had purchased a portion of the right-of-way between milepost 155.5 and milepost 157.1.

³ Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings.

⁴ C&G certifies that it has fully exercised the authority to abandon the rail line, except for those segments described in the deeds to the Cities of Cleveland, Boyle, Shaw, and Hollandale, which remain subject to interim trail use/rail banking. C&G also certifies that it has discontinued rail operations, salvaged the railroad track, and canceled all tariffs, and that it intends that the right-of-way and

3. The decision is effective on its service date.

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

Vernon A. Williams
Secretary

property be removed from the interstate rail network.