

SERVICE DATE - MAY 27, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-601 (Sub-No. 1X)

PINE BELT SOUTHERN RAILROAD COMPANY—IN LEE
AND CHAMBERS COUNTIES, AL

Decided: May 24, 2004

Pine Belt Southern Railroad Company, Inc. (PBRR), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 17.4-mile line of railroad between milepost T-322.40 at Roanoke Junction and milepost T-339.66 at Lafayette, in Lee and Chambers Counties, AL. Notice of the exemption was served and published in the Federal Register on December 22, 2003 (68 FR 71223). By decision served on January 20, 2004, a 180-day public use condition was imposed under 49 U.S.C. 10905 for the 17.4-mile line at the request of The City of Opelika (City). The condition required that PBRR keep intact the right-of-way, including bridges, trestles, culverts and tunnels (but not track, ties and signal equipment), for a period of 180 days after the effective date of the exemption (until July 19, 2004), to enable any State or local government agency, or other interested person to negotiate for the acquisition of the line for public use. The 180-day period will expire on July 19, 2004.¹

By facsimile received on May 17, 2004, the City requests an extension of the public use condition until August 21, 2004. The City states that it and PBRR have received notification of a grant to acquire the right-of-way, but are unable to negotiate according to the grant guidelines until the local governmental agencies involved have signed agreements with the Alabama Department of Transportation (ALDOT) and appraisals have been done.

Under 49 U.S.C. 10905, a public use condition expires 180 days from the effective date of the decision approving the abandonment. It is well settled that 180 days is the maximum period allowed by law for a public use condition and that a public use condition may not be extended beyond that 180-day limit. See 49 U.S.C. 10905; 49 CFR 1152.28(b); and Rail Abandonment—Public Use Conditions—Revision, 8 I.C.C.2d 392, 395-98 (1992). Therefore, the requested extension must be denied.

¹ The January 20, 2004 decision also imposed a condition that required PBRR to take no steps to alter the historic integrity of the right-of-way until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. By decision served March 1, 2004, the historic condition previously imposed in the decision served on January 20 was modified and environmental conditions were imposed.

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

It is ordered:

1. The request to extend the public use condition is denied.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary