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SERVICE DATE - JULY 16, 2002

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-55 (Sub-No. 614X)

CSX TRANSPORTATION, INC.–ABANDONMENT
EXEMPTION–IN RICHMOND COUNTY, GA

Decided: July 12, 2002

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon approximately 1.60 miles of railroad from Valuation Station 0+00 at milepost ANS 0.2 to Valuation Station 84+44, in Augusta, Richmond County, GA. Notice of the exemption was served and published in the Federal Register on June 6, 2002 (67 FR 39097-98). The exemption became effective on July 6, 2002.

On June 14, 2002, Augusta-Richmond County, GA (County), a political subdivision, filed a request for the issuance of a notice of interim trail use (NITU) for the entire line under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and for a public use condition under 49 U.S.C. 10905, so that it can negotiate with CSXT for acquisition of the right-of-way for use as a recreational trail. The County submitted a statement indicating its willingness to assume 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, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to future reactivation for rail service. By decision served July 5, 2002, the proceeding was reopened and a 180-day public use condition was imposed at the request of the County. The condition required that the County leave the right-of-way intact, including bridges, culverts, and tunnels for a period of 180 days after the July 6, 2002 effective date of the exemption to permit the County and any other state or local governmental agency, or other interested person, to negotiate for acquisition of the line for public use. The decision also stated that the NITU request would be addressed in a separate decision and directed CSXT to inform the Board within 10 days from the service date of the July 5 decision whether it is

willing to negotiate for trail use.¹ By letter filed July 11, 2002, CSXT states that it is willing to negotiate with the County for interim trail use. Accordingly, a NITU will be issued.

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. Upon reconsideration, the notice of exemption published in the Federal Register on June 6, 2002, exempting the abandonment of the line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below, subject to the historic preservation condition imposed in the July 5, 2002 decision.
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 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 January 12, 2003, interim trail use may be implemented. If no agreement is reached by that time, CSXT may fully abandon the line.

¹ The July 5, 2002 decision also imposed a historic preservation condition that CSXT consult with the Georgia Department of Natural Resources, Historic Preservation Division, to resolve outstanding historic resource concerns and retain its interest in and take no steps to alter the historic integrity of the line until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. The 180-day public use condition will expire on January 3, 2003, and cannot be extended.

7. This decision is effective on its service date.

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

Vernon A. Williams
Secretary