

# CITY OF FULTONDALE

POST OFFICE BOX 699  
FULTONDALE, ALABAMA 35068  
PHONE: (205) 841-4481  
FAX: (205) 841-2124

233929

MAYOR:  
JIM LOWERY

MAYOR PRO-TEM:  
JOSEPH BOLTON

CITY CLERK:  
JANE HICKS

COUNCIL:  
WILLIAM HOWELL  
DARRELL HUBBERT  
GREG MORRIS  
TOMMY LODEN

March 11, 2013

Ms. Cynthia T. Brown  
Chief of Section Admin., Office of Proceedings  
Surface Transportation Board  
395 E. Street SW  
Washington, DC 20423



**RE: STB Docket No. AB-55 (Sub-No. 613x)**

Dear Ms. Brown:

Please see the attached copies of previous correspondence concerning our last extension request. It is my understanding the Alabama Department of Transportation is almost finished with their review and approval of this project. This should be the last hurdle before we can move forward to the purchase of the property. Due to these circumstances the City of Fultondale is asking for an additional 180 day extension for this rail corridor.

Once again I would like to thank you for your patience and understanding to keep this project moving forward to both parties satisfaction.

Respectfully submitted,

A handwritten signature in cursive that reads 'Jim Lowery'.

Jim Lowery, Mayor  
City of Fultondale

encs

cc: Ms. Elizabeth Steel  
Manager – Rails to Trails  
CSX Transp., Inc.  
6737 Southpoint Dr. South  
Jacksonville, FL 32216

cc: CSX Transportation  
Atten: Bruce McMahon  
Mgr-Public Agency Service  
301 West Bay Street  
Suite 900, J-180  
Jacksonville, FL 32202

cc: CSX Transportation  
Atten: Joann Burroughs  
Manager of Network Services  
500 Water Street –J200  
Jacksonville, FL 32202

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ENTERED  
Office of Proceedings

SEP 04 2012

Part of  
Public Record

August 31, 2012

Ms. Cynthia T. Brown  
Chief of Section Admin., Office of Proceedings  
Surface Transportation Board  
395 E. Street SW  
Washington, DC 20423

SEP 1 2012

**RE:STB Docket No. AB-55 (Sub-No. 613x)**

Dear Ms. Brown:

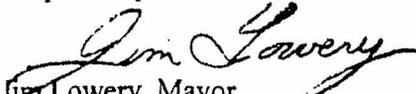
Please see the attached copies of previous correspondence concerning our last extension request. This is to advise that we have ordered another appraisal update and received it and talked to CSX Transportation.

The Alabama Department of Transportation has signed off on the Environmental testing report on the trail. I believe we have everything to close the acquisition of the trail as we have made great progress with your help.

We are therefore requesting an additional 180 day extension from the September 5, 2012 date from the Surface Transportation Board to complete this great trail program to enrich the quality of life for our citizens.

Once again I would like to thank the Surface Transportation Board and all origination that have been working so long and hard on this great project.

Respectfully submitted,

  
Jim Lowery, Mayor  
City of Fultondale

encs

 <b>GRANTED</b> Office of Proceedings	DECISION ID NO.: <u>42686</u>
	DECIDED DATE: <u>9/18/12</u>
	SERVICE DATE: <u>9/18/12</u>
	APPROVED: <u>Rachel D Campbell</u> Director
	<input checked="" type="checkbox"/> <u>extended to 3/4/13</u>

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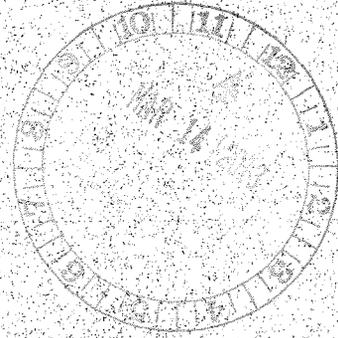
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August 31, 2012

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Surface Transportation Board  
395 E. Street SW  
Washington, DC 20423



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March 1, 2012

Ms. Cynthia T. Brown  
Chief of Section Admin., Office of Proceedings  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423

**Re: STB Docket No. AB-55 (Sub-No. 613x)**

Dear Ms. Brown:

By decision served on October 2, 2007, the Surface Transportation Board (STB) issued a notice of interim trail use or abandonment (NITU) substituting the City of Fultondale, Al (the City), as the interim trail use proponent in lieu of Jefferson County, Alabama with respect to the 16.47-mile line which is the subject of the above-referenced proceeding. The Board also authorized a new negotiation period for the City and CSXT extending from October 2, 2007, until March 30, 2008.

By decisions served on April 3, 2008, October 2, 2008, April 6, 2009, and September 28, 2009, the trail use negotiation period under the NITU was extended to March 20, 2010. These decisions also extended the consummation notice filing deadline until March 19, 2010.

During the current extension period the City and CSXT have been involved in the negotiation of a Right-of-Entry Agreement required in order for the city to conduct environmental testing under the draft Purchase Sale Agreement, and the City obtained conditional access to funds available through an EPA Brownfield Grant to cover the cost of that ESA testing work. The City has now approved and is in the process of executing the Right-of-Entry Agreement to be submitted to CSXT for its approval and execution.

Material progress has been made in these negotiations to-date, and the City desires an extension of the March 20, 2010 deadline in order to gain access to the site and conduct the ESA testing work to be funded through the Brownfield Grant. By copy of this letter to CSXT, I am requesting that CSXT notify you of its agreement with this requested extension of 180 days from the March 20<sup>th</sup> date. During the last extension we have received right-of-entry and have completed the environmental testing. By receiving this letter we are requesting that CSXT notify you of its agreement with this request extension of 180 days from September 15<sup>th</sup> date so we can complete the negotiations.

Since our last extension the City has made a lot of progress with our right-of-entry granted to do the environmental on the rail bed. The testing is almost complete on all but two parcels. By receiving this letter we are requesting a 180 day extension from March 15, 2011 from CSXT to complete the work and finish the negotiations.

Since our last extension request of March 15<sup>th</sup>, 2011 we have completed the Environmental on the rail bed and also the appraisal has been updated. The negotiations were on going until April 27<sup>th</sup> when an F-3, F-4 and F-5 tornado hit our state and killed 245 people. Fultondale had over 300 homes damaged, several businesses destroyed or damaged and 32 homes were completely destroyed, but we were blessed that we had no loss of life due to the destruction.

We had to put the CSXT negotiations on hold until we could help our residents and business owners put their life's back together. However, it is time to start the process again. Therefore I am requesting another 180 day extension from September 11, 2011 so we can complete the negotiations on this great project for our community.

The City of Fultondale is once again requesting a 180 day extension by the Surface Transportation Board. We have just received the third appraisal that the Surface Transportation Board and the City of Fultondale agreed upon. We feel that the final days of this negotiation is near for both parties to reach an agreement and move forward on this great Rail Corridor Project in North Jefferson County, Alabama.

Once again I would like to thank the Surface Transportation Board and all origination that have been working so long and hard on this great project.

Respectfully submitted,



Jim Lowery, Mayor  
City of Fultondale

cc: CSX Transportation  
Atten: Bruce McMahon  
Manager - Public Agency Ser.  
301 West Bay St.  
Suite 900; J-180  
Jacksonville, FL 32202

cc: CSX Transportation  
Atten: Joann Burroughs  
Manager of Network Services  
500 Water Street - J200  
Jacksonville, FL 32202

Steve

Copy Charlie + DA

Have D.A.  
Explain to  
Charlie

Lin  
3-20-12

42263  
DO

SERVICE DATE - MARCH 13, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 613X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—  
IN JEFFERSON COUNTY, ALA.

Decided: March 12, 2012

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 16.47-mile rail line extending from milepost ONC 384.00 at Black Creek to milepost ONJ 400.47 at West Jefferson, in Jefferson County, Ala. Notice of the exemption was served and published in the Federal Register on September 22, 2003 (68 Fed. Reg. 55,085).

By decision and notice of interim trail use or abandonment (NITU) served October 21, 2003, the proceeding was reopened and a 180-day period was authorized for the Jefferson County Commission (County) to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act).<sup>1</sup> The trail use negotiation period under the NITU was extended several times, with the decision served April 5, 2007, extending the negotiation period until October 3, 2007.

By decision served on October 2, 2007, the Board vacated the NITU served on October 21, 2003, and issued a replacement NITU substituting the City of Fulda, Ala. (the City), as the interim trail use proponent in lieu of the County with respect to the 16.47-mile line. The Board also authorized a new, 180-day negotiation period for the City and CSXT, extending from October 2, 2007, until March 30, 2008.

By a series of decisions, the most recent served on September 27, 2011, the trail use negotiation period under the NITU was extended to March 9, 2012. In this decision, the Board is granting the request by the City to extend further the NITU negotiating period.

By letter filed on March 2, 2012, the City submitted a request for an additional 180-day extension of the negotiating period. The City states that it has received a third appraisal involving the line and that the time is needed to complete the negotiations between the parties.

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<sup>1</sup> That decision also imposed a salvage-related condition that remains in effect.

**SURFACE TRANSPORTATION BOARD**  
**WASHINGTON, DC 20423-0001.**

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**OFFICIAL BUSINESS**  
**PENALTY FOR PRIVATE USE \$300**  
**RETURN AFTER FIVE DAYS**

Copy C. Mander D/A

LAW OFFICES OF  
**LOUIS E. GITOMER, LLC.**

LOU E. GITOMER  
Lou@lgrailaw.com

MELANIE B. YASBIN  
Melanie@lgrailaw.com  
410-296-2225

600 BALTIMORE AVENUE, SUITE 301  
TOWSON, MARYLAND 21204-4022  
(410) 296-2250 • (202) 466-6532  
FAX (410) 332-0885

March 6, 2012

Ms. Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D. C. 20423

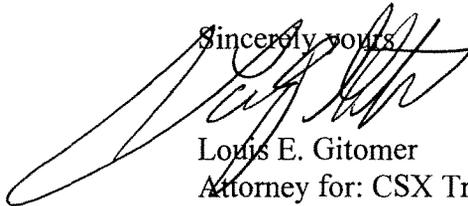
RE: Docket No. AB-55 (Sub-No. 613X), *CSX Transportation, Inc. —  
Abandonment Exemption—in Jefferson County, AL*

Dear Ms. Brown:

CSX Transportation, Inc. ("CSXT") agrees to the request from the City of Fultdonale filed on March 2, 2012, for an extension of 180 days to negotiate interim trail use/rail banking over the 16.47-mile rail line extending from milepost ONC 384.00 at Black Creek to milepost ONJ 400.47 at West Jefferson, in Jefferson County, AL, in the above-entitled proceeding. The period to negotiate trails use was most recently extended to March 9, 2012, and the consummation date was extended to May 8, 2012. *CSX Transportation, Inc.-Abandonment Exemption-in Jefferson County, Ala.*, STB Docket No. AB-55 (Sub-No. 613X) (STB served September 27, 2011). CSXT concurs in an extension of the negotiating period until September 15, 2012. CSXT understands that the consummation date would then be extended to November 14, 2012 pursuant to 49 CFR 1152.29(e)(2).

This letter is being efiled. Thank you for your assistance. If you have any questions please call or email me.

Sincerely yours



Louis E. Gitomer  
Attorney for: CSX Transportation, Inc.

cc: Mr. Lowery