

CITY OF FULTONDALE

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JOSEPH BOLTON
TOMMY LODEN

September 17, 2007

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street SW
Washington, DC 20423

**Re: SURFACE TRANSPORTATION BOARD (the "STB")
STB Docket No. AB-55 (Sub-No. 613X)
CSX TRANSPORTATION, INC. - ABANDONMENT EXEMPTION-
IN JEFFERSON COUNTY, AL**

Dear Mr. Williams:

CSX Transportation, Inc. (CSXT) filed a notice of exemption under *49 CFR 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, Alabama (the "CSX/ROW"). Notice of the exemption was served and published in the Federal Register on September 22, 2003 (*68 FR 55085*).

By decision and notice of interim trail use or abandonment (NITU) served on October 21, 2003 (Exhibit A), the proceeding was reopened and a 180-day period was authorized for the Jefferson County Commission (County) to negotiate an interim trail use/railbanking agreement with CSXT for the right-of-way involved in this proceeding pursuant to the National Trails System Act, *16 U.S.C. 247(d) (Trails Act)*. The trail use negotiation period under the NITU was extended several times, with the most recent decision, served on April 5, 2007, extending the negotiation period until October 3, 2007.

The County, as the interim trail use proponent, has agreed that the City of Fultondale (the "City"), an incorporated municipality in Jefferson County, Alabama, the corporate limits of which include a substantial portion of the CSX/ROW, should be designated as its successor as interim trail use proponent of the CSX/ROW, and the County has evidenced its joinder in this request and willingness to relinquish its negotiation rights and its designation of the City as its successor as "trail use proponent" ("Proponent") in this NITU proceeding by its execution of the County letter to STB dated September 14, 2007 and referenced County Commission resolution to this effect dated September 11, 2007, a copy of which are attached hereto as Exhibit B.

"A FRIENDLY CITY"

The City requests that it be authorized, effective upon STB approval, to replace the County as Proponent in this NITU proceeding, and further requests that the STB extend the current NITU negotiation period to March 31, 2008 (180 days from October 3, 2007) or in the alternative, authorize a new negotiation period for 180 days from the date of its decision granting the City's request, to allow the City an opportunity, as the successor Proponent, to pursue these negotiations with CSXT. CSXT has also concurred in this request that the City be designated the successor Proponent, and has evidenced its concurrence by filing a letter with the STB dated September 10, 2007, a copy of which is attached as Exhibit C. In furtherance of this request, the City submits the following:

The City, as Proponent, makes the following statement of its willingness to assume financial responsibility:

Statement of Willingness to Assume Financial Responsibility

In order to establish interim trail use and railbanking under Section 8(d) of the *National Trail Systems Act, 16, U.S.C. 1247(d)* and *49 C.F.R. 1152.29*, the City is willing to assume full responsibility for management of the CSX/ROW, and for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case the City will only indemnify CSXT against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the CSX/ROW the date of its transfer. A map of the CSX/ROW generated by CSXT is attached as Exhibit D.

The City acknowledges that use of the CSX/ROW is subject to the user continuing to meet its responsibilities described above, and is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon the following by Federal Express delivery, on September 17, 2007:

CSX Transportation
Asset Management
Atten: Dave Geraci
500 Water Street - J200
Jacksonville, FL 32202

CSX Real Property
Ralph Pressley
Regional Manager
2175 Northlake Parkway, Suite 19
Tucker, GA 30084

Respectfully submitted,

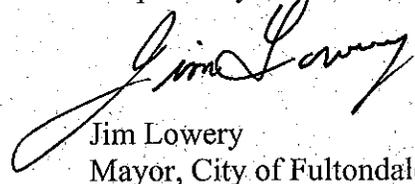

Jim Lowery
Mayor, City of Fultondale

Exhibit A

34080
DO

SERVICE DATE - OCTOBER 21, 2003

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

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

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION– IN JEFFERSON COUNTY, AL

Decided: October 20, 2003

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 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, AL. Notice of the exemption was served and published in the Federal Register on September 22, 2003 (68 FR 55085). The exemption is scheduled to become effective on October 22, 2003.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on September 26, 2003. Comments on the EA were due by October 14, 2003, but no comments were filed. In the EA, SEA stated that the National Geodetic Survey (NGS) has advised that three geodetic station markers have been identified that may be affected by the proposed abandonment. Therefore, SEA recommends that CSXT provide NGS with 90 days' notice prior to salvage activities in order to plan the relocation of the three geodetic station markers.

On October 1, 2003, the Jefferson County Commission (County) timely filed a request for the issuance of a notice of interim trail use (NITU) for the subject line under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), in order to negotiate with CSXT for acquisition of the right-of-way for use as a trail. The County submitted a statement of willingness to assume financial responsibility for the 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, as required at 40 CFR 1152.29, and acknowledged that the use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation for rail service. In a response submitted on October 6, 2003, CSXT indicated its willingness to negotiate with the County.

Because the County's request complies with the requirements of 49 CFR 1152.29 and CSXT is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an agreement during the 180-day period prescribed below. If the parties reach a mutually acceptable

Exhibit A

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

final agreement, no further Board action is necessary. If no agreement is reached within 180 days, CSXT may fully abandon the line. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on September 22, 2003, 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, for a period of 180 days commencing from the October 22, 2003 effective date of the exemption (until April 19, 2004), and subject to the condition that CSXT provide NGS with 90 days' notice prior to any salvage activities in order to plan the relocation of three geodetic station markers that may be affected by the abandonment.
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 the 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 April 19, 2004, interim trail use may be implemented. If no agreement is reached by that time, CSXT may fully abandon the line.

Exhibit A

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

7. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary

JEFFERSON COUNTY COMMISSION



BETTYE FINE COLLINS - PRESIDENT
JIM CARNS
BOBBY G. HUMPHRYES
LARRY P. LANGFORD
SHELIA SMOOT

BOBBY HUMPHRYES

COMMISSIONER OF ROADS AND TRANSPORTATION
LAND DEVELOPMENT/INSPECTION SERVICES
EMERGENCY MANAGEMENT AGENCY
Suite 210
716 Richard Arrington, Jr. Blvd.N.
Birmingham, Alabama 35203
Telephone (205) 325-5555
FAX (205) 325-4860

September 14, 2007

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
395 E. Street SW
Washington, DC 20423

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

Mr. Williams,

Please reference the attached "resolution" passed by the Jefferson County Commission on September 11, 2007. By copy of this "resolution" I would like to take this opportunity to express to you on behalf of the county its sincere appreciation to the STB and its cooperation over the past four years.

We will continue to monitor the situation and support all efforts for the City of Fultondale and CSXT to come to an agreement.

Please feel free to contact me should you have any questions.

Sincerely,

Commissioner Bobby Humphryes

BGH:cv

cc: City of Fultondale, Mayor Jim Lowery
CSX Transportation Att: Dave Geraci
CSX Transportation Att: Ralph Pressley

APPROVED BY THE
JEFFERSON COUNTY COMMISSION
DATE: 9-11-07
MINUTE BOOK: 154
PAGE(S): 321

STATE OF ALABAMA

RESOLUTION

RE: Surface Transportation Board (STB) Docket No. AB-55 (Sub. No. 613X)
CSX Transportation, Inc. – Abandonment Exemption in Jefferson County, AL.

WHEREAS, on October 1, 2003, The Jefferson County Commission (County) filed a request with the STB for the issuance of a notice of interim trail use (NITU) for the subject line under the National Trails System Act, 16 U. S. C. 1274 (d) (Trails Act), in order to negotiate with CSXT for acquisition of the right-of-way for use as a trail; and

WHEREAS, in its decision of October 23, 2003 the STB agreed to issue the NITU and provided a 180 day period for the County and CSXT to negotiate an agreement: and

WHEREAS, over the past 4 year period the County has requested and received extensions from the STB to continue in its negotiations with CSXT with the next deadline set to expire on October 3, 2007.

NOW THEREFORE BE IT RESOLVED THAT THE JEFFERSON COUNTY COMMISSION does hereby relinquish its negotiation rights with CSXT granted by the STB;

BE IT FURTHER RESOLVED THAT THE JEFFERSON COUNTY COMMISSION supports a request of the City of Fulondale (City) to be issued such negotiation rights and upon issuance to the City authorizes the City to have access to and use of the appraisals and environmental assessment previously obtained by the County for the negotiations and to deal directly with those firms with respect to any required updates and/or recertification.

Signed at the Jefferson County Courthouse this 11th day of September, 2007.

Exhibit C



Steven C. Armbrust
Counsel
Florida Authorized House Counsel
Admitted in NY; Not Admitted in FL

Law Department
500 Water Street
Speed Code J-150
Jacksonville, FL 32202
Fax (904) 245-3357
Telephone (904) 359-1229
Email: steven_armbrust@CSX.com

September 10, 2007

Via Electronic Mail

**Re: STB Docket No. AB-55 (Sub-No. 613X)
CSX Transportation, Inc. - Abandonment
Exemption in Jefferson County, Alabama**

Dear Secretary Williams:

CSX Transportation, Inc. ("CSXT") understands that the City of Fultondale (the "City") intends to request the Board to substitute the City for the Jefferson County Commission (the "County") as trail use proponent with respect to the line (the "Line") in the above-captioned matter.

This letter will confirm that, subject to (i) receipt of written notice from the County confirming its desire to discontinue negotiations with CSXT and to request the Board substitute the City as trail use proponent with respect to the Line, (ii) submission of an appropriate trail use request with the Board by the City in conformance with, among other things, 49 C.F.R. 1152.29 and (iii) the Board's approval of the City's trail use request (including its request to replace the County as trail use proponent), CSXT concurs with the City acting as successor to the County in the above-referenced interim trail use proceedings.

CSXT is e-filing this letter. Thank you for your assistance and please feel free to contact me via phone or email if you have any questions.

Very truly yours,

Steven C. Armbrust

cc: Parties of Record

