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SERVICE DATE — OCTOBER 21, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 808X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—  
IN GWINNETT COUNTY, GA.

Decided: October 21, 2022

CSX Transportation, Inc. (CSXT), filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 0.13-mile rail line that runs between Val Sta. 12+37 and Val Sta. 19+52 on its Atlanta Division, Abbeville Subdivision, Lawrenceville Branch, in Gwinnett County, Ga. (the Line). Notice of the exemption was served and published in the Federal Register on June 24, 2022 (87 Fed. Reg. 37,903). The exemption became effective on July 24, 2022. The notice specified that the deadline for a request for a notice of interim trail use (NITU) was July 5, 2022.

On August 16, 2022, the City of Lawrenceville, Ga. (the City), late-filed a request for a NITU to negotiate with CSXT to establish interim trail use and rail banking on the Line under the Nation Trails System Act (Trails Act), 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29. The City has submitted a statement of willingness to assume full responsibility for the management of the right-of-way, any legal liability arising out of its transfer or use, and for the payment of any and all taxes that may be levied or assessed against the right-of-way, as required by 49 U.S.C. § 1152.29. The City has also acknowledged that use of the right-of-way for trail purposes is subject to the City's continuing to meet its responsibilities to manage the right-of-way and is subject to possible future reconstruction and reactivation of the right-of-way for rail service, as required by 49 U.S.C. § 1152.29(a).

In response to the City's request, CSXT states that it is willing to negotiate interim trail use with the City.

Because CSXT agrees to the City's request for a NITU and the City's request complies with the requirements of 49 C.F.R. § 1152.29, a NITU will be issued.<sup>1</sup> The parties may negotiate an agreement for the right-of-way during the one-year period prescribed below. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. See 49 C.F.R.

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<sup>1</sup> The Board routinely grants late-filed requests for the issuance of a NITU if the abandonment has not been consummated and the railroad indicates a willingness to negotiate. See, e.g., BNSF Ry. Co.—Aban. Exemption—in Cook Cnty., Ill., AB 6 (Sub-No. 493X), slip. op. 2 (Nov. 23, 2016).

§ 1152.29(d)(2), (h). If no agreement is reached within one year, CSXT may fully abandon the Line, subject to any outstanding conditions. See 49 C.F.R. § 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

It is ordered:

1. This proceeding is reopened.
2. The City's late-filed request for a NITU is granted.
3. Upon reconsideration, the notice served and published in the Federal Register on June 24, 2022, 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 to permit the City of Lawrenceville to negotiate for interim trail use/rail banking for the Line, for a period of one year from the service date of this decision and notice, until October 21, 2023.
4. If an interim trail use/rail banking agreement is reached, it must require the trail sponsor to assume, for the term of the agreement, full responsibility for: (i) managing the right-of-way; (ii) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability); and (iii) the payment of any and all taxes that may be levied or assessed against the right-of-way.
5. Interim trail use/rail banking is subject to possible future reconstruction and reactivation of the right-of-way for rail service and to the trail sponsor's continuing to meet its responsibilities for the right-of-way described in paragraph 4 above.
6. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. See 49 C.F.R. § 1152.29(d)(2), (h).
7. If interim trail use is implemented, and subsequently the trail sponsor intends to terminate trail use on all or any portion of the right-of-way covered by the interim trail use agreement, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
8. If an agreement for interim trail use/rail banking is reached by October 21, 2023, for the right-of-way, interim trail use may be implemented. If no agreement is reached, CSXT may fully abandon the Line, subject to any outstanding conditions.
9. This decision is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.