

SERVICE DATE – MARCH 4, 2020

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 290 (Sub-No. 335X)

THE ALABAMA GREAT SOUTHERN RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN GADSDEN, ETOWAH COUNTY, ALA.

Docket No. AB 290 (Sub-No. 340X)

TENNESSEE, ALABAMA, AND GEORGIA RAILWAY COMPANY—ABANDONMENT
EXEMPTION—IN GADSDEN, ETOWAH COUNTY, ALA.

Decided: March 3, 2020.

The Alabama Great Southern Railroad Company (AGS) and Tennessee, Alabama, and Georgia Railway Company (TAG) (collectively, Applicants)¹ jointly filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments for AGS and TAG to abandon service over approximately 4.25 miles of interconnected rail line in Gadsden, Etowah County, Ala. (the Line). Specifically, AGS proposed to abandon 3.10 miles of rail line (the AGS Segment) between milepost 2.40 AG (near Cabot Ave.) and milepost 5.50 AG (near the intersection of River and Coosa Streets); and TAG proposed to abandon approximately 1.15 miles of rail line (the TAG Segment) between milepost TA 90.30 (located between the north end of Brookside Drive and Owls Hollow Road) and milepost TA 91.45 (at the TAG Segment's connection with the AGS Segment west of N 5th Street). Notice of the exemption was served and published in the Federal Register on March 5, 2013 (78 Fed. Reg. 14,414).

By decision and notice of interim trail use or abandonment (NITU) served on April 3, 2013, these proceedings were reopened and a 180-day period was authorized for the City of Gadsden, Ala. (the City) to negotiate an interim trail use/rail banking agreement with AGS and TAG for the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d). By a series of decisions, the negotiating period under the NITU in these proceedings was extended, most recently until February 27, 2020.

On January 27, 2020, the City filed in both dockets a request to modify and partially vacate the NITU. The City states that it has reached a Purchase and Sale Agreement with AGS for the AGS Segment and that the City and AGS are in the process of drafting a trail use agreement. Because the Purchase and Sale Agreement covers only the AGS Segment and does

¹ Both applicants are wholly owned subsidiaries of the Norfolk Southern Railway Company.

not extend to the TAG Segment, the City requests that the Board vacate the NITU for the TAG Segment and issue a replacement NITU covering only the AGS Segment.

In a joint letter filed in both dockets on February 19, 2020, AGS joins in the City's request to issue a replacement NITU for just the AGS segment, and TAG notifies the Board that, because the City no longer wishes to pursue trail use for the TAG segment, TAG intends to exercise discontinuance authority (rather than full abandonment authority) for that segment upon expiration of the NITU.

On February 26, 2020, AGS and the City jointly filed a notice under 49 C.F.R. § 1152.29(h) confirming that AGS and the City have reached an agreement for interim trail use of the AGS Segment.²

The parties have complied with the requirements of 49 C.F.R. § 1152.29(h), which requires that parties notify the Board within 10 days that an agreement has been reached. Additionally, § 1152.29(h) requires that, if the interim trail use agreement establishes trail use "over less of the right-of-way than is covered by the . . . NITU," the notice should request that the Board vacate the NITU and issue a replacement NITU. The notice that an agreement has been reached renews the January 27, 2020 request to vacate the NITU. The request to vacate the NITU will be granted and a replacement NITU will be issued for the AGS Segment. TAG may discontinue service over the TAG segment, pursuant to the abandonment authority granted in Docket No. AB 290 (Sub-No. 340X).³

It is ordered:

1. These proceedings are reopened.
2. The NITU served on April 3, 2013, in Docket Nos. AB 290 (Sub-No. 335X) and AB 290 (Sub-No. 340X) is vacated.
3. A replacement NITU applicable to Docket No. AB 290 (Sub-No. 335X) is issued, effective on the service date of this decision and notice.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to the City's continuing to meet the financial obligations for the right-of-way.

² On February 19, 2020, in Docket No. AB 290 (Sub-No. 335X), the City also had requested a one-year extension of the NITU to permit it to complete its trail use negotiations with AGS. However, the City withdrew that request on February 26, 2020, because the agreement has been completed.

³ The authority to abandon the TAG Segment (and the lesser-included authority to discontinue service over the TAG Segment) expires 60 days from service of this decision. See 49 C.F.R. § 1152.29(e)(2) & (h). The TAG Segment remains subject to the Board's jurisdiction until it is fully abandoned. See T&P Ry.—Aban. Exemption—in Shawnee, Jefferson, & Atchison Ctys., Kan., 2 S.T.B. 36, 40 (1997).

5. If the trail sponsor 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. This decision and notice is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.