

SERVICE DATE – MARCH 25, 2019

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 312 (Sub-No. 4X)

SOUTH CAROLINA CENTRAL RAILROAD COMPANY, LLC—ABANDONMENT
EXEMPTION—IN TERRELL COUNTY, GA.

Decided: March 25, 2019

On February 4, 2019, South Carolina Central Railroad Company, LLC (SCRF), filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 1,350 feet of rail line between milepost 72.88 and milepost 72.63 in the Town of Sasser, Terrell County, Ga. (the Line).¹ Notice of the exemption was served and published in the Federal Register on February 22, 2019 (84 Fed. Reg. 5804). The exemption is scheduled to become effective on March 26, 2019.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) on March 1, 2019, recommending that one condition be imposed on any decision granting abandonment authority. In the EA, OEA noted that SCRF and GSWR served a historic report on the Georgia Historic Preservation Division of the Georgia Department of Natural Resources (State Historic Preservation Office, or SHPO), pursuant to 49 C.F.R. § 1105.8(c), and that, by letter dated October 22, 2018, the SHPO found that the Line is eligible for listing in the National Register of Historic Places (National Register). The SHPO indicated that further consultation is necessary to avoid or reduce the adverse effect the proposed abandonment would have on the associated historic properties. OEA therefore recommended that the Board impose on any decision granting abandonment authority a condition requiring SCRF to: (a) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed; (b) report back to OEA regarding any consultations with the SHPO and the public; and (c) not file its consummation notice or initiate any salvage activities related to the abandonment (including the removal of tracks and ties) until the Section 106 process has been completed and the Board has removed the condition.

OEA issued its final EA on March 21, 2019, noting that no comments to the EA were received and recommending again that the one previously recommended condition be

¹ In the same jointly filed notice, Georgia Southwestern Railroad, Inc. (GSWR), seeks to discontinue service over the Line.

imposed. Accordingly, based on OEA's recommendation, the historic preservation condition proposed in the EA and the final EA will be imposed.

In the EA, OEA also stated that the right-of-way may be suitable for other public use following abandonment and salvage of the Line. On February 28, 2019, South Georgia Rails To Trails Inc. (SGRT), a Georgia non-profit corporation, filed a request for the issuance of a notice of interim trail use or abandonment (NITU) to negotiate with SCRF to establish interim trail use and rail banking under the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29. Pursuant to 49 C.F.R. § 1152.29, SGRT has also submitted a statement of willingness to assume financial responsibility for the right-of-way and has acknowledged that the 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. In a response filed on March 6, 2019, SCRF notified the Board that it is willing to negotiate an agreement for interim trail use with SGRT.

Because SGRT's request complies with the requirements of 49 C.F.R. § 1152.29 and SCRF is willing to negotiate for trail use, a NITU will be issued. The parties may negotiate an agreement for the right-of-way during the 180-day 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. 49 C.F.R. § 1152.29(d)(2) and (h). If no agreement is reached within 180 days, SCRF may fully abandon the Line, subject to any outstanding conditions. 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.

This decision, and the proposed abandonment if implemented as conditioned, 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 served and published in the Federal Register on February 22, 2019, 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 SCRF to negotiate with SGRT for trail use for the Line for a period of 180 days from the service date of this decision and notice, until September 21, 2019. The abandonment is also subject to the conditions that SCRF shall: (a) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the Area of Potential Effect that are eligible for listing or listed in the National Register until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed; (b) report back to OEA regarding any consultations with the SHPO and the public; and (c) not file its consummation notice or initiate any salvage activities related to the abandonment (including the removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

3. 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.

4. 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 3 above.

5. 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) and (h).

6. 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.

7. If an agreement for interim trail use/rail banking is reached by September 21, 2019, for the portion of the right-of-way subject to the NITU, interim trail use may be implemented. If no agreement is reached, CSXT may fully abandon the Line, subject to any outstanding conditions.

8. This decision and notice is effective on its service date.

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