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SERVICE DATE - JULY 16, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-601 (Sub No. 1X)

PINE BELT SOUTHERN RAILROAD COMPANY, INC.—ABANDONMENT EXEMPTION—  
IN LEE AND CHAMBERS COUNTIES, AL

Decided: July 15, 2004

Pine Belt Southern Railroad Company, Inc. (PBRR), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 17.4-mile line of railroad between milepost T-322.40 at Roanoke Junction and milepost T-339.66 at Lafayette, in Lee and Chambers Counties, AL. Notice of the exemption was served and published in the Federal Register on December 22, 2003 (68 FR 71223). The exemption became effective on January 21, 2004.

On December 9, 2003, the City of Opelika (City) filed a request for the issuance of a notice of interim trail use (NITU) for the entire line proposed for abandonment pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and 49 CFR 1152.29. Alternatively, the City sought a 180-day public use condition so that it could negotiate with PBRR for use of the line as a recreational trail. PBRR declined to negotiate with the City for interim trail use and, because the Trails Act permits only voluntary interim trail use, the request for a NITU was denied by decision served January 20, 2004.<sup>1</sup> Because the City's submission met the requirements for a public use condition pursuant to 49 CFR 1152.28(a)(2), the request for a public use condition was granted in that same decision. The public use condition will expire on July 19, 2004.

On June 24, 2004, the City requested issuance of a NITU for the portion of the right-of-way between milepost T-322.40 and milepost T-325.42. Also, in submissions included with that filing, the City of Lafayette, AL, the Chambers County Commission on behalf of Chambers County, AL, and Lee County Commission filed requests for the issuance of a NITU pursuant to section 8(d) of the Trails Act, to negotiate with PBRR for acquisition of other segments of the

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<sup>1</sup> The January 20 decision also imposed a condition that required PBRR to take no steps to alter the historic integrity of the right-of-way until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. By decision served March 1, 2004, the historic preservation condition imposed in the January 20 decision was modified and environmental conditions were imposed.

right-of-way for use as a recreational trail.<sup>2</sup> The City and the governmental agencies collectively seek issuance of a NITU for the entire line.

By letter filed on June 28, 2004, PBRR states that it is unwilling to negotiate with the City and the governmental agencies for interim trail use. Because the Trails Act permits only voluntary interim trail use, the Board cannot issue a NITU in this proceeding. See Rail Abandonments—Use of Rights-of-Way as Trails, 2 I.C.C.2d 591 (1986) (Trails).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The requests for issuance of a notice of interim trail use are denied.
2. This decision is effective on its date of service.

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

Vernon A. Williams  
Secretary

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<sup>2</sup> The City of Lafayette requested issuance of a NITU for the portion of the right-of-way between milepost T-337.76 and milepost T-339.66; the Chambers County Commission requested issuance of a NITU for the portion of the right-of-way between milepost T-326.26 and milepost T-337.76; and Lee County Commission requested issuance of a NITU for the portion of the right-of-way between milepost T-325.42 and milepost T-326.26.