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SERVICE DATE - JULY 30, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-325 (Sub-No. 2X)

FLORIDA MIDLAND RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN SUMTER AND LAKE COUNTIES, FL

Decided: July 28, 2004

By decision served on February 23, 2001 (February 23 decision), the Board granted Florida Midland Railroad Company (FMID) an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 13.23-mile line of railroad known as the Leesburg Branch, extending from milepost ST-762.10 in Wildwood to milepost ST-773.71 in Leesburg and from milepost AS-800.76 to milepost AS-802.38 at Leesburg, in Sumter and Lake Counties, FL, subject to environmental and standard employee protective conditions. The exemption was scheduled to become effective on March 25, 2001. Subsequently, by decision and notice of interim trail use or abandonment (NITU) served on June 19, 2002, this proceeding was reopened and modified to authorize a 180-day period (until December 16, 2002) for the City of Leesburg, FL (the City), to negotiate an interim trail use/rail banking agreement with FMID for those portions of the right-of-way extending from milepost ST-769.43 to milepost ST-773.7, and from milepost AS-800.8 to milepost AS-802.38. By decisions served on December 16, 2002, June 6, 2003, December 4, 2003, and May 28, 2004, the negotiating period was extended until August 2, 2004.

On July 19, 2004, the City filed a request for extension of the NITU for 6 months. The City states that it is currently working to secure a closing date on the property. On July 27, 2004, FMID also filed a request to extend the NITU, but only for 2 months, or until October 2, 2004.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended, but only for the period of time agreed to by the railroad because trail use/rail banking is voluntary.¹ Therefore, the negotiating period may be extended only until October 2, 2004. An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended until October 2, 2004, for the portions of the line described above.

¹ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

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

It is ordered:

1. The request to extend the NITU negotiating period until October 2, 2004, for the portions of the line described above, is granted.
2. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary