

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34869

HONEY CREEK RAILROAD, INC.–PETITION FOR DECLARATORY ORDER

Decided: May 12, 2006

On April 21, 2006, Honey Creek Railroad, Inc. (HCR) filed a petition for declaratory order pursuant to an order of the Circuit Court of Henry County, Indiana,¹ referring a jurisdictional question to the Board involving whether HCR had abandoned a 5.9-mile rail line between Sulphur Springs and New Castle, in Henry County, IN. HCR instituted the court proceeding against Gary L. Roberts, et al. (Roberts) seeking injunctive relief and damages in connection with the removal of certain railroad track materials from HCR's rail line. Roberts filed an answer claiming that HCR's rail line was abandoned and that title had vested in Roberts as a result of the abandonment. The court referred the matter to the Board and stayed its proceedings pending Board action on the referral.

Under 49 CFR 1104.13(a), replies to the petition are due on May 11, 2006. By motion filed on May 11, 2006, Roberts requests a 30-day extension of time for filing his reply. Roberts states that he has had insufficient time to prepare a response and that he is in the process of securing the assistance of additional counsel in this matter.

Roberts' request is reasonable and will be granted. Accordingly, Roberts' reply to HCR's petition will be due on or before June 12, 2006.

It is ordered:

1. Roberts' extension request is granted, and his reply is due on or before June 12, 2006.
2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

¹ Case No. 33C01-0506-CT-0019, Honey Creek Railroad, Inc. v. Gary L. Roberts et al.