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SEC

SERVICE DATE – JUNE 8, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34869

HONEY CREEK RAILROAD, INC.–PETITION FOR DECLARATORY ORDER

Decided: June 7, 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. By decision served on May 12, 2006, the Board granted Roberts a 30-day extension of time for filing his reply, from May 11, 2006, to June 12, 2006.

By petition filed on June 2, 2006, Roberts requests a further 30-day extension of time for filing his reply. Roberts states that he has now retained additional counsel, and counsel needs more time to investigate facts and to determine whether discovery will be necessary before filing a reply.

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

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

It is ordered:

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

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary