

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34869

HONEY CREEK RAILROAD, INC.–PETITION FOR DECLARATORY ORDER

Decided: May 17, 2007

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.

Roberts' reply was initially due on May 12, 2006. However, the Board extended the due date by granting a series of extension requests made by Roberts to accommodate, among other matters, ongoing discovery. Pursuant to the last decision granting an extension, which was served March 15, 2007, Roberts' reply is due on May 18, 2007.

On May 11, 2007, Roberts filed another extension request. Roberts notes that discovery has been concluded and requests a 30-day extension of the May 18, 2007 due date. Roberts also indicates that HCR does not oppose this extension.

Roberts' request is reasonable and will be granted. Accordingly, Roberts' reply to HCR's petition will be due on or before June 18, 2007. It should be noted that the Board has already granted numerous extensions to this due date and further extension requests are discouraged unless there are extreme circumstances.

It is ordered:

1. Roberts' extension request is granted, and his reply is due on or before June 18, 2007.

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

2. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary