

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35380

SAN LUIS & RIO GRANDE RAILROAD—PETITION FOR A DECLARATORY ORDER

Decided: September 20, 2010

In response to a petition filed by the San Luis & Rio Grande Railroad (SLRG), the Board instituted a declaratory order proceeding under 5 U.S.C. § 554(e) and 49 U.S.C. § 721 to determine whether the Board's jurisdiction preempts the land use code of Conejos County, Colo., from applying to SLRG's proposed operation, via a contractor, of a containerized truck-to-rail solid waste transload facility at Antonito, Colo. The Board adopted a procedural schedule that called for SLRG to file its opening statement by August 27, 2010, for public comments in opposition to be filed by September 27, 2010, and for SLRG to file a reply by October 12, 2010.¹

SLRG filed its opening statement on August 24, 2010. On August 25, 2010, Conejos County Clean Water Inc. (CCCW) filed a letter requesting a stay of the procedural schedule. On August 26, 2010, SLRG filed a letter requesting that the proceeding be held in abeyance. CCCW and SLRG stated that they were involved in negotiations to resolve the dispute, and that they expected negotiations to conclude by September 11, 2010. On September 10, 2010, SLRG filed a letter stating that negotiations had failed and asking the Board to restore the proceeding to the active docket with comments due 30 days from the filing date of the letter and SLRG's reply due 15 days later.

Because the Board has not issued a decision on the stay and abeyance requests, there is no need to restore the proceeding to the active docket. However, good cause exists to extend the procedural schedule, as requested by SLRG. Accordingly, public comments will be due on or before October 12, 2010, and SLRG's reply will be due on or before October 27, 2010.

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

¹ The notice was served and published at 75 Fed. Reg. 49022 on August 12, 2010.

It is ordered:

1. The previously adopted procedural schedule is modified as follows: public comments are due on or before October 12, 2010; and SLRG's reply is due on or before October 27, 2010.
2. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.