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SERVICE DATE – AUGUST 26, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1020 (Sub-No. 1X)

EAST PENN RAILROAD, LLC–ABANDONMENT EXEMPTION–
IN MONTGOMERY COUNTY, PA.

Decided: August 25, 2011

East Penn Railroad, LLC (ESPN) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F–Exempt Abandonments to abandon a 2.14-mile line of railroad between milepost 0.0 in the Borough of Bridgeport, and milepost 2.14 at Henderson Road in Upper Merion Township, in Montgomery County, Pa. Notice of the exemption was served and published in the Federal Register on September 3, 2010 (75 Fed. Reg. 54,215-16). The September 3 notice stated that, if consummation had not been effected by ESPN’s filing of a notice of consummation by September 3, 2011, and there were no legal regulatory barriers to consummation, the authority to abandon would automatically expire.

By decision and notice of interim trail use or abandonment (NITU) served October 5, 2010, the proceeding was reopened and a 180-day period was authorized for Montgomery County, Pa. (County) to negotiate, under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act), an interim trail use/rail banking agreement with ESPN for a 2.0-mile portion of the right-of-way that extends between milepost 0.0 in the Borough of Bridgeport, and milepost 2.0 in Upper Merion Township, in Montgomery County, Pa. (County right-of-way).¹ The trail use negotiation period under the NITU expired on April 4, 2011. By decision served April 15, 2011, the NITU was extended to October 1, 2011.

Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. By letter filed August 19, 2011, ESPN states that it expects to close on a rail banking agreement with the County prior to the October 1, 2011 NITU deadline, and, thus, will not consummate the abandonment of that 2.0-mile portion of the right-way. ESPN also states that it is currently in negotiations to sell the remaining portion of the line between milepost 2.0 and milepost 2.14. ESPN explains that it does not expect to be able to close on that sale before the current consummation deadline expires on September 3, 2011. Therefore, ESPN requests a 6-month extension of the consummation deadline until March 3, 2012. ESPN has shown good cause to

¹ That decision also imposed a public use condition, which expired on April 3, 2011, and may not be extended.

extend the time to consummate the remaining portion of the abandonment and for filing a notice of consummation in this proceeding. The extension request will therefore be granted.

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

It is ordered:

1. ESPN's request for an extension of time to exercise the abandonment authority for the portion of the line between milepost 2.0 and milepost 2.14 is granted.
2. The authority to abandon the portion of the line between milepost 2.0 and milepost 2.14 must be exercised, and the notice of consummation must be filed, on or before March 3, 2012.
3. This decision is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.