

SERVICE DATE – NOVEMBER 16, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-868 (Sub-No. 1X)

MISSISSIPPI TENNESSEE HOLDINGS, LLC—ABANDONMENT  
EXEMPTION—IN HARDEMAN COUNTY, TN AND  
TIPPAH AND UNION COUNTIES, MS

Decided: November 15, 2007

Mississippi Tennessee Holdings, LLC (MTH) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon: (1) an approximately 19.55-mile rail line extending between approximately milepost 367.65 in Middleton, Hardeman County, TN, and milepost 348.1 in Ripley, Tippah County, MS, and (2) an approximately 1.36-mile rail line between milepost 325.56 in New Albany, Union County, MS, and milepost 324.2 in Union County, MS, a total distance of 20.91 miles. Notice of the exemption was served and published in the Federal Register on September 28, 2006 (71 FR 57020-21), as corrected in a decision served on March 20, 2007.<sup>1</sup> The notice provided that, if consummation of the abandonment had not been effected by MTH's filing of a notice of consummation by September 28, 2007, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. See 49 CFR 1152.29(e)(2).

On October 5, 2007, MTH requested that the deadline for consummation of abandonment as to the 1.36-mile segment at New Albany, MS, be extended for one year from September 28, 2007.<sup>2</sup> MTH states that there are no shippers or other governmental agencies that would be adversely affected if the requested extension were granted. Further, MTH explained the reason for the lateness of its extension request: on May 24, 2007, the City of New Albany had filed a trail use request as to that segment, and on May 29, 2007, MTH had filed notice of its agreement to negotiate for trail use of that segment. Accordingly, MTH apparently thought there was a legal or regulatory barrier to consummation in place. However, the Board had not acted on the

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<sup>1</sup> In STB Docket No. AB-869 (Sub-No. 1X), Mississippi Tennessee Railroad, LLC—Discontinuance of Service Exemption—in Hardeman County, TN and Tippah and Union Counties, MS, Mississippi Tennessee Railroad, LLC (MTRR) filed a notice of exemption under 40 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service for MTRR to discontinue service over the same lines described above. Notice of the exemption was served and published and later corrected along with MTH's notice.

<sup>2</sup> On June 15, 2007, MTH and MTRR had filed a notice stating that MTH had consummated abandonment and MTRR had consummated discontinuance of rail service over the 19.55-mile line in Tennessee.

trail use request because of the City's failure to meet the requirements for acknowledging its responsibility and liability for that segment in the event of trail use.

Under 49 CFR 1152.29(e)(2), when a rail carrier does not, within 1 year of the effectiveness of the abandonment authorization, notify the Board that it has consummated the abandonment, and where there is no regulatory or legal impediment to abandonment, the authority lapses and the rail carrier must file a new request to abandon its line. But here, the unusual circumstance of the pending request for the issuance of a NITU may well have confused the parties into thinking that the deadline for consummation had not been extended. Moreover, MTH filed its request for extension of the deadline only 1 week after the consummation deadline had passed. Accordingly, the period for consummation of abandonment will be extended to September 28, 2008.

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

It is ordered:

1. MTH's request to extend the period for consummation of the abandonment of an approximately 1.36-mile segment of rail line extending between milepost 325.56 and milepost 324.2, at or near New Albany, MS, is granted.
2. The deadline for consummation of the abandonment as to the 1.36-mile segment is extended for 1 year until September 28, 2008.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary