

SERVICE DATE – OCTOBER 19, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-914X

McCLOUD RAILWAY COMPANY—ABANDONMENT AND DISCONTINUANCE OF
SERVICE EXEMPTION—IN SISKIYOU, SHASTA, AND
MODOC COUNTIES, CA

Decided: October 18, 2005

By decision served on October 14, 2005, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by McCloud Railway Company (MCR) of approximately 80 miles of rail line in Siskiyou and Shasta Counties, CA, and the discontinuance of service provided under a grant of trackage rights over a 31.4-mile line owned by BNSF Railway Company in Siskiyou and Modoc Counties, CA. The exemption is scheduled to become effective on November 13, 2005, unless stayed by the Board or unless a formal offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1) is filed by October 24, 2005, 10 days after the October 14 decision's service date.

On October 6, 2005, Seaside Holdings, Inc. (Seaside) filed a pleading styled a "Notice of Intent to File an Offer of Financial Assistance" to purchase the 80 miles of rail line.¹ In the filing, Seaside also requested that MCR provide it with copies of information necessary to formulate an OFA to purchase the 80 miles of rail line. In particular, Seaside requested the most recent report on the physical condition of the line, the carrier's estimate of the net liquidation value (NLV) of the line, data supporting the NLV, and the line's minimum purchase price.

On October 17, 2005, MCR filed a petition to toll the 10-day period for submitting an OFA. MCR explains that it cannot promptly furnish the valuation data so that Seaside can file its OFA by the current due date. Accordingly, MCR asks that an OFA be made due 10 days after the carrier provides the valuation data to Seaside. Seaside did not file a response.

The Board entertains petitions to toll the period for filing an OFA when a petitioner has failed to provide a potential offeror with the information necessary to the development of an OFA and that information is not contained in the petition. See 49 CFR 1152.27(c)(1)(i)(C). In this case, because the information necessary to formulate the OFA is not currently available,

¹ The Board's revised regulations no longer provide for a notice of intent to file an OFA in proceedings involving petitions for abandonment exemptions. See *Aban. and Discon. of R. Lines and Transp.* Under 49 U.S.C. 10903, 1 S.T.B. 894 (1996) and 2 S.T.B. 311 (1997).

MCR's petition will be granted. As a result, an OFA will be due 10 days after Seaside's receipt of all of the requested information, and the effective date of the abandonment and discontinuance of service exemption will be extended accordingly.²

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

It is ordered:

1. The time period for Seaside to file an OFA is tolled until 10 days after Seaside's receipt of the requested information, and the effective date of the exemption is further postponed until 20 days after Seaside's receipt of the requested information.
2. MCR is directed to notify the Board in writing when it has provided Seaside with the requested information.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² Because these extensions are not date specific, MCR is directed to notify the Board when it has furnished the requested information to Seaside so that the due date for filing OFAs and the effective date of the exemption can be determined for the record.