

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1081X

SAN PEDRO RAILROAD OPERATING COMPANY, LLC—ABANDONMENT  
EXEMPTION—IN COCHISE COUNTY, ARIZ.

Decided: May 14, 2010

By decision served February 3, 2006, the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903 the abandonment by San Pedro Railroad Operating Company, LLC (SPROC) of approximately 76.2 miles of railroad line in Cochise County, Ariz., as follows: (1) the Bisbee Branch, between milepost 1085.0 at Bisbee Junction and milepost 1090.6 at Bisbee, a distance of 5.6 miles; and (2) the Douglas Branch (a) between milepost 1097.3 near Paul Spur and milepost 1106.5 near Douglas, a distance of 9.2 miles, (b) between milepost 1055.8 near Charleston and milepost 1097.3 near Paul Spur, a distance of 41.5 miles, and (c) between milepost 1040.15 near Curtiss and milepost 1055.8 near Charleston, a distance of 19.9 miles. The exemption was scheduled to become effective on March 5, 2006, unless an offer of financial assistance (OFA) was filed on or before February 13, 2006.

On February 13, 2006, Sonora-Arizona International LLC (Sonora) timely filed an OFA to purchase the line but, on July 12, 2006, Sonora filed a notice indicating its withdrawal of the OFA. On July 13, 2006, SPROC filed a letter requesting that the Board vacate the May 3, 2006 decision authorizing the sale and authorize SPROC to abandon this line. On July 20, 2006, SPROC filed a letter indicating its willingness to enter into trail use negotiations previously requested by the Trust for Public Land (the Trust) under the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act). By a decision served on July 26, 2006, the Board reopened the proceeding, granted Sonora permission to withdraw its OFA, terminated the financial assistance process, and vacated the February 17, 2006 decision to the extent it postponed the effective date of the abandonment exemption. In the same decision, the Board also imposed a public use condition and issued a notice of interim trail use (NITU) for the subject line under the Trails Act, authorizing the Trust to negotiate an interim trail use/rail banking agreement with SPROC until January 22, 2007.

On January 22, 2007, the Trust filed a request for a 30-day extension of the NITU negotiating period. In a letter filed January 25, 2007, SPROC consented to the extension but

only for those portions of the line between mileposts 1040.15 and 1074.3.<sup>1</sup> By decision served on February 14, 2007, an extension was granted until February 21, 2007.

On January 29, 2007, SPROC filed a letter stating that it had consummated the abandonment of the line between: (1) milepost 1084.0 and milepost 1097.3 at Paul Spur, (2) milepost 1097.3 at Paul Spur and milepost 1106.5 near Douglas, and (3) milepost 1085.0 at Bisbee Junction and milepost 1090.6 at Bisbee.

At the request of SPROC, the Board served decisions on June 8, 2007, July 15, 2008, and July 9, 2009, postponing for one year, the deadline to consummate abandonment of the portion of the line from milepost 1040.15 near Curtiss to milepost 1084.0,<sup>2</sup> with the last scheduled to expire on July 26, 2010.

By letter filed on April 30, 2010, SPROC now requests permission to postpone for another year, until July 26, 2011, the deadline to consummate abandonment of that portion of the line. SPROC states that the extension is needed because it and UP, the owner of a portion of the underlying right-of-way, are evaluating the strategic use of this rail corridor and wish to preserve their options for protecting the integrity of the corridor. SPROC has shown good cause to extend the time to consummate the remainder of the abandonment and for filing a notice of consummation in this proceeding. Accordingly, the request will 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. SPROC's request for an extension of time to exercise the abandonment authority for that portion of the line from milepost 1040.15 near Curtiss to milepost 1084.0 is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before July 26, 2011.
3. This decision is effective on its service date.

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

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<sup>1</sup> The status of the segment of the right-of-way between milepost 1074.3 at the intersection of the rail line with State Highway 92 and milepost 1084.0 was not addressed.

<sup>2</sup> 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.