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SERVICE DATE – LATE RELEASE JUNE 24, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1071

STEWARTSTOWN RAILROAD COMPANY—ADVERSE ABANDONMENT—IN
YORK COUNTY, PA.

Decided: June 24, 2011

This decision grants the request of the Estate of George M. Hart (Estate) to extend, for an additional 7 days, the Board's previously granted waiver of the regulation at 49 C.F.R. § 1152.20(b) regarding the date by which the Estate must file an adverse abandonment application.

On May 20, 2011, the Estate filed a notice of intent to file an adverse abandonment application in which it would seek a finding that the present or future public convenience and necessity require or permit the abandonment of a 7.4-mile line of railroad in York County, Pa., owned by Stewartstown Railroad Company (SRC). Concurrently, the Estate also filed a request for waiver of the requirement at 49 C.F.R. § 1152.20(b) that a notice of intent be served at least 15 days, but not more than 30 days, prior to the filing of an abandonment application and be fully published within the 30-day period prior to the filing of an application. The Estate explained that, on May 9, 2011, it served on SRC its first set of discovery requests intended to produce evidence needed to develop its adverse abandonment application, and thereafter it proceeded with filing, service, and publication of its notice of intent in the Central Pennsylvania Business Journal.¹ The Estate sought waiver of § 1152.20(b) in light of an expected request by SRC for an extension of time to respond to the Estate's discovery requests.² The Estate argued that, if the Board granted SRC's request, absent the requested waiver the Estate would have to file its adverse abandonment application without having received necessary information sought in discovery. On May 25, 2011, SRC filed its request for extension of time to respond to the Estate's discovery requests, arguing, among other things, that an extension was necessary because the Estate's discovery requests were extensive and unusual.

¹ See 49 C.F.R. § 1152.20; see also Stewartstown R.R.—Adverse Aban.—In York Cnty., Pa., AB 1071 (STB served Mar. 10, 2011) (granting, among other things, waivers of certain service requirements and other provisions of § 1152.20).

² The Estate attached to its petition a copy of SRC's request, which at that time the Board had not received.

In a decision served on June 6, 2011, the Board granted in part SRC's extension request, directing that SRC respond to the Estate's first discovery requests by no later than June 20, 2011. The decision also granted the Estate's request for waiver of § 1152.20(b) to the extent needed to permit the Estate to file its application by June 30.

In a letter filed on June 22, 2011, the Estate requests that the Board extend its waiver of § 1152.20(b) for an additional 7 days, until July 7, 2011. The Estate notes that it received SRC's discovery responses on June 21, 2011, and seeks the extension to afford it adequate time to evaluate the responses and incorporate that information into its application.

The extension requested is reasonable and will be granted. The Board's previously granted waiver of 49 C.F.R. § 1152.20(b) will be amended to the extent necessary to permit the Estate to file its adverse abandonment application by July 7, 2011.

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

It is ordered:

1. The Estate's request to extend the Board's waiver of § 1152.20(b)(2) is granted. Section 1152.20(b)(2) is waived to the extent necessary to permit the Estate to file its adverse abandonment application by July 7, 2011.
2. This decision is effective on its service date.

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