

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-980X

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY–ABANDONMENT
EXEMPTION–IN SANTA CLARA AND ALAMEDA COUNTIES, CA

Decided: June 6, 2007

On August 29, 2005, Santa Clara Valley Transportation Authority (SCVTA) filed a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon its residual common carrier obligation over a 1.19-mile line of railroad, extending from milepost 16.30 to milepost 17.49 in San Jose, Santa Clara County, CA, and a 2.77-mile line of railroad, extending from milepost 2.61 near Paseo Padre Drive to milepost 5.38 near Grimmer Boulevard in and near Fremont, Alameda County, CA. By decision served on December 16, 2005, the petition for exemption was granted subject to historic preservation and standard employee protective conditions, and two self-executing environmental conditions.¹ By decision served on March 15, 2006, the proceeding was reopened to remove the historic preservation condition.

By motion filed on May 8, 2007, SCVTA seeks an extension of the deadline for filing its notice of consummation. SCVTA did not file its notice of consummation by the December 16, 2006 due date,² and SCVTA is asking the Board to accept the notice now. SCVTA states that this failure occurred because its counsel changed law firms, and because the necessary calendar reminders were not transferred to the new firm. SCVTA also states that the proposed abandonment was unopposed, and that no party or other person would be adversely affected by the extension.

Under the circumstances, the request for an extension of time for SCVTA to file a notice of consummation will be granted. While SCVTA's notice of consummation will therefore be accepted under the unique circumstances described in this decision, neither SCVTA nor any

¹ Prior to beginning salvage operations, SCVTA was ordered to notify the National Geodetic Survey and, prior to consummation, it was ordered to consult with the California Public Utilities Commission.

² A notice of consummation shall be filed within 1 year of the service date of the decision (here, December 16, 2006) permitting the abandonment, unless a legal or regulatory barrier to consummation exists at the end of the 1-year period. Here, the historic preservation condition was removed prior to the end of the 1-year period, and the two environmental conditions are not regulatory barriers to consummation as they would be met when the carrier went through the abandonment consummation process.

other rail carrier should count on the Board's granting similar extension requests in the future or on the Board's accepting late-filed notices of consummation.

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

It is ordered:

1. The request for an extension of the time to file is granted and SCVTA's notice of consummation is accepted.
2. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary