

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1081X

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

Decided: July 26, 2011

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 decision served 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 1074.3.¹ By decision served on February 14, 2007, an extension was granted until February 21, 2007. The Board received no further request to extend the NITU negotiating period.

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 has extended the deadline to consummate abandonment of the portion of the line from milepost 1040.15 near Curtiss to milepost 1084.0. The most recent extension, granted in a decision served May 14, 2010, is scheduled to expire on July 26, 2011.

By letter filed on June 20, 2011, SPROC requests a one year extension, until July 26, 2012, to consummate abandonment of that portion of the line from milepost 1040.15 near Curtiss to milepost 1084.0. SPROC states that the extension is needed because it and Union Pacific Railroad Company (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 also states that UP is interested in acquiring the right-of-way, subject to the execution of a purchase and sale agreement.

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. 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. An extension here will provide additional time for SPROC to preserve the corridor for possible future rail use. Accordingly, the extension request will be granted.²

This decision 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.

¹ 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.

² As noted, the NITU negotiating period expired on February 21, 2007, and, as such, there has been no NITU in effect since that date. The Board's action here to extend the consummation deadline does not create a NITU or extend the expired NITU.

2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before July 26, 2012.

3. This decision is effective on its service date.

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