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SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1023 (Sub-No. 1X)

PUGET SOUND & PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—  
IN GRAYS HARBOR COUNTY, WASH.

Decided: April 1, 2011

In a decision served on May 19, 2009 (May 2009 decision), Puget Sound & Pacific Railroad Company (PS&P) was granted an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 to abandon an 8,344-foot long rail line in Gray Harbor County, Wash., subject to certain conditions.<sup>1</sup> Notice of the exemption was served and published in the Federal Register on February 18, 2009 (74 Fed. Reg. 7,638).

By letter filed on January 28, 2011, PS&P states that it has consummated the abandonment of the line as of January 27, 2011.

A notice of consummation must be filed within 1 year from the service date of the decision authorizing abandonment. 49 C.F.R. 1152.29(e)(2). If, at the end of the 1-year period, consummation has not been effected by the filing of a notice and there are no legal or regulatory barriers to consummation, the abandonment authority automatically expires. Id. If, however, any legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed no later than 60 days after the satisfaction, expiration, or removal of that barrier. Id. The May 2009 decision expressly stated those principles. See May 2009 decision, slip op. at 6.<sup>2</sup>

PS&P appears to have filed its notice of consummation several months late. The Section 106 historic preservation condition was a barrier to consummation, but it was removed by decision served July 16, 2010 (the July 2010 decision). That decision also stated that the remaining 3 salvage-related conditions were not barriers to consummation. July 2010 decision,

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<sup>1</sup> In addition to imposing employee protection under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979), the May 2009 decision imposed 4 conditions: an historic preservation condition under Section 106 of the National Historic Preservation Act and 3 salvage-related conditions.

<sup>2</sup> The May 2009 decision erroneously identified the initial 1-year consummation deadline as May 19, 2009, rather than May 19, 2010.

slip op. at 1 n.3; see Consummation of Rail Line Abans. That Are Subject to Historic Pres. and Other Env'tl. Conditions, EP 678, slip op. at 4 and n.2 (STB served Apr. 23, 2008). Therefore, the deadline for PS&P to file its notice of consummation was September 14, 2010, 60 days after the July 2010 decision was served. See 49 C.F.R. § 1152.29(e)(2).

PS&P did not acknowledge that its notice of consummation was late or explain why it missed the consummation deadline. Therefore, PS&P is directed to file, by April 11, 2011, an explanation for not filing its notice of consummation by the September 14, 2010 deadline.

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

It is ordered:

1. PS&P is directed to file, by April 11, 2011, an explanation for not filing its notice of consummation by the September 14, 2010 deadline.
2. This decision is effective on its service date.

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