

SERVICE DATE – AUGUST 6, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-156 (Sub-No. 26X)

DELAWARE AND HUDSON RAILWAY COMPANY, INC., D/B/A CANADIAN PACIFIC RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN ALBANY COUNTY, NY

Decided: August 3, 2007

Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway Company (D&H) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon 1.98 +/- miles of rail line between mileposts A 6.95 +/- (in Colonie) and A 7.13 +/- and mileposts T 0.0 +/- and T 1.81 +/- (in Green Island), in Albany County, NY. Notice of the exemption was served and published in the Federal Register on June 1, 2007 (72 FR 30665-66). The notice stated that the exemption would become effective on July 3, 2007, unless stayed by the Board or a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(2) was filed by June 11, 2007.

On May 17, 2007, R. Freedman & Son, Inc. (Freedman), filed a formal expression of intent to file an OFA to acquire the line. This filing automatically stayed the effective date of the exemption for 10 days, until July 13, 2007.¹ Freedman simultaneously requested that D&H provide Freedman with the financial data and information prescribed in 49 CFR 1152.27(a) (requested information). By decision served on June 15, 2007, the 30-day time period for filing an OFA was tolled until August 20, 2007, and the effective date of the exemption was extended until August 30, 2007.

By letter filed on July 19, 2007, D&H states that, due to difficulties in obtaining the requested information, it needs additional time to comply with Freedman's request. D&H indicates that it expects to provide the requested information on or before August 31, 2007, and that D&H does not oppose a request by Freedman to toll the time period to submit an OFA until 30 days after D&H has provided the requested information. In a letter filed on July 20, 2007, Freedman notes D&H's request and the due date by which D&H expects to provide Freedman with the requested information, and requests that the time period to submit an OFA be further tolled until September 30, 2007, to afford Freedman adequate opportunity to evaluate the requested information and to prepare an OFA.

Because more time is necessary for D&H to provide Freedman with the data necessary to formulate an OFA, the deadline for filing an OFA will be tolled until 30 days after D&H notifies

¹ See 49 CFR 1152.27(c)(2)(i).

the Board that it has provided the requested information to Freedman. The effective date of the abandonment exemption will be postponed until 10 days after the new due date for an OFA.

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

It is ordered:

1. The request to toll the due date for an OFA in this proceeding is granted.
2. The deadline for OFAs to be filed in this proceeding will be due 30 days after D&H notifies the Board that it has provided Freedman with the requested information.
3. The effective date of the exemption is postponed until 10 days after the due date for OFAs.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary