

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-914X

McCLOUD RAILWAY COMPANY—ABANDONMENT AND DISCONTINUANCE OF
SERVICE EXEMPTION—IN SISKIYOU, SHASTA, AND
MODOC COUNTIES, CA

Decided: September 12, 2006

By decision served on October 14, 2005, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by McCloud Railway Company (MCR) of approximately 80 miles of rail line in Siskiyou and Shasta Counties, CA, and the discontinuance of service provided under a grant of trackage rights over a 31.4-mile line owned by BNSF Railway Company in Siskiyou and Modoc Counties, CA.¹ The Board granted the exemption subject to standard employee protective conditions and environmental conditions. The exemption was scheduled to become effective on November 13, 2005, unless stayed by the Board or unless a formal offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1) was filed by October 24, 2005.

On October 6, 2005, Seaside Holdings, Inc. (Seaside) filed a pleading styled a “Notice of Intent to File an Offer of Financial Assistance” to purchase the 80 miles of rail line proposed for abandonment. In the filing, Seaside also requested that MCR provide it with information necessary to formulate its OFA.

On October 17, 2005, MCR filed a petition to toll the 10-day period for submitting an OFA. MCR explained that it could not promptly furnish certain data sought by Seaside, and requested that an OFA be made due 10 days after the carrier provided the data to Seaside. In a decision served on October 19, 2005, the Board granted the request and directed MCR to notify the agency when it had furnished the information so that the due date for filing OFAs could be determined. On June 15, 2006, MCR notified the Board that it would be providing the information concerning the estimated Net Liquidation Value of the rail line to Seaside and others on June 16, 2006.

¹ The 80 miles of rail line include: (1) a rail line between milepost 3.3 east of McCloud and the end of the track at milepost B-61 at or near Burney; (2) a rail line between milepost B-19 at or near Bartle and milepost B-31.4 at or near Hambone; (3) a rail line between milepost B-58 at or near Berry and milepost S-7 at or near Sierra; and (4) a rail line between milepost B-31.6 at or near Bear Flat and milepost P-3.93 at or near Pondosa.

On June 26, 2006, Seaside timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the 80 miles of line. In a decision served on June 28, 2006, the Board, by the Director of the Office of Proceedings, found Seaside to be financially responsible and postponed the effective date of the abandonment exemption to permit the OFA process to proceed. Subsequently, on July 26, 2006, Seaside filed a request asking that the Board set the terms and conditions for the purchase of the 80 miles of line. Thereafter, in a decision served on August 25, 2006, the Board set the purchase price for that line at \$3,466,313 and established terms for transfer of the line. In that decision, the Board also directed Mr. Jeff Forbis to promptly, but in any event prior to closing, cause 4 Rails Inc. to convey to MCR all of its title and interest in the subject real estate if Seaside accepts the terms established by the Board.

On September 5, 2006, counsel for Seaside filed a letter stating that the offeror accepts the Board's terms and conditions. When a person offering to purchase a line accepts the terms and conditions set by the Board, the Board's decision is binding. See 49 U.S.C. 10904 and 49 CFR 1152.27(h)(7). Accordingly, the sale will be approved and the petition for exemption will be dismissed as to the 80 miles of rail line.

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

It is ordered:

1. Under 49 U.S.C. 10904, Seaside is authorized to acquire the 80 miles of rail line described above.
2. Under 49 U.S.C. 10904 and 49 CFR 1152.27(h)(7), the petition for exemption is dismissed as to the 80 miles of rail line, effective on the date the sale is consummated.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary