

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-103 (Sub-No. 21X)

THE KANSAS CITY SOUTHERN RAILWAY COMPANY—ABANDONMENT
EXEMPTION—LINE IN WARREN COUNTY, MS

Decided: January 17, 2008

By joint petition filed on August 24, 2007, The Kansas City Southern Railway Company (KCSR) and Vicksburg Southern Railroad, Inc. (VSOR), sought exemptions under 49 U.S.C. 10502 from the provisions of 49 U.S.C. 10903 for KCSR to abandon and VSOR to discontinue service over approximately 4.25 miles of rail line (the Line) in Vicksburg, Warren County, MS. The Line extends from milepost 225.6 (south of the Line's crossing of Warrenton Road and the intersection with Kemp Bottom Road) to milepost 229.85 (approximately 0.05 miles south of the Line's crossing of Glass Road, just beyond the Vicksburg city limits). The Board served and published a notice in the Federal Register on September 13, 2007 (72 FR 52430) instituting an exemption proceeding.

By decision served December 12, 2007, the Board granted the abandonment and discontinuance exemptions, subject to conditions, and denied petitioners' request for exemptions from the offer of financial assistance (49 U.S.C. 10904) and public use (49 U.S.C. 10905) provisions. The decision noted that a notice of intent to file an offer of financial assistance (OFA) under 49 CFR 1152.27 (c)(1) to allow rail service to continue had been filed by Raymond B. English, the president of Foam Packaging, Inc., the only active shipper on the Line, and a request for a notice of interim trail use under the National Trails System Act, 16 U.S.C. 1247(d), and 49 CFR 1152.29, filed by the City of Vicksburg was held in abeyance pending completion of the OFA process. The abandonment and discontinuance exemptions were scheduled to become effective on January 11, 2008, unless stayed by the Board or an OFA was filed by December 21, 2007.

On December 20, 2007, Mr. English timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase approximately 1.9 miles of the Line extending from milepost 225.6 to milepost 227.5. On December 21, 2007, Mr. English filed a supplement to his December 20 OFA, adding James Riffin, an existing Class III rail carrier, as a joint offeror, and expanding the scope of the offer to include the remaining 2.35 miles of the Line from milepost 227.5 to milepost 229.85. In a decision served on December 27, 2007, Mr. English and Mr. Riffin were found to be financially responsible and the effective date of the exemption authorizing the abandonment was postponed to permit the OFA process to proceed. In the same decision, the Board made any request to establish the terms and conditions of the purchase due on or before January 18, 2008.

On January 16, 2008, KCSR filed a petition for extension of the January 18 deadline. KCSR states that the parties have been negotiating, but have not yet reached an agreement regarding acceptable terms or conditions for sale of the Line. KCSR also states that Mr. English and Mr. Riffin requested that KCSR ask the Board to extend the OFA negotiating period until January 25, 2008, at which time, if no agreement has been reached, either party may request the Board to set terms and conditions of the purchase. KCSR adds that it has agreed to that request.

The requested extension is reasonable and will be granted. Accordingly, the deadline for the parties to request the Board to establish terms and conditions of a purchase will be extended to January 25, 2008.

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 extend the time period for either party to request the Board to establish the terms and conditions of a purchase is granted.
2. If Mr. English, Mr. Riffin and KCSR cannot agree on a purchase price, either party may request the Board to establish the terms and conditions of the purchase on or before January 25, 2008.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary