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SERVICE DATE – LATE RELEASE JULY 28, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-441 (Sub-No. 4X)

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

Decided: July 28, 2005

By petition filed on June 6, 2005, San Pedro Railroad Operating Company, LLC (SPROC), a wholly owned subsidiary of Arizona Rail Group, seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon approximately 76.2 miles of railroad in Cochise County, AZ, 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 Board is due to issue a final decision in the matter by September 23, 2005.

Notice of the filing was served and published in the Federal Register on June 24, 2005 (70 FR 36696-97), and interested parties were requested to submit replies to the petition on or before July 14, 2005. A statement in opposition was filed by Chemical Lime Company (Chemical Lime), on July 14, 2005.

On July 26, 2005, Sonora-Arizona International, LLC (Sonora), filed a motion for an extension of time until August 2, 2005, to late-file a reply and comments to the petition. Sonora states that its principal member is an owner of property on or near the subject line. It further states that its counsel needs additional time to evaluate the record and assist Sonora in preparing a response, due to the fact that counsel has just been retained. According to Sonora, granting the extension request and permitting Sonora's subsequent reply will result in a more complete and accurate record, and will not delay the proceeding or result in prejudice to any party.

SPROC replied in opposition to Sonora's motion. SPROC argues that Sonora has failed to identify an interest that justifies participation in this proceeding, that it has not justified filing out of time, and that accepting a late-filed reply will jeopardize the Board's ability to issue a timely decision, thus continuing to burden SPROC with the operation of what SPROC characterizes as an unprofitable service.

Good cause exists for granting the requested extension until August 1, 2005, for Sonora to file a reply to SPROC's petition. In light of the discussion below, granting the extension will not delay the issuance of a decision in this proceeding or unfairly prejudice SPROC. Accordingly, Sonora's reply will be due on August 1, 2005.

SPROC also requests that, if the Board grants Sonora's motion, SPROC be granted 7 days in which to respond. By separate filing, SPROC also states that it will file a reply to the reply of Chemical Lime. The filings of both Sonora and Chemical Lime are replies to the petition, and replies to replies are prohibited by the Board's regulation at 49 CFR 1104.13(c). The prohibition will be waived to permit SPROC to reply to the filing of Chemical Lime on or before August 3, 2005, and to the filing of Sonora on or before August 4, 2005. SPROC is cautioned that it should respond directly to issues raised and evidence presented in the reply statements, and not submit evidence and argument that could have been submitted with SPROC's petition. See The Burlington Northern and Santa Fe Railway Company—Abandonment of Chicago Area Trackage in Cook County, IL, STB Docket No. AB-6 (Sub-No. 382X) (STB served Sept. 21, 1999), and SWKR Operating Co.—Abandonment Exemption—in Cochise County, AZ, STB Docket No. AB-441 (Sub-No. 2X) (STB served Nov. 12, 1997).

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

It is ordered:

1. Sonora's motion to late-file a reply in this proceeding is granted.
2. Sonora's reply to SPROC's petition for exemption is due on or before August 1, 2005.
3. SPROC's request to reply to the reply filed by Chemical Lime and the reply to be filed by Sonora is granted.
4. SPROC's reply to Chemical Lime's filing is due on or before August 3, 2005, and SPROC's reply to Sonora's filing is due on or before August 4, 2005.
5. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary