

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-43 (Sub-No. 184X)

ILLINOIS CENTRAL RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN COOK COUNTY, IL

Decided: December 23, 2008

By decision and notice of interim trail use or abandonment served on December 17, 2008 (December 2008 decision), the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by Illinois Central Railroad Company (IC) of approximately 3,205 feet of rail line beginning at the point of clearance at Station 26+58 (Halsted Street) and extending northeasterly approximately 3,205 feet to the end of the track at Station 58+63 (Cermak Road), all in Chicago, Cook County, IL, subject to trail use, public use, and standard employee protective conditions.

The exemption was scheduled to become effective on January 16, 2009, unless it was 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)(1) was filed by December 24, 2008. By petition filed on December 18, 2008, Chicago Port Railroad Company (CPC), pursuant to 49 CFR 1152.27(c)(1)(i)(C), requests that the 10-day period for submitting an OFA be tolled for 30 days.¹ CPC attaches, as Appendix 1 to its petition, a copy of its letter to IC dated October 22, 2008, requesting the financial data and information prescribed in 49 CFR 1152.27(a). CPC indicates that the only information that IC has provided to CPC thus far is the identification of the ages and weights of the rail line by station reference, and track and land maps that do not contain any information about the source of IC's title or right to use the land in the subject right-of-way. CPC states that it is authorized by counsel for IC to state that IC concurs with CPC's

¹ CPC notes that, in the December 2008 decision, there was no explanation for the 7-day period that was set for the filing of an OFA compared to the usual 10-day period. Pursuant to 49 CFR 1152.27(c)(1)(i)(B), an OFA, or notification of a previously filed OFA, must be filed and served no later than 10 days after service of the Board's decision granting the application or petition for exemption. This filing and service is subject to the requirements of 49 CFR 1152.25(d)(1), (d)(2), and (d)(4). As stated in 49 CFR 1152.25(d)(4), OFAs made pursuant to 49 CFR 1152.27(c) must be filed on or before their statutory or regulatory due date as computed in paragraph 49 CFR 1152.25(d)(2), regardless of whether that date is a Saturday, Sunday, or a legal holiday in the District of Columbia. In this instance, the regulatory due date for an OFA to be filed fell on December 27, 2008, a Saturday, and the previous 2 days (December 25 and 26) are Federal holidays. Therefore, the date for an OFA to be filed was set at December 24, 2008.

request. On December 22, 2008, IC filed a response to CPC's petition to clarify that, while IC concurs with the request for a 30-day tolling of the OFA due date, IC does not necessarily concur with the remainder of CPC's filing.

The Board will consider requests to toll the period for filing an OFA when a petitioner has failed to provide a potential offeror with the information necessary to the development of an OFA and that information is not contained in the petition. See 49 CFR 1152.27(c)(1)(i)(C). In this case, because IC has not provided CPC with the information necessary to formulate an OFA, CPC's request will be granted. Accordingly, the time period for submitting an OFA will be tolled for 30 days, until January 23, 2009, and the effective date of the exemption will be extended until 10 days after the due date of filing the OFA (until February 2, 2009).

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

It is ordered:

1. The time period for CPC to file an OFA is tolled for 30 days from December 24, 2008, until January 23, 2009.
2. The effective date of the exemption is postponed until 10 days after the due date for the filing of OFAs (until February 2, 2009).
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary