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SERVICE DATE – JUNE 1, 2006

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: May 31, 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.<sup>1</sup> 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, 10 days after the October 14 decision's service date.

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 provides 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 can be determined for the record.

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<sup>1</sup> 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.

In a decision served on May 12, 2006, the Board noted that MCR had not notified the agency that it has provided the missing OFA data. The Board directed the railroad to file a status report by June 12, 2006, describing its progress and the cause of the delay.

On May 19, 2006, Pacific Unified Railroad Corporation (PURC) filed a notice of its intent to file an OFA to purchase the 80 miles of rail line. PURC also requested that MCR provide it with the data necessary to file its OFA. In particular, PURC requested the most recent report on the physical condition of the line, the carrier's estimate of the net liquidation value (NLV) of the line, data supporting the NLV, and the line's minimum purchase price. Lastly, PURC requested that the Board toll the due date of the party's OFA until 30 days after its receipt of the requested data.

In its reply filed on May 22, 2006, MCR states that it does not object to an OFA being due 10 days after the estimated net liquidation value is provided to the parties. Although PURC has filed its pleading very late in this proceeding, MCR has not objected to PURC's participating in the OFA process or to providing NLV information to PURC in addition to Seaside. Accordingly, PURC's submission will be accepted.

PURC's request to toll the due date for filing its OFA will be denied. Seaside has 10 days from the receipt of the data to file its OFA. PURC has not justified why it needs more time than Seaside or why the length of time is inadequate. MCR's reply indicates that it will provide the requested NLV information at the same time to both Seaside and PURC. Based on this expectation, if PURC wishes to file an OFA, its filing is due at the same time as Seaside's OFA.

It is ordered:

1. PURC's submission is accepted.
2. PURC's request to toll the due date for filing its OFA is denied.
3. This decision is effective on its date of service.

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

Vernon A. Williams  
Secretary