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SERVICE DATE - SEPTEMBER 3, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-318 (Sub-No. 5X)

LOUISIANA & DELTA RAILROAD, INC.–ABANDONMENT  
EXEMPTION–IN IBERIA PARISH, LA

Decided: August 29, 2002

Louisiana & Delta Railroad, Inc. (Applicant) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 3.08-mile portion of the Salt Mine Branch line of railroad between milepost 6.72 and milepost 9.8 in Iberia Parish, LA. Notice of the exemption was served and published in the Federal Register on July 26, 2001 (66 FR 39081-82). The exemption became effective on August 25, 2001. In the July 26 notice, the Board stated that, if consummation of the abandonment had not been effected by Applicant's filing of a notice of consummation by July 26, 2002, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

By decision served on August 24, 2001, and corrected by decision served on September 6, 2001, the exemption was made subject to conditions that Applicant shall: (1) prior to salvage activities: (i) contact the U.S. Army Corps of Engineers to determine if permits are required, and if permits are required, determine whether the State of Louisiana Department of Environmental Quality, Office of Environmental Services (OES) Water Quality Certification is required; (ii) consult with the U.S. Environmental Protection Agency-Region 6; (iii) determine whether a Louisiana Pollutant Discharge Elimination System permit is needed; (iv) determine whether a Department of the Environmental Quality (DEQ) stormwater general permit is required; and (v) take precautions to protect the groundwater of the region and to control nonpoint source pollution from salvage activities; (2) ensure that all personnel remove food-related refuse from the salvage area at the end of each workday to prevent nuisance bear behavior and human-bear conflicts with the threatened Louisiana black bear and limit salvage activities that occur within 1,500 feet of the rookery on Avery Island to the non-nesting period of September 1 to February 15; and (3) be prohibited from performing any salvage activities until completion of the Coastal Management Consistency Certification and notification to the Board's Section of Environmental Analysis (SEA) of such completion, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 et seq. prior to salvage activities.<sup>1</sup>

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<sup>1</sup> A public use condition was also imposed that expired on February 21, 2002.

(continued...)

On August 22, 2002, Applicant filed a request for a Board determination that the time to consummate the abandonment and file its notice of consummation extends until 60 days after the removal of the final legal or regulatory barrier to consummation in accordance with 49 CFR 1152.29(e)(2). Applicant states that it has satisfied most of the environmental requirements imposed on the abandonment, but that it has been determined that a stormwater permit is needed. Applicant states that it has contacted DEQ to determine the status of the stormwater permit and has received confirmation that the permit was issued, but was sent to an employee of Applicant whose position had been eliminated. Applicant states that it believes that it has until 60 days after it confirms resolution of the stormwater permit matter to file its notice of consummation, but wants to assure that its abandonment authority does not lapse while it is confirming receipt of all of the required permits and reporting thereon. Applicant states that, on or before September 6, 2002, it will file a supplemental report with SEA detailing its compliance with the applicable environmental conditions imposed in the proceeding. Applicant indicates that, in its view, this filing would constitute satisfaction of the final remaining condition and Applicant would have 60 days from that time to consummate the abandonment and to file notice to that effect.

Applicant has shown good cause for the clarification it seeks that the time period for it to consummate the abandonment and file a notice of consummation in this proceeding extends until 60 days after it reports to the Board as indicated on its satisfaction of the conditions imposed in this proceeding. Accordingly, the request will be granted.

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

It is ordered:

1. Applicant's request for clarification as to the deadline for exercise of its abandonment authority is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, not later than 60 days after satisfaction of the conditions imposed in this proceeding, which, as noted, Applicant expects to occur on or before September 6, 2002.

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<sup>1</sup>(...continued)

3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary