

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-156 (Sub-No. 26X)

DELAWARE AND HUDSON RAILWAY COMPANY, INC., D/B/A CANADIAN PACIFIC RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN ALBANY COUNTY, NY

Decided: September 27, 2007

Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway Company (D&H) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon 1.98 +/- miles of rail line between mileposts A 6.95 +/- (in Colonie) and A 7.13 +/- and mileposts T 0.0 +/- and T 1.81 +/- (in Green Island), in Albany County, NY. Notice of the exemption was served and published in the Federal Register on June 1, 2007 (72 FR 30665-66). The notice stated that the exemption would become effective on July 3, 2007, unless 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)(2) was filed by June 11, 2007.

On May 17, 2007, R. Freedman & Son, Inc. (Freedman), filed a formal expression of intent to file an OFA to acquire the line. This filing automatically stayed the effective date of the exemption for 10 days, until July 13, 2007.¹ Freedman simultaneously requested that D&H provide Freedman with the financial data and information prescribed in 49 CFR 1152.27(a) (requested information). By decision served on June 15, 2007, the 30-day time period for filing an OFA was tolled until August 20, 2007, and the effective date of the exemption was extended until August 30, 2007.

By decision served on August 6, 2007, the deadline for OFAs to be filed was tolled until 30 days after D&H notified the Board that it had provided the requested information to Freedman, and the effective date of the abandonment exemption was postponed until 10 days after the new due date for OFAs.

By letter filed on August 31, 2007, D&H indicates that, on August 28, 2007, D&H notified Freedman of the minimum purchase price for the line, and provided Freedman with a current real estate appraisal, an estimate of the net liquidation value of the line, an assessment of the quantity of track materials, and removal cost estimates. D&H states that Freedom has requested additional information concerning the quality of the track materials, and that D&H will need additional time to comply with Freedman's request. D&H indicates that it expects to provide the additional requested information on or before October 31, 2007, and that D&H does not oppose a request by Freedman to toll the time period to submit an OFA until 30 days after

¹ See 49 CFR 1152.27(c)(2)(i).

D&H has provided the additional requested information. In a letter filed on September 14, 2007, Freedman notes D&H's request and states that, because the additional requested information is essential to the submission of an appropriate OFA, Freedman requests that the time period to submit an OFA be tolled until 30 days after D&H has provided Freedman with the additional requested information.

Because more time is necessary for D&H to provide Freedman with additional requested information necessary to formulate an OFA, the deadline for filing an OFA will be tolled until 30 days after D&H notifies the Board that it has provided the information to Freedman. The effective date of the abandonment exemption will be postponed until 10 days after the new due date for an OFA.

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 toll the due date for an OFA in this proceeding is granted.
2. The deadline for OFAs to be filed in this proceeding will be 30 days after D&H notifies the Board that it has provided Freedman with the additional requested information.
3. The effective date of the exemption is postponed until 10 days after the due date for OFAs.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary