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SERVICE DATE – JANUARY 18, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-812X

STOCKTON TERMINAL AND EASTERN RAILROAD—ABANDONMENT
EXEMPTION—IN SAN JOAQUIN COUNTY, CA

Decided: January 16, 2007

Stockton Terminal and Eastern Railroad (STE) filed a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments to abandon approximately 3,600 feet of rail line extending from the west edge of North Duncan Road to the end of the line near North Wall Road, in Linden, San Joaquin County, CA. Notice of the exemption was served and published in the Federal Register on October 18, 2004 (69 FR 61435). The October 18 notice stated that, if consummation has not been effected by STE's filing of a notice of consummation by October 18, 2005, the authority to abandon would automatically expire. By decisions served on November 16, 2004, and May 6, 2005, the proceeding was reopened to impose and remove, respectively, the environmental and historic preservation conditions.

By letter filed December 7, 2006, STE seeks an extension of the deadline for filing its notice of consummation. STE did not file its notice of consummation by the October 18, 2005 due date¹ and STE is asking the Board to accept the notice now. STE states that it is a small Class III rail carrier that is not familiar with the Board's abandonment procedures. STE also states that this was the first request for abandonment that STE has filed with the Board, that the proposed abandonment was unopposed, and that no party or other person would be adversely affected by the extension. STE also maintains that the line has been out of service for more than 2 years.

Under the circumstances, the request for an extension of time for STE to file a notice of consummation will be granted. While STE's notice of consummation will therefore be accepted under the unique circumstances described in this decision, neither STE nor any other rail carrier

¹ A notice of consummation shall be filed within 1 year of the service date of the decision permitting the abandonment. In this case, a notice of consummation was due by October 18, 2005. The 1-year time period did not restart from May 6, 2005, when the Board served its decision removing the environmental and historic preservation conditions that had been imposed. Pursuant to 49 CFR 1152.29(e)(2), the notice of consummation must be filed not later than 60 days after satisfaction, expiration or removal of the legal or regulatory barrier if such legal or regulatory barrier to consummation exists at the end of the 1-year time period. No such legal or regulatory barrier to consummation existed at the end of the 1-year time period in this case.

should count on the Board's granting similar extension requests in the future or on the Board's accepting late-filed notices of consummation.

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 for an extension of the time to file is granted and STE's notice of consummation is accepted.

2. This decision is effective on the date of service.

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

Vernon A. Williams
Secretary