

39997  
DO

SERVICE DATE – JUNE 10, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-857 (Sub-No. 1X)

GREAT WESTERN RAILWAY OF COLORADO, LLC—ABANDONMENT EXEMPTION—  
IN WELD COUNTY, CO

Decided: June 9, 2009

Great Western Railway of Colorado, LLC (GWRC) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its Welty Branch, a 6.2-mile line of railroad, extending between milepost 0.0, at Johnstown, and milepost 6.2, near Welty, in Weld County, CO. Notice of the exemption was served and published in the Federal Register on May 6, 2008 (73 FR 25095). The May 6 notice stated that, if consummation has not been effected by GWRC's filing of a notice of consummation by May 6, 2009, the authority to abandon would expire. By decisions served on June 4, 2008, and March 23, 2009, the proceeding was reopened to impose and remove, respectively, a historic preservation condition.<sup>1</sup>

GWRC did not file its notice of consummation by the May 6, 2009 due date. However, by letter filed May 19, 2009, GWRC seeks a 1-year extension of the deadline for filing this notice. GWRC mistakenly states that it has until May 22, 2009, to file its consummation notice.<sup>2</sup> GWRC also states that it is exploring alternative options to consummating abandonment of the rail line, including various public uses of the corridor.

Under the circumstances, the request for an extension of time for GWRC to file a notice of consummation will be granted. While GWRC's request for extension of time to file its notice of consummation will be accepted, we caution that neither GWRC nor any other rail carrier should count on the Board's granting similar late-filed extension requests in the future.

---

<sup>1</sup> By decision and notice served on July 29, 2008, the proceeding was again reopened and modified to implement interim trail use/rail banking and to impose a public use condition. The public use condition expired on December 2, 2008, and by statute cannot be extended.

<sup>2</sup> A notice of consummation shall be filed within 1 year of the service date of the decision permitting the abandonment (here, May 6, 2009). The March 23 decision removing the historic preservation condition did not give GWRC an additional 60 days to file its consummation notice. 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 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.

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

It is ordered:

1. GWRC's request for an extension of time to exercise the abandonment authority is granted.
2. The authority to abandon must be exercised on or before May 6, 2010.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary