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SURFACE TRANSPORTATION BOARD

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May 27, 2015  
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Public Record

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Docket No. AB 1095 (Sub-No. 1)

PAULSBORO REFINING COMPANY LLC  
-- ADVERSE ABANDONMENT --  
SMS RAIL SERVICE, INC. IN GLOUCESTER COUNTY, N.J.

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JOINT PETITION  
OF  
PAULSBORO REFINING COMPANY, LLC  
AND SMS RAIL SERVICE, INC.

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Attorney for

Attorney for

PAULSBORO REFINING COMPANY, LLC

SMS RAIL SERVICE, INC.

Dated: May 27, 2015

SURFACE TRANSPORTATION BOARD

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Applicant, Paulsboro Refining Company, LLC (“PRC”), and affected rail carrier, SMS Rail Service, Inc. (“SMS”), pursuant to § 722 of the ICC Termination Act of 1995 and 49 U.S.C. § 10903, respectfully petition the Board to vacate its Decision, served December 2, 2014 (the “December Decision”), and to terminate the instant adverse abandonment proceeding, and in support thereof they jointly state, as follows:

1. SMS appealed the December Decision to the U.S. Circuit Court of Appeals for the District of Columbia Circuit (the “D.C. Circuit”). The appeal has been stayed by the D.C. Circuit to allow this Joint Petition to be filed with the Board.
2. PRC and SMS have agreed to settle the earlier differences between them underlying this proceeding.
3. The abandonment authority authorized in the December Decision has not been consummated, nor has it become effective and, hence, remains within the jurisdiction of the Board to vacate.
4. In general, a carrier is not compelled to exercise the abandonment authorization it had been granted, but, to the contrary, may withdraw its abandonment request if the abandonment

has not been consummated. *See*, Docket No. AB 290 (Sub-No. 267X), Norfolk Southern Railway Company—Abandonment Exemption—In Kanawha County, W. Va. (STB served June 25, 2010); Docket No. AB-996X, Reading Blue Mountain and Northern Railroad Company—Abandonment Exemption—In Schuylkill County, PA (STB, served February 5, 2008).

5. Likewise, in an adverse abandonment proceeding, the applicant can withdraw its adverse abandonment request if the abandonment has not become effective. *See*, Docket No. AB 1071, Stewartstown Railroad Company—Adverse Abandonment—In York County, PA. (STB, served November 14, 2013) (vacating the decision granting the adverse abandonment and dismissing the application); Docket No. AB 838, East St Louis Junction Railroad Company—Adverse Abandonment—In St. Clair County, IL. (STB, served February 14, 2008).

6. The Board favors private resolution of disputes whenever possible. *See*, Docket No. AB 1087 (Sub-No. 1X), Grenada Railway, LLC—Abandonment Exemption—In Montgomery, Carroll, Holmes, Yazoo, and Madison Counties, Miss. (STB, served February 9, 2015); Docket No. AB 1071, Stewartstown Railroad Company—Adverse Abandonment—In York County, PA. (STB, served November 14, 2013).

7. As part of the resolution of their disputes, the parties request that the December Decision be vacated, and that the adverse abandonment application be dismissed.

8. If the Board grants the relief requested, SMS will promptly file with the D.C. Circuit seeking to dismiss the appeal.

WHEREFORE, Paulsboro Refining Company, LLC and SMS Rail Service, Inc.

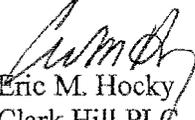
respectfully request the Board to vacate its Decision served December 2, 2014, and to terminate the instant adverse abandonment proceeding.

PAULSBORO REFINING COMPANY, LLC

SMS RAIL SERVICE, INC.

By its attorney,

By its attorney,

  
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Dated: May 27, 2015

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of May, 2015, I served a copy of the foregoing Joint

Petition on the persons listed below by the method shown:

*By email:*

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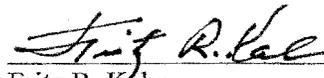
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