

SERVICE DATE – OCTOBER 24, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1324X

ALABAMA RAILROAD, LLC—ABANDONMENT EXEMPTION—
IN ESCAMBIA, CONECUH, AND MONROE COUNTIES, ALA.

Decided: October 24, 2023

In a decision served on October 24, 2022, the Board granted a petition under 49 U.S.C. § 10502 filed by Alabama Railroad, LLC (ARL), a Class III rail carrier, for an exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately 47.5 miles of rail line, extending from milepost 607.73 at Flomaton, Ala., to milepost 655.2 near Tunnel Springs, Ala., including all sidings and the MR Junction Spur between valuation stations 0+00 and 90+81 in Escambia, Conecuh, and Monroe Counties, Ala. (the Line). The exemption became effective on November 23, 2022, and the deadline for ARL to file its notice of consummation of abandonment was October 24, 2023, one year after the decision granting ARL’s petition for exemption was served.

On October 19, 2023, ARL filed a request for an extension of the deadline to file its notice of consummation until April 24, 2024, and, to the extent necessary, seeks waiver of 49 C.F.R. § 1152.29(e)(2).¹ ARL states that it is still considering options for the Line, including interim trail use and retaining a portion of the Line near Flomaton for rail service. (Req. 1-2.) ARL also states that, if it chooses to consummate the Line, it would prefer to do so after removing the rail and track material “to avoid any prospective (but specious) state law claims by others to any of the track material.” (*Id.* at 2.)

Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause, seek extension of the consummation deadline in abandonment proceedings. As ARL is still considering its options for the Line, including possibly retaining a portion of the Line for rail service, it has shown good cause to extend the time to consummate the abandonment of the Line and file a notice of consummation. Accordingly, ARL’s request will be granted, and 49 C.F.R. § 1152.29(e)(2) will be waived to the extent ARL’s abandonment authority would have expired on October 24, 2023.

¹ Under 49 C.F.R. § 1152.29(e)(2), if a notice of consummation of abandonment is not filed within (i) one year of the service date of the decision permitting abandonment (provided there are no legal or regulatory barriers to consummation), or (ii) 60 days after the satisfaction, expiration, or removal of the last legal or regulatory barrier to consummation, whichever is later, the abandonment authority automatically expires. ARL states that there are no barriers to consummation. (Req. 1).

See 49 C.F.R. § 1011.7(a)(2)(xiv). The deadline for ARL to file its notice of consummation will be extended to April 24, 2024.

It is ordered:

1. The provision at 49 C.F.R. § 1152.29(e)(2) is waived, to the extent discussed above.
2. ARL's request for an extension of time to consummate the abandonment of the Line is granted; the authority to abandon must be exercised and the notice of consummation must be filed by April 24, 2024.
3. This decision is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.