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SERVICE DATE – OCTOBER 25, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 384 (Sub-No. 1X)

DELTA SOUTHERN RAILROAD, INC.—ABANDONMENT EXEMPTION—BETWEEN
LAKE VILLAGE, ARK., AND SHELburn, LA.

Decided: October 22, 2010

Delta Southern Railroad, Inc. (DSR), filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 30.0-mile portion of its Lake Providence Line between milepost 433.0, near Lake Village, Ark., and milepost 463.0, near Shelburn, La. Notice of the exemption was served and published in the Federal Register on June 10, 2004 (69 Fed. Reg. 32,657-58).¹ In a decision served on October 7, 2004 (October 2004 decision), the Board stated that, if consummation had not been effected by DSR's filing of a notice of consummation by October 7, 2005, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.² At the request of DSR, the deadline for filing a notice of consummation for an 8.2-mile portion of the right-of-way between milepost 454.8, at the Arkansas-Louisiana state line, and milepost 463.0, at or near Shelburn, was extended several times, most recently by decision served on May 17, 2010 (May 17 decision). The latest extension expired on October 2, 2010.

Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. On October 4, 2010, DSR filed a request to extend further the deadline for filing its notice of consummation for an additional 180 days. While DSR did not file its notice of consummation by the October 2, 2010 due date, DSR is asking the Board to accept its request for an extension to file its notice of consummation.³ As justification for an extension, DSR states that it believes

¹ The exemption was subject to employee protective conditions.

² The October 2004 decision imposed an environmental condition on the entire line, as well as a historic preservation condition on the portion of the right-of-way located in Arkansas (between mileposts 433.0 and 454.8). The environmental condition pertains to salvage activities and is not a barrier to consummation of the abandonment authority. The historic preservation condition imposed on the Arkansas portion of the right-of-way was a barrier to consummation, but this segment has been sold for continued rail service.

³ DSR assumes that, because October 2, 2010, fell on a Saturday, the consummation deadline became Monday, October 4, 2010, the date on which DSR filed its extension request.

(continued...)

that the line segment can be sold for continued rail service, and that additional time will be necessary to complete the sale.⁴

DSR has shown good cause to extend the time to consummate the abandonment and to file a notice of consummation in this proceeding. Under the circumstances, the request for an extension of time for DSR to file a notice of consummation will be granted.

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

It is ordered:

1. DSR's request for an extension of time to consummation the abandonment is granted.
2. The authority to abandon the 8.2-mile portion of the line between mileposts 454.8 and 463.0 must be exercised, and the notice of consummation must be filed, on or before March 31, 2011 (180 days after October 2, 2010).
3. This decision is effective on its service date.

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

(...continued)

DSR is reminded that such requests should be filed in advance of the consummation deadline. 49 C.F.R. § 1152.29(e)(2).

⁴ DSR and any past or future purchasers of its lines are reminded that sales for continued rail service prior to consummation of abandonment require Board authorization.