

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 271X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
WYOMING AND GENESEE COUNTIES, NY

Decided: April 17, 2009

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 4.50-mile line of railroad extending between milepost UG 360.20 at Alexander and milepost UG 364.70 at Attica, in Wyoming and Genesee Counties, NY. Notice of the exemption was served and published in the Federal Register on December 18, 2007 (72 FR 71738). The notice stated that, if consummation had not been effected by NSR's filing of a notice of consummation by December 18, 2008, and there were no legal or regulatory barriers to consummation, NSR's authority to abandon the line would automatically expire. The last regulatory barrier to abandonment ended on March 22, 2009, when the negotiation period of a previously imposed trail use condition expired.¹

Under the Board's rules at 49 CFR 1152.29(e)(2), NSR has 60 days from the March 22, 2009 expiration date of the regulatory barrier to file its notice of consummation. But by letter dated March 25, 2009, NSR has filed a request to extend, until March 25, 2010, the time to file a notice of consummation in this proceeding. In support, NSR states that it cannot consummate the abandonment before 60 days from the end of the trail use negotiation period because it cannot complete salvage activities and property title investigations within that time frame.

Under 49 CFR 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. NSR has shown good cause to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding. Accordingly, the request will be granted.

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

It is ordered:

1. NSR's request for an extension of time to consummate the abandonment is granted.

¹ A consultation condition regarding salvage remains in effect, but it is not a barrier to consummation. See decisions served on December 21, 2007, February 6, 2008, March 26, 2008, September 24, 2008, and December 10, 2008, for the complete background in this proceeding.

2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before March 25, 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