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SERVICE DATE – SEPTEMBER 26, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 415 (Sub-No. 2X)

ESCANABA & LAKE SUPERIOR RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN ONTONAGON AND HOUGHTON COUNTIES, MICH.

Decided: September 26, 2011

By decision and notice of interim trail use or abandonment (NITU) served on September 27, 2010, the Board granted to Escanaba & Lake Superior Railroad Company (ELS) an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately 42.93 miles of rail line between milepost 408.02 at Ontonagon and milepost 365.09 at Sidnaw, in Ontonagon and Houghton Counties, Mich.¹ Notice of the exemption was served and published in the Federal Register on April 27, 2010 (75 Fed. Reg. 22,174). Also, in response to a NITU request by the Michigan Department of Natural Resources and Environment (MDNRE), and in light of ELS' willingness to enter into trail use negotiations, the Board granted a 180-day negotiating period, which period expired on March 28, 2011. Subsequently, by decision served on April 15, 2011, the negotiating period was extended for 90 days, until June 26, 2011. On that date, the parties terminated negotiations. In the September 27 decision and NITU, the Board stated that, if consummation has not been effected by ELS' filing of a notice of consummation by September 27, 2011, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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 September 15, 2011, ELS filed a request to extend the deadline for consummating the abandonment for 180 days, until March 25, 2012. ELS states that it is actively exploring alternative options concerning the future of the rail line and is engaged in negotiations that are not likely to be concluded prior to September 27, 2011.

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

¹ Two environmental conditions and a public use condition were also imposed in the September 27 decision. The public use condition expired on March 28, 2011

It is ordered:

1. ELS' request for an extension of time to exercise the abandonment authority is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before March 25, 2012.
3. This decision is effective on the date of service.

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