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DECISION ID NO.: 43001

DECIDED DATE: 3/20/13

SERVICE DATE: 3/20/13

APPROVED: Rachel Campbell
Director

Office of
Proceedings

☒ Consummation date
extended to 9/25/13.

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March 12, 2013

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BY E-FILING

Cynthia T. Brown

Chief of the Section of Administration, Office of Proceedings

Surface Transportation Board

395 E Street, SW

Washington, DC 20423-0001

RE: STB Docket No. AB-415 (Sub-No. 2X)
*Escanaba & Lake Superior Railroad Company – Abandonment Petition
for Exemption – Line in Ontonagon and Houghton Counties, MI,*
EXPEDITED CONSIDERATION REQUESTED

Dear Ms. Brown:

Pursuant to the decision served herein on September 27, 2010, Escanaba & Lake Superior Railroad Company ("ELS") is permitted to terminate service over and to abandon its 43-mile rail line between Ontonagon and Sidnaw in Michigan's Upper Peninsula ("the Line"). Subsequently, ELS requested, and the Board granted, extensions of the Board's consummation deadline set forth at 49 C.F.R. §§ 1152.29(e)(2) and 1152.60(e) in order to allow ELS to recover rail from the northernmost 13 miles of the Line between milepost 395.0 at Rockland and the end of the Line at milepost 408.02 at Ontonagon, and to evaluate its options concerning the future disposition of the Line. Based upon previously-granted extensions, ELS must exercise its authority to abandon the Line and file notice of consummation on or before March 25, 2013. For reasons set forth below, ELS requests an additional 6 month extension of its authority to abandon the entire Line from Ontonagon to Sidnaw, and of the corresponding notice of consummation filing deadline.

ELS has removed the rail from the Rockland-Ontonagon segment of the Line but, has been unable to complete removal of underlying ballast because of weather conditions in the Upper Peninsula of Michigan. ELS is confident that it can complete ballast removal on the aforementioned Line segment by mid-September 2013, and consequently it is requesting a 6-month extension that will enable it to complete this work prior to undertaking the legal abandonment of the Line.

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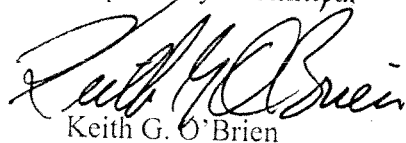
On a related note, ELS has begun recently to re-evaluate its options concerning the balance of the Line from Sidnaw to Rockland. As the Board is aware, the subject abandonment proceeding resulted from a collection action initiated by one of ELS' creditors that sought to foreclose upon ELS-owned rail assets. The driving force behind the abandonment was an effort to liquidate uneconomical assets in order to satisfy ELS' debt obligations. ELS has since restructured its debt, and it is no longer driven to liquidate the Line under duress. ELS has determined that its strategic and financial interests nevertheless would best be served by salvaging the northern portion of the Line from Rockland to Ontonagon.

In view of its current circumstances, its strategic outlook, and its operating needs, ELS no longer intends to salvage the Sidnaw-Rockland segment of the Line, despite the continued absence of common carrier traffic. Rather, it now plans to consummate its abandonment of the southern Line segment in the future (in keeping with the subject extension request), and, in so doing, to reclassify the Sidnaw-Rockland segment as ancillary track (i.e., industrial spur or car storage track) falling under 49 U.S.C. § 10906. Such track reclassification stemming from abandonment is in accord with many recent proceedings, where the carrier, in abandoning a rail line, sought to re-classify trackage to exempted track governed by section 10906. See, e.g., CSX Transportation, Inc. – Abandonment Exemption – in Chesterfield and Washington Counties, SC, Docket No. AB-55 (Sub-No. 703X) (filing dated May 24, 2011) (notice of consummation announces reclassification of line of railroad to "section 10906" exempted track); CSX Transportation, Inc. – Abandonment Exemption – In Ewing Township, Mercer County, NJ, Docket No. AB-55 (Sub-No. 724X) (STB served January 3, 2013); and Arizona & California Railroad Company – Abandonment Exemption – In San Bernadino and Riverside Counties, CA, STB Docket No. AB-1022 (Sub-No. 1X) (STB served June 30, 2009) (in which the abandoning carrier indicated that a portion of the line to be abandoned would be reclassified as exempt section 10906 storage track).

For all of the above reasons, ELS respectfully requests the Board to extend the consummation deadline for an additional 6 months from its current expiration date of March 25, 2013. In light of the short time-frame involved here, and considering the ramifications of delayed agency action, ELS respectfully requests expedited action on the subject extension request, with a decision by or before March 21, 2013.

If there are any questions concerning this request please contact me.

Respectfully Submitted,



Keith G. O'Brien

Attorney for Escanaba & Lake Superior
Railroad Company

cc: All parties of record