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SERVICE DATE – JULY 27, 2012

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SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1099X

SUNFLOUR RAILROAD, INC.—ABANDONMENT
EXEMPTION—IN ROBERTS AND MARSHALL COUNTIES, S.D.

Decided: July 23, 2012

Sunflour Railroad, Inc. (SRI), filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 8.1 miles of rail line between milepost 228.2 at the east property line of 454th Avenue, located approximately one mile west of Claire City, and milepost 236.3 located at the western terminus of the line at Washington Avenue in Veblen, in Roberts and Marshall Counties, S.D. Notice of the exemption was served and published in the Federal Register on June 28, 2012 (77 Fed. Reg. 38,711-12). The exemption is scheduled to become effective on July 28, 2012.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on July 3, 2012. In the EA, OEA indicates that SRI submitted a copy of its historic report to the South Dakota State Historical Society (SHPO). By letter dated May 2, 2012, the SHPO responded that it was currently unable to comment on the effect of the proposed abandonment on the non-renewable cultural resources of the State. The SHPO added that the line does not appear to have been assessed for listing on the National Register of Historic Places (National Register). As a result, the SHPO concluded that it was unclear if the proposed abandonment would negatively impact historic properties.

By letter dated May 4, 2012, SRI replied to the SHPO, submitting additional information on the line and its single structure (a wooden bridge) and concluding that the line was not eligible for listing on the National Register. The SHPO responded that it did not concur with SRI's ineligibility conclusion, and specified three categories of additional information needed before it could reach a conclusion on eligibility and adverse effects. OEA states that SRI has not yet replied to the SHPO's request for that information.

OEA states that, pending the outcome of the consultations and receipt of the SHPO's opinion regarding the potential adverse effects of the proposed abandonment, it recommends that a condition be imposed requiring SRI to retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed on the National Register until completion of the Section 106 process of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f.

No comments to the EA were received. Accordingly, the condition recommended by OEA in the EA will be imposed. Based on OEA's recommendation, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.

2. Upon reconsideration, the notice served and published in the Federal Register on June 28, 2012, exempting the abandonment of the line described above is subject to the condition that SRI shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed on the National Register until the Section 106 process of the NHPA has been completed. SRI shall report to OEA regarding any consultations with the SHPO and the public. SRI may not file its consummation notice or initiate any salvage activities related to abandonment until the Section 106 process has been completed and the Board has removed this condition.

3. This decision is effective on its service date.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.