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SERVICE DATE - OCTOBER 22, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-57 (Sub-No. 54X)]

Soo Line Railroad Company—Abandonment Exemption—in Ramsey and Benson  
Counties, ND

The Soo Line Railroad Company (Soo Line) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 28.35 +/--mile line of railroad between milepost 446.0 +/- in Devils Lake, Ramsey County, ND, and milepost 474.35 +/- in Harlow, Benson County, ND. The line traverses United States Postal Service Zip Codes 58301, 58325, 58346, 58351 and 58362.

Soo Line has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) all overhead traffic can be and has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.–Abandonment–Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 23, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 1, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 12, 2004, with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

Soo Line states that the line is the stub end of a grain branch line leased to Northern Plains Railroad, Inc. (NPRR). See Northern Plains Railroad, Inc.–Lease and Operation Exemption–Certain Lines of Soo Line Railroad Company d/b/a Canadian

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<sup>1</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,100, but which will increase to \$1,200, effective October 31, 2004. See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2004 Update, STB Ex Parte No. 542 (Sub-No. 11) (STB served Oct. 1, 2004).

Pacific Railway, STB Docket No. 33324 (STB served Jan. 9, 1997). Although Soo Line states that NPRR has approved its abandonment proposal, Soo Line may not consummate the abandonment authority granted here unless and until NPRR files with the Board to discontinue its lease and operation rights on the line, NPRR obtains discontinuance authority, and NPRR exercises that authority. See Thompson v. Texas Mexican Ry., 328 U.S. 134 (1946).

A copy of any petition filed with the Board should be sent to Soo Line's representative: Annie Littlefield, Leonard, Street and Deinard Professional Association, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Soo Line has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by October 29, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Soo Line shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Soo Line's filing of a notice of consummation by October 22, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at  
“WWW.STB.DOT.GOV.”

Decided: October 18, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary