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SEA

SERVICE DATE – NOVEMBER 6, 2009

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-57 (Sub-No. 58X)

**Soo Line Railroad Company D/B/A Canadian Pacific Railway Company - Abandonment
Exemption – In Waukesha and Milwaukee Counties, WI**

BACKGROUND

In this proceeding, the Soo Line Railroad Company d/b/a Canadian Pacific Railway Company (Soo Line) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a 4,458 +/- foot rail line in Waukesha and Milwaukee Counties, Wisconsin. The line extends between milepost 94.04 +/-, which is southeast of Watertown Plank Road, and milepost 93.2 +/-, which is approximately 1,100 feet southeast of West Bluemound Road. If the notice becomes effective, Soo Line will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

Soo Line submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. Soo Line served the Environmental Report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].¹ The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

Soo Line states that no local traffic has moved over the line for at least two years and that any overhead traffic has already been rerouted over other lines. Accordingly, the proposed abandonment would not adversely impact the development, use, and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-57 (Sub-No. 58X).

diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

According to Soo Line, the line was originally developed in 1864 by the Milwaukee and St. Paul Railroad Company, which later became the Chicago Milwaukee St. Paul and Pacific Railroad Company, and the Soo Line acquired the line in 1985. The right-of-way is approximately 100-feet wide, and the line primarily traverses commercial, residential and limited industrial areas of Wauwatosa and Elm Grove, Wisconsin.

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. Soo Line intends to salvage rail, ties, and track materials from the line, and these ties and rails would either be recycled or disposed of in an appropriate manner. The railroad has no plans to remove the bridges on the line.

The National Geodetic Survey (NGS) identified one geodetic station marker in the area of the proposed abandonment, and has requested notification at least 90 days in advance of any activities that would disturb or destroy this marker in order to plan for its relocation. Accordingly, we recommend that Soo Line consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

A portion of the line is located in Milwaukee County, which is bordered by Lake Michigan. However, Soo Line states that the proposed abandonment would not affect land or water uses within the Wisconsin State coastal zone. Accordingly, no state coastal management consistency certification is required for the proposed project.

There are no known hazardous waste sites or hazardous material spills on the right-of-way. However, there is a 16-inch petroleum pipeline that crosses the right-of-way, and information from the Wisconsin Department of Natural Resources (WDNR) indicates that a petroleum release from the pipeline occurred in approximately 1986, from a point located north of the right-of-way. This petroleum release, which did not affect the right-of-way, was remediated and the WDNR closed the case in July 2002. Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

Soo Line has no plans to undertake in-stream work and states that the proposed project would not involve any discharge of dredge or fill material into Federal, jurisdictional wetlands or waters. In addition, Soo Line states that, if abandonment authority is granted, it will take proper care during salvage activities to prevent any impact on water quality. The U.S. Army Corps of Engineers' St. Paul District (Corps) has reviewed the proposed abandonment and determined that a Corps permit under Section 402 of the Clean Water Act (33 U.S.C. 1342) would not be required. However, because Underwood Creek and its tributaries and adjacent wetlands are located near or within the project area, the Corps has requested consultation before the railroad

performs any work (such as constructing access roads, staging areas or disposal sites) beyond the foot print of the existing ballast and in the vicinity of any wetlands. Accordingly, we recommend that the railroad consult with the Corps before performing any work, such as constructing access roads, staging areas or disposal sites, beyond the foot print of the existing ballast and in the vicinity of any wetlands.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts.

Additional Comments

The City of Brookfield submitted a letter stating that it supports the proposed abandonment and that the proposed action would be consistent with existing land use plans to redevelop the area.

HISTORIC REVIEW

Soo Line submitted an Historic Report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Wisconsin Historical Society (State Historic Preservation Office or SHPO) pursuant to 49 CFR 1105.8(c). In the Historic Report, the railroad states that there are two bridges on the line that are 50 years old or older, and Soo Line believes that these structures were built before 1918. The first bridge, located at milepost 93.30, is a three-span steel open deck plate girder construction. The second bridge, located at milepost 93.80, is a three-span concrete ballasted deck plate girder construction. Other than routine maintenance, neither bridge has undergone major alteration since the mid-1980s. According to Soo Line, salvage operations will be limited to removal of the tracks and track materials from these bridges.

At the time of this EA, the SHPO had not submitted comments and, therefore, SEA has not been able to consider the SHPO's opinion before determining whether the proposed project could affect historic properties. Accordingly, we are recommending a condition requiring Soo Line 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 in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 CFR 800.2, SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify Federally-recognized tribes, which may have ancestral connections to the project area. The database indicated that the following Federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Hannahville Indian Community, Michigan; and Prairie Band of Potawatomi Nation, Kansas. Accordingly, SEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. The Soo Line Railroad Company d/b/a Canadian Pacific Railway Company shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
2. The Soo Line Railroad Company d/b/a Canadian Pacific Railway Company shall consult with the U.S. Army Corps of Engineers' St. Paul District before performing any work, such as constructing access roads, staging areas or disposal sites, beyond the foot print of the existing ballast and in the vicinity of any wetlands.
3. The Soo Line Railroad Company d/b/a Canadian Pacific Railway Company (Soo Line) shall retain its interest in and shall 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 in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. Soo Line shall report back to the Board's Section of Environmental Analysis regarding any consultations with the Wisconsin Historical Society (State Historic Preservation Office or SHPO) and the public. Soo Line may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public

use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this EA, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean who prepared this EA. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-57 (Sub-No. 58X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Christa Dean the environmental contact for this case, by phone at (202) 245-0299, fax at (202) 245-0454, or e-mail at christa.dean@stb.dot.gov.

Date made available to the public: November 6, 2009.

Comment due date: November 23, 2009.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Anne K. Quinlan
Acting Secretary

Attachment