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SERVICE DATE – DECEMBER 11, 2015

SURFACE TRANSPORTATION BOARD

Docket No. AB 57 (Sub-No. 62X)

SOO LINE RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN HENNEPIN COUNTY, MINN.

Decided: December 11, 2015

Soo Line Railroad Company d/b/a Canadian Pacific (Soo Line) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 0.4-mile line of railroad between milepost 0.59 +/- (approximately 100 feet southeast of the bridge that crosses Interstate 94) and milepost 0.99 +/- at or near Essex Street, S.E. (East side spur) in Hennepin County, Minn. (the Line). Notice of the exemption was served and published in the Federal Register on September 14, 2015 (80 Fed. Reg. 55,173). The exemption became effective on October 14, 2015.

By a decision and notice of interim trail use or abandonment (NITU) served on October 13, 2015, the Board imposed on Soo Line's proposed abandonment exemption a trail use condition under the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29, and a historic preservation condition under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108 (formerly 16 U.S.C. § 470f), recommended by the Board's Office of Environmental Analysis (OEA). The historic preservation condition requires 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) that are eligible for listing or listed in the National Register of Historic Places (National Register) until the Section 106 process of NHPA has been completed, report back to OEA regarding any consultations with the Minnesota State Historic Preservation Office (SHPO) and the public, and be prohibited from filing 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.¹

In a Supplemental Final Environmental Assessment dated November 9, 2015, OEA states that on October 30, 2015, it received a letter from the SHPO stating its opinion that no historic properties will be affected by the proposed abandonment. OEA states that, based on that information, as well as previous consultations with the SHPO and Soo Line, it has determined that the proposed abandonment would not affect historic properties listed in or eligible for

¹ Ordering paragraph 2 of the October 13 decision and notice erroneously directed the City of Minneapolis, rather than Soo Line, to comply with the Section 106 condition.

inclusion in the National Register. Accordingly, the Board has satisfied its responsibilities under Section 106 of the NHPA in this proceeding, and OEA recommends that the Section 106 condition imposed in the October 13, 2015 decision be removed. Therefore, this proceeding will be reopened and the previously imposed condition will be removed.

The October 13 decision stated that Soo Line indicated that it was willing to negotiate with the City of Minneapolis for interim trail use/rail banking. In its letter, however, Soo Line stated more specifically that it agreed to negotiate only as to the portion of the Line located south of 27th Avenue SE in Minneapolis. Because the Trails Act permits only voluntary interim trail use, the Board cannot issue a NITU for the portion of the right-of-way as to which Soo Line does not agree to negotiate. See, e.g., Union Pac. R.R.—Aban. Exemption—in Franklin Cty., Iowa, AB 33 (Sub-No. 316X) (STB served Dec. 10, 2013). Therefore, the NITU will be modified to apply only to the portion of the Line south of 27th Avenue SE in Minneapolis.

It is ordered:

1. This proceeding is reopened.
2. The Section 106 historic preservation condition imposed in the October 13, 2015 decision is removed.
3. The NITU imposed in the October 13, 2015 decision is modified to apply only to the portion of the Line south of 27th Avenue SE in Minneapolis.
4. This decision is effective on its date of service.

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