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SERVICE DATE – FEBRUARY 11, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-864X

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY–ABANDONMENT
EXEMPTION–IN MCLEOD, CARVER AND HENNEPIN COUNTIES, MN

Decided: February 10, 2005

Hennepin County Regional Railroad Authority (HCRRA) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 43.9+/- mile line of railroad, between milepost 24.6+/- near Wayzata and milepost 68.5+/- in Hutchinson, in McLeod, Carver and Hennepin Counties, MN. In its notice, HCRRA indicated that the right to conduct freight rail operations on the line is pursuant to a freight rail operations easement in its favor. HCRRA further indicated that the underlying property located in McLeod County is owned by McLeod County Regional Railroad Authority (MCRRA), in Carver County is owned by the Carver County Regional Railroad Authority (CCRRA), and in Hennepin County is owned by HCRRA, and that MCRRA, CCRRA and HCRRA are all political subdivisions of the State of Minnesota. HCRRA has filed this notice to terminate its common carrier obligation on the line and, upon the effective date of the proposed abandonment exemption, it has agreed to release the freight rail operations easement in its favor for that portion of the line located in Carver County to CCRRA, and for that portion of the line located in McLeod County to MCRRA, and HCRRA will retain its portion of the line located in Hennepin County, all for the purposes of preserving the line for future rail transportation use and other compatible transportation uses. Notice of the exemption was served and published in the Federal Register on February 10, 2004 (69 FR 6372). In the February 10, 2004 notice, the Board stated that, if consummation has not been effected by HCRRA's filing of a notice of consummation by February 10, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

By decision and notice of interim trail use or abandonment served March 10, 2004, the proceeding was reopened and a 180-day period was authorized for CCRRA to negotiate an interim trail use/rail banking agreement with HCRRA for that portion of the right-of-way (ROW) between the east county line and the west county line of Carver County pursuant to the National Trails System Act, 16 U.S.C. 1247(d).¹

¹ The March 10, 2004 decision also imposed a public use condition for that portion of the line, which expired on September 7, 2004, and five environmental conditions, including the condition that HCRRA retain its interest in and take no steps to alter the historic integrity of the ROW until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

On January 31, 2005, HCRRA filed a request to extend the deadline for filing its notice of consummation for the abandonment until June 1, 2005. HCRRA stated that it had satisfied four of the five conditions, noting that the historic preservation condition had not yet been satisfied. HCRRA also stated that it had reached an agreement for the transfer to CCRRA of the above-described portion of the line in Carver County. HCRRA further stated that it had discontinued rail operations, salvaged the track, and removed the line from the interstate rail network, but that it had retained its interest in the line and would take no steps to alter the historic integrity of the ROW until completion of the section 106 process.

By letter filed February 4, 2005, HCRRA attached a copy of a letter dated December 28, 2004, sent to the Minnesota State Historic Preservation Office (SHPO), which inadvertently had been omitted from its January 31, 2005 filing. HCRRA also attached a copy of the SHPO's letter in response, dated February 1, 2005, stating that the proposed abandonment would have no adverse effect on properties listed in or eligible for listing in the National Register of Historic Places. By letter filed February 7, 2005, HCRRA further stated that, because all conditions had been satisfied, its earlier request to extend the consummation date in this proceeding was no longer necessary. HCRRA stated that its February 7 letter would constitute its notice of consummation of the abandonment, effective upon the date that the Board issues a decision removing the historic preservation condition.

Based on this evidence, SEA has now recommended that the section 106 condition imposed in the March 10, 2004 decision be removed. Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed. Because the historic preservation condition is the last remaining condition to the exercise of the abandonment authority granted in this proceeding, HCRRA may consummate the abandonment on the effective date of this decision removing that condition.

The decision 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 section 106 historic preservation condition imposed in the March 10, 2004 decision is removed. HCRRA may consummate the abandonment authorized in this proceeding on the effective date of this decision.
3. Because HCRRA has filed a notice of consummation of the abandonment to be effective upon the Board's removal of the section 106 condition, HCRRA's prior filing is accepted as its notice of consummation of the abandonment as of the February 11, 2005 effective date of this decision.

4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary