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SERVICE DATE - SEPTEMBER 20, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-57 (Sub-No. 46X)

SOO LINE RAILROAD COMPANY--ABANDONMENT EXEMPTION--IN ST. PAUL,  
RAMSEY COUNTY, MN

Decided: September 17, 1999

By decision served on April 20, 1999, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by Soo Line Railroad Company, doing business as Canadian Pacific Railway (Soo), of a .90±-mile line of railroad known as the St. Paul Terminal Trackage, extending from milepost 17.29± (southeast of Jackson Street) to the end of the line at milepost 18.19± (near I-35E North), in Ramsey County, MN, subject to an environmental condition and standard employee protective conditions.<sup>1</sup> The exemption was scheduled to become effective on May 20, 1999, unless stayed by the Board or unless an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27 was filed on or before April 30, 1999.

On April 30, 1999, Tilsner Carton Company (Tilsner) timely filed an OFA to purchase the northern 3,200 feet of the track and a short siding, together with all of the underlying right-of-way between Jackson Street and Case Street, consisting of approximately 12.15 acres. By decision served on May 5, 1999 (May 5 decision), Tilsner was found financially responsible. The May 5 decision also postponed the effective date of the exemption authorizing the abandonment to permit the OFA process to proceed and stated that either party could request the Board to establish terms and conditions for the sale if no agreement was reached by June 1, 1999. At the joint request of the parties, the time period for the Board to establish the terms and conditions of the purchase was extended by decisions served May 28, 1999, June 30, 1999, July 15, 1999, and August 19, 1999. The latest extension expired on August 31, 1999.

The Board's records reveal no subsequent filing. The May 5 decision stated that, if no agreement was reached and no request to set terms and conditions of the purchase was submitted, a decision vacating the May 5 decision and allowing the abandonment exemption to become effective would be served. Accordingly, because the Board has not received a request to set terms and conditions or a request to extend the deadline of August 31, 1999, for the filing of such a request, the OFA process is terminated. The May 5 decision that postponed the effective date of the decision authorizing abandonment of the line will be vacated and the prior abandonment authorization will be effective on the service date of this decision.

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<sup>1</sup> Notice was served and published in the Federal Register on January 20, 1999 (64 FR 3150).

On May 4, 1999, the Tri-Area Block Club (Tri-Area) filed a request for a public use condition under 49 U.S.C. 10905. Because an OFA takes priority over a request for a public use condition, the Board served a decision on May 17, 1999, holding the request in abeyance pending completion of the OFA process. Now that the OFA process has terminated, the request will be considered.

Tri-Area requests a 90-day public use condition to negotiate with Soo for the acquisition of the right-of-way in order to create an environmental learning preserve in conjunction with nearby state and county trails and/or to establish soccer fields for local youth. To justify a public use condition, a party must set forth: (i) the condition sought; (ii) the public importance of the condition; (iii) the period of time for which the condition would be effective; and (iv) justification for the imposition of the period of time requested. See 49 CFR 1152.28(a)(2). Tri-Area has satisfied the requirements for a public use condition, and, therefore, a 90-day public use condition will be imposed commencing with the effective date of the exemption (in this case the service date of this decision).<sup>2</sup>

This decision will not significantly affect either the quality of the human environment or the conservation of the energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the decision served on April 20, 1999, exempting the abandonment of the line described above, is subject to the condition that Soo keep intact the right-of-way underlying the track, including bridges, trestles, culverts, and tunnels (but not track and track materials) for a period of 90 days until December 19, 1999, to enable any State or local government agency, or other interested person to negotiate the acquisition of the line for public use.
3. The decision served on May 5, 1999, is vacated, and the prior abandonment authorization, as further conditioned by this decision, will be effective on the service date of this decision.
4. This decision is effective on its service date.

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<sup>2</sup> Because section 10905 permits a maximum of 180 days from the effective date of the exemption for a public use condition, should a resolution not be reached through negotiations within the 90-day period, Tri-Area may request an extension of up to 90 additional days for the public use condition (i.e., the public use condition may not be extended beyond March 18, 2000).

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

Vernon A. Williams  
Secretary