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SERVICE DATE - MAY 5, 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

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: May 4, 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. The exemption was scheduled to become effective on May 20, 1999, unless an offer of financial assistance (OFA) was filed on or before April 30, 1999.

On April 30, 1999, Tilsner Carton Company (Tilsner) timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the northern 3,200 feet of the track¹ 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,² for \$527,200.

An OFA to acquire a line for continued rail service need not be detailed, but an offeror must show that it is financially responsible and that the offer is reasonable. See Conrail Abandonments Under NERSA, 365 I.C.C. 472 (1981).

Tilsner states that it generates gross sales ranging from \$15 to \$20 million annually, and is prepared to fund the purchase out of regular working capital. If requested, Tilsner will post a letter

¹ The remaining 1,600 feet of track has been removed and, according to Tilsner, it owns much of the underlying right-of-way.

² Tilsner submits that Soo supplied it with the acreage estimate. Tilsner states that its offer includes the rail, ties and other track material currently in place on this segment of the line and the acquisition of Soo's rights in any existing longitudinal and transverse easements. Tilsner also states that it is offering to purchase the entire right-of-way, but is willing to consider purchasing a lesser amount of land at a lower price so long as the entire line to its plant is preserved intact and remains operational.

of credit from a recognized financial institution. The financial information submitted shows that Tilsner is financially responsible.

Tilsner's offer is less than Soo's estimated net liquidation value (NLV).³ Consistent with 49 U.S.C. 10904(c) and 49 CFR 1152.27(c)(1)(ii)(C), however, Tilsner has explained the basis for the difference, attributing it to the cost of disposing of unusable cross ties.⁴

Because Tilsner is financially responsible and has offered financial assistance, the effective date of the exemption authorizing the abandonment will be postponed.

Any person filing a request to set terms and conditions must pay the requisite filing fee, set forth at 49 CFR 1002.2(f)(26), which currently is \$14,800. An original and 10 copies of the request should be submitted along with the fee, in an envelope bearing the docket number of the proceeding, along with the words "Attention: Application Unit, Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 CFR 1011.2(a)(7). Any appeal must be filed within 10 days of the service date of this decision and will be heard by the entire Board.

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

It is ordered:

1. The effective date of the exemption authorizing the abandonment is postponed in order to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.
2. If Soo and Tilsner cannot agree on the purchase price, either party may request the Board to establish the terms and conditions of the purchase on or before June 1, 1999. If no agreement is reached and no request is submitted by that date, the Board will serve a decision vacating this decision and allowing the abandonment exemption to become effective.

³ In its petition for exemption, Soo indicated that the NLV of the line is \$528,460, consisting of the sum of the value of the non-reversionary land (\$525,000), plus the value of scrap materials, less removal costs (\$8,860 - \$5,400 = \$3,460).

⁴ Tilsner's value of the non-reversionary land is the same as Soo's (\$525,000), but its value of scrap materials, less removal costs, is lower (\$2,200).

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3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary