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OEA

SERVICE DATE – JULY 3, 2012

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, D.C. 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB-1099X**

**Sunflour Railroad, Inc. - Abandonment Exemption - in Roberts and Marshall Counties,  
S.D.**

**BACKGROUND**

In this proceeding, the Sunflour Railroad, Inc. (SRI or railroad) filed a notice with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.20 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Roberts and Marshall counties, South Dakota (SD). The rail line proposed for abandonment is an approximately 8.1-mile segment between Milepost 228.2 at the east property line of 454<sup>th</sup> Avenue (one mile west of Claire City), and Milepost 236.2 at Washington Avenue in Veblen, SD (the Line). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA). If the notice becomes effective, the railroad would be able to dispose of the right-of-way.

**DESCRIPTION OF THE LINE**

Based on the railroad's environmental and historic reports, the Line is located in a rural area except for the portion of the Line within the town of Veblen. The width of the right-of-way is generally 100 feet. According to the railroad, the only structure on the Line is a wooden bridge with an unknown construction date.

The Line was constructed by the Fairmount and Veblen Railway in 1912 and acquired by the Soo Line Railroad Company (Soo) in 1915. In December 1999, Soo requested authority from the Board to abandon the Line, and the Board granted that request in February 2000. However, before Soo consummated the abandonment, which would have extinguished the Board's jurisdiction over the Line, the Line was acquired by SRI. Because of the sale, Soo filed a request with the Board to withdraw its abandonment authority. On August 14, 2000, the Board granted Soo's request to withdraw the abandonment authority and the Line remained under the Board's jurisdiction. Nevertheless, SRI removed the track material (e.g., rails and ties) from the Line in 2003 in the mistaken belief that such removal was permissible under the previously granted abandonment authority. SRI intends to sell the right-of-way for non-rail use.

No local or overhead rail traffic has moved on the Line during the 12 years of SRI ownership. The railroad is not aware of any hazardous waste sites on the Line that would be affected by the proposed abandonment.

## **ENVIRONMENTAL REVIEW**

The railroad submitted an environmental report that concludes the quality of the human environment would not be affected significantly because of the abandonment or any post-abandonment activities. The railroad served the environmental report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].<sup>1</sup> OEA reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

Because there is no rail traffic on the Line, 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 diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

### ***Salvage Activities***

Rails and ties along the Line have already been removed. The railroad's environmental report does not specify any additional salvaging activities that could occur prior to consummating the abandonment.

The Natural Resources Conservation Service (NRCS) states that the proposed abandonment would have no effect on prime or important farmland. NRCS advises the railroad to consult with the local NRCS and Farm Service Agency regarding any U.S. Department of Agriculture easements or contracts in the project area that could be affected by the proposed abandonment.

The U.S. Fish and Wildlife Service, South Dakota Field Office states that the proposed abandonment is not likely to adversely affect endangered or threatened species or areas designated as critical habitat.

The U.S. Army Corps of Engineers – St. Paul District (Corps) has not responded to the railroad's environmental report. OEA has provided a copy of this EA to the Corps for review and comment.

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<sup>1</sup> The railroad's environmental and historic reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB-1099X.

The U.S. Environmental Protection Agency, Region 8 (USEPA) has not responded to the railroad's environmental report. OEA has provided the USEPA with a copy of this EA for review and comment.

The National Geodetic Survey states that no geodetic station markers that could be affected by the proposed abandonment have been identified.

The South Dakota Department of Environment & Natural Resources states that the project would have little or no impact on waste management in the area.

## **HISTORIC REVIEW**

The railroad submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the South Dakota State Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). In a May 2, 2012 letter (SD SHPO Project ID.: 120423004F), the SHPO wrote that it is currently unable to comment on the effect of the proposed abandonment on the non-renewable cultural resources of the state. The SHPO added that the Line does not appear to have been assessed for listing on the National Register of Historic Places (National Register). Without this assessment, the SHPO concluded that it is unclear if the proposed abandonment would negatively impact historic properties.

The railroad replied to the SHPO in a May 4, 2012 letter. The railroad's reply includes additional information on the Line and its single structure (i.e., the wooden bridge), and concludes that the Line is not eligible for listing on the National Register. In its response to this letter, the SHPO did not concur with the railroad's ineligibility conclusion, and specifies three categories of additional information needed before it can reach a conclusion of eligibility and adverse effects. The railroad has not yet replied to this second request from the SHPO.

Pending the outcome of these consultations and receipt of the SHPO's opinion regarding potential adverse effects from the proposed abandonment, OEA is recommending a condition requiring the railroad 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>.

OEA conducted a search of the Native American Consultation Database at <http://grants.cr.nps.gov/nacd/index.cfm> (database searched June 28, 2012) to identify federally recognized tribes that may have ancestral connections to the project area. The database identified the following 10 tribes as having connections to Roberts or Marshall counties:

- Flandreau Santee Sioux Tribe of South Dakota,
- Lower Sioux Indian Community in the State of Minnesota,
- Prairie Island Indian Community in the State of Minnesota,
- Santee Sioux Nation, Nebraska,
- Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota,
- Spirit Lake Tribe, North Dakota,
- Upper Sioux Community, Minnesota,
- Sac and Fox Nation of Missouri in Kansas and Nebraska,
- Sac and Fox Nation, Oklahoma, and
- Sac and Fox Tribe of the Mississippi in Iowa.

A copy of this EA has been provided to each tribe for review and comment.

### **CONDITIONS**

We recommend that the following condition be imposed on any decision granting abandonment authority:

1. Sunflour Railroad, Inc. shall 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 until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. Sunflour Railroad, Inc. shall report to the Board's Office of Environmental Analysis regarding any consultations with the South Dakota State Historical Society (the State Historic Preservation Office or SHPO) and the public. Sunflour Railroad, Inc. may not file its consummation notice or initiate any salvage activities related to abandonment 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, OEA concludes that, as currently proposed, and if the recommended condition is 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 and no salvage activities), 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 rail 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 C.F.R § 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 the time specified in the Federal Register notice. 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 C.F.R. § 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, D.C. 20423.

## **COMMENTS**

If you wish to file comments regarding this EA, please send an **original and one copy** to Surface Transportation Board, Washington, D.C. 20423, to the attention of Dave Navecky, who prepared this document. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-1099X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Dave Navecky, the environmental contact for this case, by phone at 202-245-0294, fax at 202-245-0454, or e-mail at [david.navecky@stb.dot.gov](mailto:david.navecky@stb.dot.gov).

Date made available to the public: July 3, 2012.

**Comment due date: July 17, 2012.**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment