

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: May 14, 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(c) to purchase the northern 3,200 feet of the track<sup>1</sup> 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. Subsequently, by decision served on May 5, 1999 (May 5 decision), Tilsner was found financially responsible, and the effective date of the exemption authorizing the abandonment was postponed to permit the OFA process to proceed. The May 5 decision stated that if Soo and Tilsner cannot agree on the purchase price of the line, either party may request the Board to establish the terms and conditions of the purchase on or before June 1, 1999, and that, if no agreement is reached and no request is submitted by that date, a decision vacating the May 5 decision and allowing the abandonment exemption to become effective will be served.

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, to negotiate with Soo for 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. As an alternative to interim trail use under the National Trails System Act, 16 U.S.C. 1247(d), the right-of-way may be acquired for public use as a trail under 49 U.S.C. 10905. See Rail Abandonments--Use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 609 (1986). Under section 10905, the Board may prohibit the disposal of rail properties that are proposed to be abandoned and are appropriate for public purposes for a period of not more than

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

180 days after the effective date of the decision approving or exempting the abandonment.

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, imposition of a condition would be appropriate, commencing with the effective date of the exemption. However, an OFA takes priority over a request for a public use condition. Therefore, issuance and effectiveness of a public use condition will be delayed until the OFA process has been completed. If agreement is reached on sale or subsidy of the line, a public use condition would be unnecessary and unavailable. If no agreement is reached on the OFA, the appropriate decision will be issued.

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

It is ordered:

1. If the OFA process terminates, a decision effective on its service date will be issued vacating the May 5 decision to allow the abandonment exemption to become effective and to impose the public use condition.
2. The request for issuance of a public use condition is held in abeyance pending completion of the OFA process.
3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary