

30913
DO

SERVICE DATE - MARCH 28, 2000

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: March 23, 2000

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, but a timely offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27, filed on April 30, 1999, postponed the effective date of the exemption authorizing the abandonment in order to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.

By decision served on September 20, 1999, the OFA process was terminated and a 90-day public use condition was imposed under 49 U.S.C. 10905 for acquisition of the right-of-way at the request of the Tri-Area Block Club (Tri-Area).¹ The condition required that Soo keep the right-of-way underlying the track, including bridges, trestles, culverts, and tunnels (but not track and track materials), intact 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. At the requests of Tri-Area and the City of St. Paul, MN (the City), the public use condition was extended for an additional 90 days to March 18, 2000, by decision served on December 17, 1999. By letter filed on March 16, 2000, Tri-Area and the City jointly request a further extension of the public use condition.

It is well settled that 180 days is the maximum period permitted by statute for a public use condition and that it may not be extended beyond that time period. See 49 U.S.C. 10905; 49 CFR 1152.28(b); and Rail Abandonments--Public Use Conditions--Revision, 8 I.C.C.2d 392, 395-98 (1992). Therefore, the requested extension must be denied.

¹ Tri-Area filed a request for issuance of a public use condition on May 4, 1999, but because an OFA takes priority over a request for a public use condition, the Board served a decision on May 17, 1999, holding Tri-Area's request in abeyance pending completion of the OFA process.

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

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

It is ordered:

1. The request to extend the public use condition is denied.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary