

BEFORE THE
SURFACE TRANSPORTATION BOARD

300596

AB-57 (SUB-NO. 61X)
SOO LINE RAILROAD –
ABANDONMENT EXEMPTION
IN RACINE COUNTY, WISCONSIN

ENTERED
Office of Proceedings
May 4, 2020
Part of
Public Record

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES (WDNR)
PETITION FOR EXTENSION OF NEGOTIATING PERIOD**

BACKGROUND

Soo Line Railroad Company, d/b/a Canadian Pacific (Soo Line) filed with the Surface Transportation Board (Board) a Notice of Exemption under 49 C.F.R. 1152 Subpart F – Exempt Abandonments to abandon a 10.63-mile line of railroad, extending from milepost 7.8 and ending at milepost 18.43, in Racine County, WI. The line traverses through United States Postal Service Zip Codes 53139, 53182, and 53177.

On February 24, 2014, the Wisconsin Department of Natural Resources (WDNR) executed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the 10.63-mile segment of Soo Line railroad, from milepost 7.8 to milepost 18.43, in Racine County, WI. On February 27, 2014, the Wisconsin Department of Transportation (WisDOT) filed a Petition for Interim Trail Use pursuant to 49 C.F.R. § 1152.29(a) and 29 C.F.R. § 1152.29(b)(3) to obtain a notice of interim trail use and rail banking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 for WDNR for the full right-of-way involved in this proceeding. WisDOT and WDNR therein agreed to use or preserve the land corridor and related real property for interim public transportation and recreational purposes (including highway, pedestrian and other trail uses), subject to restoration for railroad purposes.

FILING FEE WAIVED

On March 13, 2014, Soo Line filed a letter with the Board stating its intent to negotiate with WDNR for a possible interim trail use/rail banking agreement.

On service date March 18, 2014, the Board issued an NITU under 49 C.F.R. §1152.29, allowing WDNR 180 days until September 15, 2014 to negotiate a trail use agreement with Soo Line.

On September 16, 2014, WDNR filed a petition on its own behalf requesting that the Board extend the negotiating period for 180 days to continue its appraisal process and begin formal acquisition negotiations with Soo Line. Soo Line filed a letter supporting WDNR's request on September 16, 2014.

On service date September 17, 2014, the Board granted WDNR's petition and extended the negotiation period until March 14, 2015.

On March 4, 2015, WisDOT filed a petition on WDNR's behalf requesting that the Board extend the negotiating period for 180 days to continue its acquisition negotiations with Soo Line. Soo Line filed a letter supporting WDNR's request on March 13, 2015.

On service date March 26, 2015 the Board granted WDNR's petition and extended the negotiation period until September 10, 2015.

On September 2, 2015, WisDOT filed a petition on WDNR's behalf requesting that the Board extend the negotiating period for 180 days to continue its acquisition negotiations with Soo Line. Soo Line filed a letter supporting WDNR's request on September 10, 2015.

On service date September 24, 2015 the Board granted WDNR's petition and extended the negotiation period until December 10, 2015.

On November 25, 2015, WisDOT filed a petition on WDNR's behalf requesting that the Board extend the negotiating period for 180 days to continue its acquisition negotiations with Soo Line. Soo Line filed a letter supporting WDNR's request on November 30, 2015.

On service date December 15, 2016 the Board granted WDNR's petition and extended the negotiation period until June 7, 2016.

On May 17, 2016, WDNR petitioned for the Board to extend the NITU negotiation period for another 180 days to allow WDNR and Soo Line to continue negotiations. A letter from Soo Line consenting to WDNR's request was entered into proceedings on May 19, 2016.

On service date May 31, 2016, the Board granted WDNR's petition and extended the NITU again for 180 days to December 4, 2016, for WDNR and Soo Line to continue negotiations.

On November 29, 2016, WDNR petitioned for the Board to extend the NITU negotiation period for another 180 days to allow WDNR and Soo Line to continue negotiations. A letter from Soo Line was also filed November 29, consenting to WDNR's request to extend the timeline.

On service date December 7, 2016, the Board granted WDNR's petition and extended the NITU for 180 days to June 2, 2017.

On June 1, 2017, WDNR petitioned for the Board to extend the NITU negotiation period for another 180 days to allow WDNR and Soo Line to continue negotiations. A letter from Soo Line was filed on June 2, consenting to WDNR's request to extend the negotiating period.

On June 8, 2017, the Board issued a decision to grant WDNR's petition and extend the NITU for 180 days to November 29, 2017.

On November 19, 2017, WDNR petitioned for the Board to extend the NITU negotiation period for another 180 days to allow WDNR and Soo Line to continue negotiations. A letter from Soo Line consenting to WDNR's request was submitted on November 21, 2017.

On service date November 24, 2017, the Board granted WDNR's petition and extended the NITU again for 180 days to May 28, 2018, for WDNR and Soo Line to continue negotiations.

On May 25, 2018, WDNR entered into record a request to extend the NITU negotiating period for another 180 days; Soo Line consented to the extension.

On June 4, 2018, the Board decided to grant an extension of the NITU negotiating period for 180 days to November 11, 2018 (Decision ID number 46475).

On November 9, 2018 WDNR petitioned the Board to extend the NITU negotiation period for another 180 days to allow WDNR and Soo Line to continue negotiations.

On January 31, 2018, the Board decided to grant WDNR's petition, extending the NITU negotiation period until May 11, 2019.

On May 8, 2019, WDNR submitted a request to extend the NITU negotiating period; Soo Line agreed to the extension.

On May 15, 2019, the Board decided to grant WDNR's petition, extending the NITU negotiation period until November 7, 2019 (Decision ID Number 47013).

On October 31, 2019, WDNR petitioned the Board to extend the NITU negotiation period for another 180 days to allow WDNR and Soo Line to continue negotiations.

On November 5, 2019, the Board decided to grant the 90-day extension request to May 5, 2020 (Decision ID number 47331).

WDNR now respectfully requests the Board grant an additional extension under the Board's new rule governing NITUs, for the transitional one-year extension without a showing of extraordinary circumstances. See Limiting Extensions of Trail Use Negotiating Periods, EP 749 (Sub-No. 1) et al., slip op. at 11 (STB served Dec. 4, 2019) (adopting final rule regarding the number and duration of, and standard for granting, extensions of a NITU negotiating period).

Since the Board's decision in November of 2019, WDNR has worked with state legislators, the county cooperator (Racine County), and multiple potential partners to find the remaining portion of the needed funding for the purchase price negotiated with Soo Line. Additionally, WDNR and Soo Line are near agreement on language for a purchase contract and Soo Line has indicated consent to continuing the negotiating period for this segment from milepost 7.8 to milepost 18.43 in Racine County, Wisconsin.

MOTION

WDNR respectfully requests the Board extend the negotiation period for an additional 365 days to permit the parties to continue negotiating in good faith for the 10.63-mile segment of Soo Line railroad, from milepost 7.8 to milepost 18.43, in Racine County, Wisconsin. WDNR additionally requests waiver of the filing fee due to its status as a government entity.

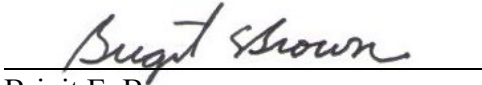
Respectfully submitted,

Brigit Brown

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May 4, 2020

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of this Petition for Extension of Negotiating Period regarding **AB57 (Sub-No. 61X)**, upon all parties of record in this proceeding by electronic mail, pursuant to 49 C.F.R. §1104.12.

A handwritten signature in cursive script, reading "Brigit E. Brown", is written over a horizontal line.

Brigit E. Brown

Wisconsin Department of Natural Resources

May 4, 2020