

SERVICE DATE – JUNE 1, 2021

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 57 (Sub-No. 61X)

SOO LINE RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN RACINE
COUNTY, WIS.

Decided: June 1, 2021

On January 28, 2014, Soo Line Railroad Company d/b/a Canadian Pacific (Soo Line) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon 10.63 miles of rail line located approximately between milepost 7.8 and milepost 18.43 in Racine County, Wis. (the Line). Notice of the exemption was served and published in the Federal Register on February 14, 2014 (79 Fed. Reg. 9042).

By decision and notice of interim trail use or abandonment (NITU) served on March 18, 2014, the proceeding was reopened, and a 180-day period was authorized for the Wisconsin Department of Natural Resources (WDNR)¹ to negotiate an interim trail use/rail banking agreement with Soo Line for the right of way under the National Trails System Act, 16 U.S.C. § 1247(d).² By a series of decisions issued from September 17, 2014 to May 8, 2020, the NITU negotiating period has been extended, most recently until May 5, 2021.

On May 12, 2021, Soo Line and WDNR jointly notified the Board that an interim trail use/rail banking agreement (Trail Use Agreement) has been reached for the 10.12-mile portion of the right-of-way between milepost 8.31 and milepost 18.43. The notice also states that Soo Line is retaining a segment of the Line from milepost 7.8 to milepost 8.31 and requests that the Board vacate the existing NITU and issue a replacement NITU for the right-of-way covered by the Agreement, between milepost 8.31 and milepost 18.43.

Soo Line and WDNR have complied with the requirements of 49 C.F.R. § 1152.29(d)(2). The request to vacate the NITU will be granted and a replacement NITU issued for the portion of the right-of-way covered by the Agreement, between milepost 8.31 and milepost 18.43. Soo Line may consummate the abandonment of the portion of the Line not subject to the Trail Use

¹ Although the March 2014 decision issued the NITU to the Wisconsin Department of Transportation (WDOT), WDOT had requested the NITU on behalf of WDNR and the statement of willingness to accept financial responsibility for the right-of-way was signed by WDNR.

² That decision also imposed a number of environmental conditions and a historic preservation condition under Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f. The Section 106 condition was removed by decision served September 17, 2014.

Agreement, between milepost 7.9 and milepost 8.31, subject to the environmental conditions imposed in the March 2014 decision. If Soo Line chooses to abandon the portion of the Line not subject to the Trail Use Agreement, it must file a notice of consummation as set forth under the Board's rules at 49 C.F.R. § 1152.29(e)(2). If Soo Line does not timely file a notice of consummation and there are no legal or regulatory barriers to consummation, the abandonment authority will automatically expire.

It is ordered:

1. This proceeding is reopened.
2. The NITU served on March 18, 2014, is vacated.
3. A replacement NITU for the portion of the right-of-way covered by the Trail Use Agreement, between milepost 8.31 and milepost 18.43, is issued.
4. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.