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May 20, 2022

VIA EMAIL

Ms. Danielle Gosselin
Director
Office of Environmental Assessment
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Request for Waiver of 6 Month Pre-filing Notice Requirement under 49
C.F.R. §1105.10(a)(1)

Dear Ms. Gosselin:

Pursuant to 49 CFR §1105.10(c)(2), the undersigned, on behalf of Savage Tooele Railroad Company (“STR”), respectfully requests a waiver of the 6 month pre-filing notice required by the Surface Transportation Board’s (“STB” or “Board”) environmental regulations at 49 CFR §1105.10(a)(1). As first discussed with you and other Office of Environmental Analysis (“OEA”) staff in a video conference on May 6, 2022, STR intends to petition the Board for an individual exemption under 49 U.S.C. §§10901 and 10502 for authority to (1) reinstate common carrier rail service over 5.9 miles of an approximately 15.8-mile branch line of railroad constructed in 1917 by a predecessor of the Union Pacific Railroad Company (“UP”) and formally abandoned in 1983; and (2) construct another approximately 5 miles of track in a new industrial park¹ being developed on 1300 acres of land near Grantsville, Utah that will connect to the reinstated main line. When both elements of the project are complete STR will carry rail traffic to and from industrial park tenants and UP’s main line at the northern end of STR’s tracks, where STR will interchange with

¹ The Lakeview Business Park (<https://www.lakeviewbusinesspark.com/>).

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UP² to provide the shippers with a connection to the national rail system.³ A map of the project and project area is attached as Exhibit A to this letter.

The waiver provisions of the Board's environmental rules require a party seeking a waiver to describe as completely as possible the environmental effects and timing of the proposed action and to show that all or part of the six-month lead time is not appropriate. Also, "the purpose of 49 C.F.R. § 1105.10(a)(1) is to provide prospective applicants with information about the Board's environmental review process and for applicants to inform OEA about the proposed project before starting the formal review." STB Docket FD 36398, *Brookhaven Rail – Construction and Operation Exemption – in Suffolk County, N.Y.* (served March 24, 2022). STR sets out the following information in accordance with these standards to demonstrate that six months advance notice is not necessary for this project.

A. Description of the Subject Rail Lines

As stated above, STR was created for the purpose of reinstating common carrier service over a portion of a 15.8-mile line of railroad that was originally constructed in 1917. The rail line, known as the Warner Branch, extended from a connection to the UP's main line Burmester, Utah southward to Tooele, Utah. The line was owned by Western Pacific Railroad Company ("Western Pacific") and remained in active use until 1983, when Western Pacific formally abandoned the entire line.⁴ Western Pacific eventually was merged into UP. UP later sold the land underlying the track from milepost (MP) 6.12 to MP 6.66 to two adjacent landowners who removed the track on those parcels. Track from the original rail line still is present on the remainder of the 5.9 miles of right-of-way being acquired by STRR. Consequently, reinstatement of the line will require the re-acquisition of right-of-way land of the two parcels and re-construction of the .54 mile of removed track.

² STR notes that the current terms of the transaction being negotiated with UP would entail STR acquiring the former branch line right-of-way and track from MP 1.04 to MP 6.94, a total of 5.9 miles. UP would retain ownership of the right-of-way and track from MP 0.0 to MP 1.04, which STR expects will be utilized as part of the private tracks used to interchange traffic between UP and STR.

³ As mentioned, and discussed in our May 6 videoconference, this transaction and proposed railroad project are the subject of a pending Verified Notice of Exemption to acquire and operate the UP line filed by STR in Docket No. FD 36524 on September 2, 2021. However, STR has moved to withdraw that notice of exemption because subsequent to its filing STR and UP learned that UP's predecessor had fully abandoned the entire Warner Branch in 1983 and so it is not an active line of railroad that can be acquired through the notice of exemption process.

⁴ ICC Finance Docket No. 30208, *Western Pacific Railroad Company - Abandonment Exemption – in Tooele County, Utah (the Warner Branch)*. Western Pacific sought and received abandonment authority and on January 4, 1984. UP provided notice that the abandonment was consummated on December 20, 1983.

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In addition to reinstating service over this section of the Warner Branch, STR proposes to connect that rail line with another five miles of newly constructed tracks inside the boundaries of the Lakeview Business Park over which STR would hold out to provide common carrier service. This park is being developed for the purpose of housing industries that will ship various commodities by railroad. The developers of the park anticipate that initially there will be one tenant located in the park that will construct an approximately 250,000 square foot facility to which STR would deliver rail carloads of frozen products and other items needing cold chain transport which will then be distributed to local businesses by truck. The goal of the park developers is to add other rail-served tenants over time.

B. Potential Environmental Impacts

STR believes that the environmental impacts of the project will be minimal because it intends to simply reinstate service over an existing railroad right-of-way on which there exists tracks and railbeds which are in good enough condition that total reconstruction will not be necessary. Moreover, the areas where new construction will occur, which is only in areas where track previously existed, do not contain environmentally sensitive areas. Nevertheless, as part of the project's design and planning, STR, and its parent company Savage Enterprises, LLC, have conducted a preliminary review of the potential environmental issues associated with the project. Below is a discussion of the issues identified to date.

Wetlands – The existing Warner Spur right-of-way was constructed on land located within or adjacent to areas that are considered wetlands. In June 2021 Savage Enterprises retained an environmental consulting firm to conduct a GPS survey of the fill limits of the existing raised railroad grade, and the plan for STR to reactivate the rail line is to confine all rehabilitation and new construction within the existing fill limits so as not to infringe on any wetlands. As such, to date neither Savage Enterprises nor STR have prepared a wetlands delineation analysis and report.

Phase I Environmental Site Assessment – In 2021 STR retained the firm of Ramboll U.S. Consulting, Inc. to prepare a Phase I Environmental Assessment of the seven miles of former rail line to be acquired from UP, with the exception of the aforementioned two right-of-way parcels UP sold to adjoining landowners. This assessment resulted in no Recognized Environmental Conditions (REC) being observed by Ramboll. STR has not conducted a Phase II analysis because it has not yet executed an agreement with UP to acquire the subject right-of-way and track. If OEA would find a copy of the Phase I report to be helpful we would be pleased to provide you with a copy. STR has not had full access to the land being developed for the Lakeview Business Park and so STR does not know at this time whether any RECs are present on that property.

Non-Attainment Area – The proposed project is located within the portion of Tooele County, Utah designated as nonattainment with the 2015 8-hour ozone standard. Tooele County is so identified on the U.S. EPA's list of nonattainment areas in Utah as of 2021.⁵

⁵ www3.epa.gov/airquality/greenbook/anayo_ut.html

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Road Crossings – The reinstatement of common carrier service over this section of the former Warner Branch will entail the re-construction of two at-grade road crossings at the southern end of the segment. The roads are (1) Route 138, which is a relatively well-traveled state road that is used to reach Interstate 80, which is approximately seven miles northwest of the industrial park, and (2) Erda Way, a lesser traveled local road that is roughly parallel to Route 138 at the crossing locations. The railroad tracks on either side of both roads are still in place. STR understands that the developer of the Lakeview Business Park has commissioned a traffic study related to re-establishment of the rail crossings.

Finally, STR is in the process of identifying and vetting potential Third Party Consultants for retention pursuant to the Board's rules to assist OEA in its review of the environmental impacts of this proposed project.

Based on all of the foregoing, the undersigned, on behalf of STR, respectfully requests OEA to waive the 6-month prefilng notice required under 49 CFR §1105.10(a)(1). We also ask that this waiver be granted as soon as practicable because STR intends to file its Petition for Exemption immediately upon issuance of the requested waiver.

Please do not hesitate to call me or email me if you have any questions or desire additional information.

Sincerely,



Thomas W. Wilcox
*Attorney for Savage Tooele Railroad
Company*

Attachments

EXHIBIT A

