

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-364 (Sub-No. 16X)

**Mid-Michigan Railroad, Inc. –
Abandonment Exemption –
In Muskegon County, MI**

BACKGROUND

In this proceeding, the Mid-Michigan Railroad, Inc. (MMRR) filed a notice under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Muskegon County, Michigan. The line extends from Milepost 191.40 to Milepost 194.75, a distance of 3.35 miles. This is the second such filing for the proposed abandonment. Notice of the exemption was served on December 10, 2007 under Mid-Michigan Railroad, Inc. – Abandonment Exemption – in Muskegon County, MI, STB Docket No. AB-364 (Sub-No. 13X), and became effective on January 9, 2008. However, MMRR did not consummate the abandonment by the December 10, 2008 deadline and the railroad's authority to abandon automatically expired. By decision served on February 25, 2009, the Surface Transportation Board (Board) reopened this proceeding and ruled that if MMRR wishes to abandon the 3.35-mile line of railroad, it must seek appropriate Board authority with a new filing. MMRR has filed a new notice and has included updated environmental and historic reports.

MMRR certifies that no rail cars have used the line for at least two years and the line is a stub end track, therefore no overhead traffic would have to be rerouted over other lines as a result of the abandonment. The portion of line to be abandoned was constructed in 1886 by the Grand Rapids & Indiana Railroad and purchased by Pennsylvania Railroad in 1921. The line then passed through the ownership of the Grand Trunk & Western in 1976, then Central Michigan Railroad in 1987, and finally to Railtex in 1990 who formed the Michigan Shore Railroad, a predecessor to MMRR. Railtex merged into RailAmerica, Inc. in 2000. The line primarily travels through the industrial section of Muskegon Heights and crosses U.S. Highway 31 at the Sherman Boulevard exit. Zip Codes traversed include 49441, 49442 and 49444. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

MMRR submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. MMRR served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules [49 CFR 1105.7(b)].¹ The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

MMRR states that no local traffic has moved over the line for at least two years and no overhead traffic would be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. Following abandonment, MMRR intends to salvage the rail, ties and track material. MMRR indicates that salvage would consist of removing the rail, crossties and possibly upper layer of ballast. However, it does not intend to disturb any subgrade or subgrade structures. MMRR states that the proposed abandonment would result in the elimination of 15 public road crossings and one private crossing, as well as the possible removal of the bridge over U.S. Highway 31.

SEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

The Natural Resources Conservation Service commented that there would be no impacts on prime or unique farmland. The land adjacent to the proposed abandonment has been converted to non-agriculture uses. SEA has therefore determined that no further consultation is necessary.

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-364 (Sub-No. 16X).

The U.S. Fish and Wildlife Service (USF&WS) commented that it does not own any land or have any interests in any land in the vicinity of the proposed abandonment. However, the agency has not yet commented on whether the proposed abandonment would have impacts on wetlands or rare, threatened or endangered species. Therefore, SEA is adding the USF&WS to its service list to ensure that it receives a copy of the EA for comment.

The City of Muskegon commented that it has no interest in purchasing the segment of rail line proposed for abandonment, but did request that at the time of salvage, the 15 public road crossings be restored in accordance with the City's specifications for road repair, as well as all related infrastructure including streets, sidewalks, curbs, pavement, and terraces. To ensure that the proposed action does not adversely impact the City, SEA is including a condition in this EA that requires MMRR to consult with the City of Muskegon prior to salvage operations and to comply with the reasonable requirements of the City.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. In addition to the parties of record on the Board's service list for this proceeding, SEA is providing a copy of this EA to the following agencies for review and comment: the Michigan Department of Environmental Quality; the U.S. Army Corps of Engineers; the U.S. Environmental Protection Agency; USF&WS; the National Geodetic Survey; the National Park Service; the County of Muskegon Board of Commissioners, the City of Muskegon, and the City of Muskegon Heights.

HISTORIC REVIEW

By decision served on January 8, 2008 in Mid-Michigan Railroad, Inc. – Abandonment Exemption – in Muskegon County, MI, STB Docket No. AB-364 (Sub-No. 13X), the Board imposed a condition requiring MMRR to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f had been completed; to report back to SEA regarding any consultations with the Michigan Department of History, Arts, and Libraries (MI Historic Preservation Office or MI SHPO) and the public; and to refrain from filing its consummation notice or initiating any salvage activities related to the abandonment (including removal of tracks and ties) until completion of the Section 106 process and the removal of this condition.

SEA received a letter dated June 16, 2008 from the MI SHPO stating that it had reviewed the project right-of-way and determined that no historic properties would be affected within the area of potential effect. The MI SHPO also commented that it should be immediately notified if the scope of work changes in any way or if unanticipated artifacts or bones are discovered during salvage. In a decision served on September 12, 2008, the historic preservation condition imposed in the January 2008 decision was removed and a new condition imposed to reflect the MI SHPO's request. The new condition, which requires MMRR to immediately cease all work and notify SEA, interested Federally-recognized tribes, and the MI SHPO, pursuant to 36 CFR

800.13(b), in the event that any unanticipated archaeological sites, human remains, or funerary items or associated artifacts are discovered during salvage activities, remains in effect for this proceeding.

Pursuant to 36 CFR 800.2, SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify Federally-recognized tribes, which may have ancestral connections to the project area. The database indicated that the following four tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the Area of Potential Effect) of the proposed abandonment: Bay Mills Indian Community; the Grand Traverse Band of Ottawa and Chippewa Indians; the Little Traverse Bay Bands of Odawa; the Sault Ste. Marie Tribe of Chippewa Indians; and the Red Lake National Library and Archives, Tribal Information Center. Accordingly, SEA is sending a copy of this EA to the tribes and information center for review and comment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Prior to commencement of salvage activities, Mid-Michigan Railroad, Inc. (MMRR) shall contact the City of Muskegon regarding the restoration of the 15 public road crossings and related infrastructure including streets, sidewalks, curbs and pavement. MMRR shall comply with the reasonable requirements of the City in restoring the 15 public road crossings that maybe impacted as a result of rail line salvage.
2. In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, MMRR shall immediately cease all work and notify SEA, interested Federally recognized tribes, and the MI SHPO pursuant to 36 CFR 800.13(b). SEA shall then consult with the SHPO, interested Federally recognized tribes, MMRR, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed and if the recommended condition is imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0230, or mail inquiries to Surface Transportation Board, OPAGAC, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-364 (Sub-No. 16X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: April 24, 2009.

Comment due date: May 12, 2009.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Anne K. Quinlan
Acting Secretary

Attachment