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SERVICE DATE – LATE RELEASE SEPTEMBER 12, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-364 (Sub-No. 13X)

MID-MICHIGAN RAILROAD, INC.—ABANDONMENT EXEMPTION—IN MUSKEGON  
COUNTY, MI

Decided: September 12, 2008

Mid-Michigan Railroad, Inc. (MMRR), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 3.35-mile line of railroad between milepost 191.40 and milepost 194.75, at the end of the line, in Muskegon County, MI. Notice of the exemption was served and published in the Federal Register on December 10, 2007 (72 FR 69728-29). The exemption became effective on January 9, 2008.

By decision served on January 8, 2008 (January 2008 decision), the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA) and the exemption was made subject to the 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 were eligible for listing or were 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 State Historic Preservation Officer and the public, and to refrain from filing its consummation notice or initiating any salvage activities related to abandonment (including removal of tracks and ties) until completion of the section 106 process and removal of this condition.

By letter filed on August 25, 2008, MMRR requests removal of the section 106 historic preservation condition. MMRR attaches to its letter correspondence dated June 16, 2008, from the Michigan Department of History, Arts, and Libraries (MI State Historic Preservation Officer or MI SHPO) wherein the MI SHPO states that it has reviewed the project right-of-way and has determined that no historic properties are affected within the area of potential effect. SEA states that it concurs with the MI SHPO, and, therefore, recommends that the section 106 historic preservation condition be removed.

In its letter, the MI SHPO also requests immediate notification if the scope of work changes in any way or if artifacts or bones are discovered during project activities. Therefore, SEA recommends imposition of a new condition: that, in the event that any unanticipated archaeological sites, human remains, or 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 states that it

will then consult with the MI SHPO, interested Federally recognized tribes, MMRR, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed, and the new condition recommended by SEA will be imposed.

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

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the historic preservation condition imposed in the January 2008 decision is removed.
3. Upon reconsideration, the exemption of the abandonment of the line described above is subject to the condition that, in the event that any unanticipated archaeological sites, human remains, or 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 MI SHPO, interested Federally recognized tribes, MMRR, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.
4. This decision is effective on its service date.

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

Anne K. Quinlan  
Acting Secretary