

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1107X

WEST MICHIGAN RAILROAD CO.—ABANDONMENT
EXEMPTION—IN VAN BUREN COUNTY, MICH.

Decided: March 29, 2013

West Michigan Railroad Co. (WMI) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 10.67 miles of rail line between milepost 19.88 (west of the line's crossing of 56th Street near Lawrence, Mich.) and milepost 30.55 (east of Kalamazoo Street in Paw Paw, Mich.), in Van Buren County, Mich. Notice of the exemption was served and published in the Federal Register on January 28, 2013 (78 Fed. Reg. 5,867).

The exemption was scheduled to become effective on February 27, 2013, but a formal expression of intent to file an offer of financial assistance (OFA) to purchase the entire line was timely filed by Great Lakes Locomotive, LLC (Great Lakes), which automatically stayed the effective date of the exemption until March 9, 2013.¹ Great Lakes also requested that the time period for filing the OFA be tolled for an additional 30 days to give it an adequate opportunity to review and analyze the information requested from WMI and to submit its OFA. By decision served on March 8, 2013, Great Lakes' extension request was granted, the deadline for Great Lakes to file its OFA was extended to March 29, 2013, and the effective date of the exemption was extended to April 8, 2013.

The March 8 decision also imposed the environmental conditions recommended by the Board's Office of Environmental Analysis (OEA), which consisted of a Section 106 historic preservation condition and two consultation conditions.² In addition, the March 8 decision found that the joint request filed by Friends of the Kal-Haven Trail and Van Buren County Board of Park Trustees for the issuance of a notice of interim trail use (NITU) under the National Trails System Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29, and for a public use condition under 49 U.S.C. § 10905 met the statutory and Board regulatory requirements but delayed further action on the joint request pending completion of the OFA process.

¹ See 49 C.F.R. § 1152.27(c)(2)(i).

² Upon recommendation from OEA, the Section 106 condition was removed by decision served March 27, 2013.

On March 28, 2013, Great Lakes filed a request seeking a 30-day extension of the OFA due date. Great Lakes states that the parties are currently engaged in negotiations to complete a purchase of the line. Great Lakes asks that the Board grant an extension to allow the parties to complete their negotiations. On March 28, 2013, WMI replied to Great Lakes' request, stating that it does not object to an extension.

Under the circumstances, an extension of the OFA filing deadline is warranted. The OFA filing deadline will be extended to April 29, 2013, and the effective date of the abandonment exemption will be postponed until May 9, 2013. If the OFA process terminates without the sale of the line, a decision and notice addressing the requested interim trail use condition and public use condition will be issued.

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

It is ordered:

1. Great Lakes' extension request is granted.
2. The time period for an OFA is extended to April 29, 2013.
3. The effective date of the exemption is postponed to May 9, 2013.
4. This decision is effective on its service date.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.