

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 308 (Sub-No. 4X)

CENTRAL MICHIGAN RAILWAY COMPANY—ABANDONMENT
EXEMPTION—IN KENT COUNTY, MICH.

Decided: June 24, 2015

Central Michigan Railway Company (CMRY) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon an approximately 1.75-mile line of railroad, consisting of three interconnected segments. These are: (1) a line (segment A) extending from milepost 157.96 (at the switch connection with the east-west aligned tracks of the Mid-Michigan Railroad, Inc. (MMR) near the intersection of Taylor Avenue and Quimby Street) through valuation map marker 9+87.2 (the location of the south wye, or Press Track, switch adjacent to Monroe Avenue) and continuing to the end of the track at a point immediately north of Michigan Street/Bridge Street; (2) a line (segment B) extending from valuation map marker 3+00 (at a switch connection with a line of MMR immediately at the east end of the MMR bridge spanning the Grand River) to a connection with segment A at valuation map marker 9+87.2 (at the south wye switch); and (3) a line (segment C) extending from valuation map marker 0+00 (at a point of connection with the east-west aligned MMR line immediately to the east of the MMR line's bridge spanning the Grand River) due northward to valuation map marker 11+15.0 (approximately 250 feet south of Ann Street), in Grand Rapids, Kent County, Mich. Notice of the exemption was served and published in the Federal Register on April 1, 2009 (74 Fed. Reg. 14,862-63).

By decision and Notice of Interim Trail Use (NITU) served on April 30, 2009, a 180-day period was authorized for the Michigan Department of Natural Resources (MDNR) to negotiate an interim trail use/rail banking agreement with CMRY for the right-of-way involved in this proceeding pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d). On October 3, 2011, MDNR filed a letter stating that it had successfully completed negotiations on a trail use agreement with CMRY.¹ On October 18, 2011, Dark Properties, Inc. (Dark Properties), a Michigan corporation, filed a letter requesting issuance of a NITU for segment D. By decision and NITU served on November 7, 2011, the Board modified and vacated in part the NITU served

¹ MDNR stated that the completed negotiations did not include a portion of the line approximately 3,327 feet in length and described as that part of segment A that is south of the point of intersection of the west line of Monroe Street with the center line of the existing rail corridor and continuing to the end of the track at a point immediately north of Michigan Street/Bridge Street (segment D).

April 30, 2009, and issued a replacement NITU applicable to Dark Properties for segment D. By a series of decisions, the most recent served on May 6, 2015, the NITU negotiating period was extended until October 17, 2015.

On May 20, 2015, CMRY filed a request that the Board vacate the replacement NITU. CMRY states that it no longer wishes to negotiate with Dark Properties. On the same day, Dark Properties filed a letter in support of CMRY's request to terminate trail use negotiations.

Under the Trails Act, the trails use program is voluntary and consensual between the railroad and the trail sponsor.² Here, the parties have advised that they no longer wish to negotiate. Therefore, CMRY's request is reasonable and will be granted. Because the existing NITU is being vacated, CMRY's abandonment authority will be reinstated. If CMRY chooses to abandon the line, it must file a notice of consummation as set forth under the Board's rules at 49 C.F.R. § 1152.29(e)(2) by August 24, 2015. If CMRY does not timely file a notice of consummation, and there are no legal or regulatory barriers to consummation, the railroad's abandonment authority will automatically expire.

This decision 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. The NITU served on November 7, 2011, is vacated.
3. The abandonment authority issued on April 1, 2009, is hereby reinstated.
4. If CMRY chooses to abandon the Line, it must file a notice of consummation by August 24, 2015.

² See 49 C.F.R. § 1152.29(c)(1) and (d)(1); Citizens Against Rails to Trails v. STB, 267 F.3d 1144 (D.C. Cir. 2001); Nat'l Wildlife Fed'n v. ICC, 850 F.2d 694, 699-702 (D.C. Cir. 1988); Rail Abans.—Use of Rights-of-Way as Trails (Rail Abandonments), 2 I.C.C. 2d 591, 598 (1986).

5. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.