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OEA

SERVICE DATE – AUGUST 30, 2011

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB-1053 (Sub-No. 2X)

**Michigan Air-Line Railway Co.—
Abandonment Exemption—
in Oakland County, Mich.**

BACKGROUND

On July 1, 2011, Michigan Air-Line Railway Co. (MAL Railway) refiled a petition that had previously been denied by the Board seeking exemption under 49 U.S.C § 10502 from the provisions of 49 U.S.C. § 10903 to abandon approximately 5.45 miles of rail line. The rail line is located between milepost 45.26, at the west line of Haggerty Road, and milepost 50.65, at the intersection with the right-of-way of a CSX Transportation, Inc. rail line (Line), in the City of Wixom, in Oakland County, Mich. A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

MAL Railway previously sought to abandon the Line in a Petition of Exemption filed on January 28, 2011 under Docket No. AB 1053 (Sub-No. 1X). In that proceeding, the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) prepared and served an EA for public review and comment on March 29, 2011. In that EA, OEA recommended that the Board impose 4 environmental conditions: an historic preservation condition; a consultation condition with the U.S. Fish and Wildlife Service; a consultation condition with the Michigan Department of Natural Resources and Environment regarding permitting requirements under Section 404 of the Clean Water Act (33 U.S.C. § 1344); and a condition requiring notification to the National Geodetic Survey that would allow geodetic station markers located on the rail line to be relocated before the line was salvaged.

In its Final EA dated May 2, 2011, and based on new comments, OEA stated that MAL Railway had either satisfied the requirements for each of the environmental conditions that OEA had recommended in the EA or that circumstances had changed making the conditions no longer relevant. Consequently, OEA recommended that the Board impose no environmental conditions in any decision approving the proposed abandonment.

On May 18, 2011, the Board issued a decision denying MAL Railway's Petition for Exemption without prejudice, explaining that MAL Railway had not provided the Board with sufficient evidence regarding the revenues and costs associated with the Line, thereby making it impossible to determine what burden, if any, MAL Railway would incur in continuing to operate the Line and that a single shipper, American Plastic Toys (APT), remained on the Line.

On July 1, 2011, MAL Railway refiled its petition under a new sub-number again seeking the Board's approval to abandon approximately 5.45 miles of rail line. MAL Railway notes that the same company remains on the line; APT, located in Walled Lake, Mich. But now, APT receives carloads of plastic pellets and ships out plastic toys via motor carrier rather than by rail.

According to MAL Railway, if the abandonment is approved, it would salvage the rail and tie but leave the ballast in place. MAL Railway states that anticipates selling the Line to a governmental entity within the State of Michigan for use as a recreational trail. MAL Railway also notes that there is no alternative to abandonment.

DESCRIPTION OF THE RAIL LINE

The topography surrounding the Line is generally level with an occasional hilly area and passes through a mixture of residential, commercial and light industrial development. The width of the right-of-way is approximately 50 feet wide. The Line contains a single structure, a rail depot located in Walled Lake, Mich., that is 50 years old or older. The depot was constructed in 1877, but partially destroyed by fire in the 1940's. When the Depot was repaired following the fire, an addition was added to the west end of the building. In addition to the Depot, the line features 9 at-grade crossings.

MAL Railway states that Line does not contain federally granted rights-of-way. The Line traverses United States Postal Service Zip Codes 48390 and 48393. If the Board should approve this abandonment, MAL Railway would salvage the track materials and sell the salvaged components for reuse, rerolling or as scrap.

ENVIRONMENTAL REVIEW

MAL Railway updated the Environmental Report that it had submitted in the earlier abandonment proceeding. The Environmental Report makes the same conclusion that 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. MAL Railway again served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules (49 C.F.R. § 1105.7(b)).¹ The Board's Office of Environmental Analysis has reviewed and investigated the record in this proceeding.

¹ The 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 1053 (Sub-No. 2X).

Diversion of Traffic

In the recent past, the Line has provided service to its single shipper, APT. According to information supplied by MAL Railway, APT's rail traffic has decreased significantly over the past several years. MAL Railway states that APT received 67 carloads of plastic pellets in 2008, 52 carloads in 2009, 52 carloads in 2010, and 11 carloads as of June 2011. There were no outbound shipments in 2011 and APT now relies upon motor carrier service for outbound distribution.

In its Environmental Report, MAL Railway calculates, using 2008 carload data, that assuming a 4 to 1 truck-to-railcar ratio and a 100% empty back-haul for trucks, the abandonment would generate approximately 536 additional trucks per year, or less than 11 additional trucks per week on area roadways. OEA confirmed the calculation and also notes that U.S. Interstates 96, 75, 275 and 696 as well as State Highway M-5—the area's main regional highways—are all located within close proximity to APT.

If the abandonment is approved, OEA believes that there would be no adverse effect on regional or local transportation systems because the roadways in the area of the Line have adequate capacity and the numbers of additional trucks moving on these roads as a result of the abandonment is low (as explained above, less than 11 additional trucks per week on area roads). OEA also believes that the minimal increase in truck traffic would not result in any adverse impacts to public safety or air quality.

Salvage Activities

If the Board should approve the proposed abandonment, MAL Railway would salvage the track materials and sell the salvaged components for reuse, rerolling or as scrap. If approved, salvage would generally occur as follows:

Any track removal would be accomplished via access over the existing railroad right-of-way in conjunction with existing access from roadways that cross the Line. MAL Railway does not intend to create any access road to reach the Line. In addition, MAL Railway does not intend to perform any activities that would cause sedimentation or erosion and it does not anticipate any dredging or use of fill in removal of the rails, ties and other track materials. No debris would be discarded along the right-of-way nor would it be placed or deposited into streams or wetlands or along the banks of such waterways. Any work along the right-of-way would be subject to appropriate measures to prevent or control spills from fuels, lubricants or any other pollutant materials.

MAL Railway believes that the proposed abandonment would not be inconsistent with local or regional land use plans. The potential sale of the right-of-way for trail use would be consistent with the Oakland County Trails Master Plan (Master Plan), which the Oakland County

Parks & Recreation Commission adopted in 2008. MAL Railway also notes that, if the Line is acquired and developed into a recreational trail, the Line would adjoin the west end of the extended West Bloomfield Trail thus eliminating the trail 'gap' identified in the Master Plan.

MAL Railway also states that, under Michigan statute, the Michigan Department of Transportation (MDOT) and the Michigan Department of Natural Resources (MDNR) have the right of first refusal to purchase the Line upon abandonment and use the Line for a public purpose.

In a filing dated August 10, 2011, APT states that MAL Railway's Petition should be rejected because it has not satisfied the requirements outlined in the Board's May 18, 2011, denial of this very abandonment. Among other claims, APT notes that approval of the proposed abandonment would cause harm by increasing truck traffic that would pass by 2 schools (Walled Lake Elementary and Walled Lake Western High School) and increased energy inefficiencies that would result from the rail-to-truck transport.

As discussed in detail above, if the Board should approve the abandonment, OEA has estimated that the rail-to-truck diversion would result in less than 11 additional trucks on area roadways per week. This *de minimus* increase of truck traffic spread over the area roadways would not result in potentially significant environmental impacts to safety or energy inefficiencies.

The Michigan Department of Environment Quality states that its prior comments set forth in its email dated April 29, 2011, are still valid. Specifically, that the proposed abandonment would not require a permit under Part 303, Wetlands Protection; Part 301, Inland Lakes and Streams; or Part 31, Floodplain Authority of Public Act 451 of 1994, as amended. Consequently, OEA is not recommending a condition to require MAL Railway to acquire wetlands permits.

In its filing, MAL Railway identified the following endangered species in the project area: Indiana bat (*Myotis sodalis*); rayed bean mussel (*Villosa fabalis*); snuffbox mussel (*Epioblama triquerta*); and candidate eastern massasauga rattlesnake (*Sistrurus catenatus*). In response to correspondence under the previous filing, AB 1053 (Sub-No. 1X), the U.S. Fish and Wildlife Service, in an email dated April 28, 2011, states that if the railroad's salvage contractor would access the Line using only existing roads and streets that cross the railroad's right-of-way that salvage operations would not impact any federally listed threatened or endangered species. OEA has recommended that the Board impose a condition on MAL Railway requiring that salvage be conducted as detailed by U.S. Fish and Wildlife.

MAL Railway in its Environmental Report states that there are no known hazardous waste sites or sites where known hazardous material spills have occurred on or along the right-of-way.

In an email dated August 8, 2011, the U.S. Department of Commerce, National Geodetic Survey (NGS) states that there are approximately 4 geodetic survey markers located in the area of the proposed abandonment. OEA notes that under the previous filing, the NGS had identified 2 geodetic station markers and had indicated that based on information provided by MAL Railway's land surveyor, that it had no concern since the geodetic station markers could not be located. More recently, OEA spoke with the NGS, via telephone, to clarify the difference in the number of previously identified geodetic station markers. The NGS stated that due to the poor quality of maps submitted, it is often very hard to accurately identify the mileposts and therefore resulted in the increase from 2 geodetic station markers in AB 1053 Sub No. 1X to 4 geodetic station markers in AB 1053 Sub No. 2X. Therefore, OEA will recommend that MAL Railway consult with the NGS prior to the commencement of any salvage activities to allow for relocation of any affected survey markers.

Based on all information available to date, and if the Board imposes the recommended mitigation, OEA does not believe that salvage activities would cause significant environmental impacts.

HISTORIC REVIEW

MAL Railway was created in 1875 after the foreclosure and reorganization of a parent railroad. Today, the only segment of the original MAL Railway that has not been abandoned is the segment from Wixom, MI to West Bloomfield Township in Oakland County, Mich. The Line proposed for abandonment is the eastern 5.45 miles of this segment.

In its Historic Report, MAL Railway states that the right-of-way is approximately 50 feet wide and includes a single railroad depot that is 50 years old or older. As described above, the rail depot located in Walled Lake, Mich., and was constructed in 1877, but partially destroyed by fire in the 1940's. When the Depot was repaired following the fire, an addition was added to the west end of the building.

MAL Railway served the Historic Report as required by the Board's environmental rules (49 C.F.R. § 1105.8(a)) and served the report on the Michigan Historic Preservation Office (SHPO) pursuant to 49 C.F.R. § 1105.8(c).² The SHPO, in a letter dated March 30, 2011, in response to the previously filed Petition of Exemption, AB 1053 (Sub-No. 1X), concludes that no historic properties would be affected by the proposed abandonment (SHPO Reference No. ER-11-225). Pursuant to the Section 106 regulations of the National Historic Preservation Act at

² Guidance regarding the Board's historic preservation review process is available on the Board's Web site at: <http://www.stb.dot.gov/stb/environment/preservation.html>.

36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 38 C.F.R. § 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.³ The database indicated that the following 3 federally-recognized tribes, may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the area of potential effect or APE) of the proposed abandonment:

1. Forest County Potawatomi Community, Wisconsin
2. Hannahville Indian Community, Michigan
3. Saginaw Chippewa Indian Tribe of Michigan

Accordingly, OEA is sending a copy of this EA to the above mentioned 3 tribes for review and comment.

CONDITIONS

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

- 1. Michigan Air-Line Railway Company shall, during salvage of the rail line, access the Line using only existing roads and streets that cross the railroad's right-of-way to ensure that salvage operations do not impact any federally listed threatened or endangered species.**
- 2. Michigan Air-Line Railway Company shall consult with the National Geodetic Survey at least 90 days prior to the beginning of salvage activities that will disturb or destroy any geodetic station markers.**

³ Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited August 15, 2011).

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, that 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 4-part showing for imposition of a public use condition (49 C.F.R. § 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 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 1053 2X in all correspondence,**

including e-filings, addressed to the Board. If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at Troy.Brady@stb.dot.gov.

Date made available to the public: August 30, 2011.

Comment due date: September 29, 2011.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment