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SERVICE DATE – MARCH 27, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1107X

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

Decided: March 26, 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.

Also in the March 8 decision, pursuant to the recommendation of the Board's Office of Environmental Analysis (OEA), the following environmental conditions were imposed, requiring WMI to: (1) consult with the Michigan Department of Environmental Quality (MDEQ) prior to beginning salvage activities regarding permitting requirements under Section 404 of the Clean Water Act and, if applicable, comply with the reasonable permitting requirements of MDEQ; (2)(a) contact the Field Office of the U.S. Fish and Wildlife Service (USFWS) in East Lansing, Mich., prior to beginning salvage activities to discuss potential impacts to any federally listed endangered or threatened species, (b) report the results of the consultation to OEA in writing, and (c) consult with OEA and USFWS to develop appropriate mitigation measures, should any potential impacts be identified; and (3)(a) 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 that are eligible for listing or listed in the National Register of Historic

¹ See 49 C.F.R. § 1152.27(c)(2)(i).

Places (National Register) until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed, (b) report to OEA regarding any consultations with the Michigan State Housing Development Authority, State Historic Preservation Office (SHPO), and the public, and (c) not file its consummation notice until the Section 106 process has been completed and the Board has removed the condition.²

In a supplemental final environmental assessment, OEA states that it received a letter from the SHPO on March 1, 2013, stating that the proposed abandonment would have no adverse effect on historic properties within the area of potential effects. OEA states that following consultations with the SHPO and the public, it has determined that the proposed abandonment would not affect historic properties listed, or eligible for inclusion, in the National Register. Further, OEA states that this completes the Section 106 process, and it recommends that the Section 106 condition imposed in the March 8 decision be removed. Accordingly, this proceeding will be reopened and the previously imposed historic preservation condition will be removed.

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 Section 106 historic preservation condition imposed in the March 8, 2013 decision in this proceeding is removed.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

² The March 8 decision also held in abeyance pending completion of the OFA process 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 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.