

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-68 (Sub-No. 4X)

LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY—ABANDONMENT AND
DISCONTINUANCE OF SERVICE EXEMPTION—IN MARQUETTE COUNTY, MI

Decided: May 25, 2004

On May 11, 2004, Lake Superior & Ishpeming Railroad Company (LS&I), filed a petition seeking an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a line of railroad known as the Republic Subdivision, extending from milepost 69.52 (LS&I Jct.) near Negaunee, MI, to milepost 94.5 (Republic Mine), near Republic, MI, a distance of 24.98 miles in Marquette County, MI. The Subdivision is comprised of three segments: (1) segment one, extending from LS&I Jct. (milepost 69.52) west approximately 4.1 miles to Landing Jct. (milepost 73.6); (2) segment two, extending from Landing Jct. west approximately 12 miles to Humboldt Jct. (milepost 85.6); and (3) segment three, extending from Humboldt Jct. south approximately 8.9 miles to the end of track at Republic Mine (milepost 94.5).

According to LS&I, it owns a one-third interest and Canadian National Railway Company (CN) owns a two-thirds interest in the first segment. LS&I states that, as per the parties' agreement, if LS&I were to abandon its use of the track, and CN desires to continue to use the track, CN must purchase LS&I's one-third interest. LS&I indicates that CN has not formally notified it of CN's intentions.¹ The second and third segments are wholly owned by LS&I, with CN holding trackage rights authority over the second segment. As to the second segment, LS&I states that the parties' trackage rights agreement expressly reserves to LS&I the right to abandon the segment, subject to a CN option to purchase it. LS&I states that it has received no response from CN regarding its proposed abandonment of this segment.

CN holds the majority interest in the first segment. The Board cannot process the request for abandonment authorization as to that segment because CN, the owner of the remaining two-thirds interest, is not a party to the proceeding. LS&I's petition nonetheless seeks abandonment authority for the entire 24.98 miles of railroad (all three segments). Rather than have the Board select some partial processing option that LS&I might not elect, the petition will be rejected in its entirety.

¹ LS&I indicates that, if CN elects to purchase petitioner's interest in the segment, the exemption sought by petitioner would be for discontinuance of service rather than abandonment.

If a refiling is made for abandonment of the first segment of the Republic Subdivision, it must be a joint request made on behalf of LS&I and CN. Alternatively, LS&I has the option of filing for discontinuance of service only on the first segment and for abandonment of the second and third segments (LS&I's request as to all three segments could be embraced in a single filing). LS&I might also choose to pursue abandonment of the second and third segments only.²

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

It is ordered:

1. LS&I's petition for exemption is rejected.
2. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary

² Should LS&I file for and receive abandonment authority for the second segment, it would not be able immediately to consummate abandonment of that segment because of CN's trackage rights authority over the line. For LS&I to consummate the abandonment, CN would first have to make a filing with the Board requesting discontinuance of its trackage rights, obtain discontinuance authority, and then exercise that authority.