

21353 SERVICE DATE - JANUARY 6, 1997
FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-488X]

Ludington & Northern Railway, Inc.--Abandonment Exemption--
in Mason County, MI

Ludington & Northern Railway, Inc. (L&N) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon its entire line of railroad from the south line of Michigan Highway 116 in Hamlin Township south and east through Pere Marquette Township to terminus in the city of Ludington, in Mason County, MI, a distance of 2.54 miles.

L&N has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR

1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

Where, as here, the carrier is abandoning its entire line, the Board does not normally impose labor protection under 49 U.S.C. 10505(g) unless the evidence indicates the existence of a corporate affiliate that will: (1) continue rail operations; or (2) realize significant benefits in addition to being relieved of the burden of deficit operations by its affiliated railroad. See T and P Railway-Abandonment-in Shawnee, Jefferson and Atchison Counties, KS, Docket No. AB-381, etal. (ICC served Apr. 27, 1993). Because these conditions do not appear to exist here, employee protection conditions will not be imposed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 5, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29³ must be filed by January 16, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 27, 1997, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Thomas F. McFarland, Jr., Attorney for Ludington & Northern Railway, Inc., McFarland & Herman, 20 North Wacker Drive, Suite 1330, Chicago, IL 60606-2902.

If the verified notice contains false or misleading information, the exemption is void ab initio.

L&N has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by

² See Exempt. of Rail Abandonment--Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

³ The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

January 10, 1997. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: December 30, 1996.

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

Vernon A. Williams
Secretary