SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-31 (Sub-No. 33)

GRAND TRUNK WESTERN RAILROAD INCORPORATED
--ABANDONMENT--
IN MACOMB AND OAKLAND COUNTIES, MI

Decided: December 23, 1998

By an application filed September 8, 1998, and supplemented on September 18, 1998, Grand Trunk Western Railroad Incorporated (GTW or applicant) seeks authority under 49 U.S.C. 10903 to abandon a line of railroad extending from milepost 19.5 near Washington Station (#55532 at MP 19.9) in Washington, MI, to milepost 37.7 near Pontiac Station (#55610 at MP 25.8 on the Holly Subdivision) in Pontiac, MI, a distance of 18.2 miles in Macomb and Oakland Counties, MI. The line is a portion of GTW's Romeo Subdivision. On September 28, 1998, the Board served and published in the Federal Register (63 FR 51635) notice of the filing of the application.

The City of Auburn Hills, MI (City or protestant), filed a protest.[1] The United Transportation Union filed a letter requesting the imposition of labor protective conditions on any grant of authority. Michigan Governor John Engler filed a letter supporting the application, as supplemented. Applicant filed a reply.

Upon review of the record, we conclude that the application should be granted, subject to standard employee protective, environmental, and historic preservation conditions. Our analysis follows.

PRELIMINARY MATTERS

The City, which opposes abandonment only with respect to that portion of the line extending between milepost 28.5 and milepost 37.7 (the so-called "Western Subsegment"), requests that the Board perform two analyses before considering the application. First, it argues that the Board should examine the impact that abandonment of the eastern portion of the line (between milepost 19.5 and milepost 28.5) would have on the viability of an upgraded Western Subsegment. Second, with regard to the valuation of the right-of-way, the City asserts that the Board should analyze the nature of the adjacent landowners' properties along the Western Subsegment, and the feasibility of

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[1] The protest is supported by letters from the City of Rochester Hills, MI, shipper Church & Church Inc., doing business as Church's Builder Wholesale (Church's), and the Michigan State Trust for Railway Preservation, Inc. (Trust).

incorporating the land underlying the right-of-way into those properties. The City contends that time to undertake the analyses is available because applicant has committed to operate on the Western Subsegment until an area shipper relocates its facilities or until December 31, 1999, and has requested that the due date for filing a notice of consummation be extended.

The request will be denied. Regarding the first sought analysis, GTW is not obligated to reinvest the assets freed from one part of its line in another part of that line. Moreover, as will be seen below, the record as made supports the conclusion that the Western Subsegment cannot be viably operated even following an abandonment of the remainder of the line. As to the second sought analysis, the record shows that GTW has evaluated the line's right-of-way in accordance with the Board's approved across-the-fence (ATF) methodology. The City's apparent claim that applicant was bound to analyze the "feasibility of incorporation" of the right-of-way with each individual adjacent parcel is unsupported. The City could have performed its own real estate appraisal and presented its own conclusions regarding the utility of the right-of-way to adjacent landowners, but it did not do so. In any event, the record supports the conclusion that, even discounting land values in their entirety, applicant would incur substantial losses were it to continue to operate the Western Subsegment.

The City of Pontiac, MI, on the due date for protests, filed a letter requesting an extension of time to file a protest. The Board's staff contacted City Planner Richard Hahn, who filed the letter on behalf of Pontiac, and advised him to submit a protest as soon as possible along with a motion for leave to late file. Applicant states that it timely served Mr. Hahn with a copy of its environmental and historic reports, the application, and subsequent filings, and that it also agreed to serve Pontiac with an additional copy of the application materials when requested to do so. Nevertheless, Pontiac has not filed a protest. Accordingly, we must proceed to a decision without its participation.

TRAFFIC, OPERATIONS, AND REVENUES

The subject line, as noted, is a portion of GTW's Romeo Subdivision. The Romeo Subdivision (at milepost 38.5) extends off of GTW's Pontiac Belt Line (at milepost 2.49) which, in turn, connects with the railroad's Holly Subdivision in Pontiac. The line runs east-west, traversing relatively flat land in both rural and urban areas. The line is stub-ended on the east because of GTW's recent abandonment of the portion of its Romeo Subdivision between milepost 19.5 and milepost 0.42. GTW historically has maintained the line at a level consistent with that required to provide low-volume, as-needed service. The line condition is generally poor. The rail is rusty due to low traffic volume and infrequent use. Applicant has deferred maintenance on the line for over 2 years because, it asserts, the revenue from the traffic on the line could not support even routine maintenance costs. In April 1998, the railroad reclassified the line from Federal Railroad Administration (FRA) Class 1 status to "excepted track" status. The railroad currently maintains the line as excepted track with a maximum operating speed of 10 miles per hour. On July 9, 1998, GTW placed an embargo on the line between milepost 28.5 and milepost 19.5 because the track had become impassable. Applicant provides service on the line on a bi-weekly basis, with additional trips as required. GTW made 125 round trips during its base year (July 1, 1997, through June 30, 1998).

GTW states that traffic levels on the line have varied between 175 and 219 carloads a year over the past 2½ years, with traffic levels on the Western Subsegment ranging between 135 and 180 carloads during that period. During the base year, applicant handled 200 carloads of traffic for customers on the line, as follows: GTW carried 16 carloads of dry fertilizer for Washington Elevator Company (Washington), 152 carloads of plastic resin for Letica Corporation (Letica), 2 carloads of lumber for Wickes Lumber Company (Wickes), 29 carloads of lumber for Church's, and 1 carload of beverages for Hubert Distributors, Inc. (Hubert). All of the shippers except Washington are situated on the Western Subsegment. Applicant indicates that the amount of fertilizer moving over the line during the base year is lower than the historical level due to track washouts in December 1997. It adds, however, that fertilizer traffic could increase in the event of removal of the current embargo. Regarding service for Hubert, applicant states that this shipper only recently has become an active customer, having received 4 carloads in June, July, and August 1998 after having received none since 1995. Applicant adds that another customer on the line, Custom Paper Group, has not received any traffic since January 1997, and that its side track agreement with applicant was terminated effective June 20, 1998. There is no overhead traffic on the line.

During the base year, GTW earned revenues of $216,782 from handling traffic on the subject line and $24,327 from easements for a total of $241,109. The railroad projects the same figures for its forecast and subsidy years. Applicant also presents figures attributable to the Western Subsegment alone. Those figures show that, during the base year, GTW earned revenues of $196,478 from handling traffic on the Western Subsegment and an additional $12,300 from easements, for a total of $208,778. Applicant projects the same figures for its forecast and subsidy years.

Applicant asserts that, although it has earned an operating profit on the line during the base year, the profit is due solely to the fact that it has deferred maintenance. According to applicant, the rehabilitation costs that it would be required to incur in order to restore the line to FRA Class 1 condition, or even to maintain it at excepted track status, are substantial.[2] Applicant contends that the volume of traffic on the line, and the revenues derived from it, are insufficient to warrant such expenditures. Applicant adds that the same conclusion is reached when considering the Western Subsegment alone.

AVOIDABLE COSTS

Avoidable costs are costs that GTW will cease to incur if it abandons the line. GTW has

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[2] GTW states that the cost to rehabilitate the entire line to FRA Class 1 standards would be $1,685,000 while the cost to rehabilitate the Western Subsegment to that level would be $875,900. The railroad estimates the cost of rehabilitating the line to excepted track status would be $373,000 for the entire line and $122,000 for the Western Subsegment.

submitted data showing avoidable on-branch costs for the base, forecast, and subsidy years. These include: (1) maintenance-of-way and structures (MOW); (2) maintenance-of-equipment (including depreciation); (3) transportation expense; and (4) freight car costs. Applicant's total avoidable on-branch costs are shown as $40,764 for the base year, $399,220 for the forecast year, and $26,220 for the subsidy year. For the Western Subsegment alone, applicant shows total avoidable on-branch costs of $35,953 for the base year, $143,361 for the forecast year, and $21,361 for the subsidy year.

GTW also shows avoidable off-branch costs for the line totaling $108,259 for the base year and $109,654 for the forecast and subsidy years. For the Western Subsegment alone, applicant shows off-branch costs of $99,231 for the base year and $99,496 for the forecast and subsidy years. Protestant does not provide any avoidable cost data.

Our conclusions regarding costs differ slightly from applicant's figures. On examining the evidence, we conclude that on-branch and off-branch avoidable costs for the subject line total $288,374 ($178,720 plus $109,654) for the forecast year and $135,874 ($26,220 plus $109,654) for the subsidy year. For the Western Subsegment alone, we conclude that total avoidable costs are $198,957 ($99,461 plus $99,496) for the forecast year and $120,857 ($21,361 plus $99,496) for the subsidy year.

We need not discuss each cost element as GTW's figures are unchallenged and, with the exception of MOW, we have found the railroad's calculations to be reasonable. We will discuss our problems with GTW's MOW figures. [3] In its forecast year calculations, GTW has used an MOW expense of $373,000 for the line ($122,000 for the Western Subsegment), which includes normalized annual maintenance costs and, in addition, expenditures to remove the embargo and reconstruct four grade crossings. We believe it preferable to use forecast year figures that presume the line has been rehabilitated to FRA Class 1 standards and, therefore, include normalized maintenance costs only. Applicant submits a normalized maintenance estimate of $152,500 for the line ($78,100 for the Western Subsegment). The unit costs and material quantity replacement rates for track materials applicant uses fall within the range we would expect. The overall normalized maintenance cost (approximately $8,400 per mile) is slightly higher than usual for a Class 1 line due to the expense of maintaining the grade crossings, of which there are 23. We accept applicant's normalized maintenance estimate.

SUBSIDIZATION COSTS

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[3] The difference between forecast year figures and subsidy year figures is in the treatment of costs for MOW and rehabilitation. GTW's subsidy year figures contain projected costs for rehabilitation but none for MOW. The forecast year figures contain projected costs for MOW and none for rehabilitation, but applicant's figures assume higher MOW (as needed to remove the current embargo) as an alternative to full rehabilitation. As explained below, we accept GTW's rehabilitation costs for the subsidy year and the lower normalized maintenance estimate for the forecast year, which is based upon the rehabilitation having been done.

Subsidization costs are comprised of rehabilitation costs, administrative costs, and casualty reserve account payments.

Rehabilitation Costs. Rehabilitation costs are allowed only if track fails to meet FRA Class 1 safety standards. Here, GTW has demonstrated that its track is in very poor condition, requiring substantial rehabilitation. As noted, applicant claims that the cost of returning the line to FRA Class 1 condition is $1,685,000, with rehabilitation costs for the Western Subsegment being $875,900. Protestant does not address GTW's rehabilitation estimate. We will accept applicant's estimate because the costs and quantities of materials asserted to be needed fall within the range we would expect for a major rehabilitation project of the type proposed.

Administrative Costs. Under Board regulations (49 CFR 1152.32(k)), 1% of the total annual revenues attributed to the line are allowable to cover all costs of administering the subsidy program. GTW has used this 1% figure in its calculations, resulting in subsidy year costs of $2,411 for the entire line, and $2,088 for the Western Subsegment. We will accept these cost figures.

Casualty Reserve. GTW shows the casualty reserve amount as zero because the railroad says it would require any subsidizer to fully indemnify it for all risks.

OPPORTUNITY COSTS

Opportunity costs (or total return on value) reflect the economic loss experienced by a carrier from forgoing a more profitable alternative use of its assets. Under Abandonment Regulations - Costing, 3 I.C.C.2d 340 (1987), the opportunity cost of road property is computed on an investment base that is the sum of: (1) allowable working capital; (2) the net liquidation value (NLV) of the line; and (3) current income tax benefits (if any) resulting from abandonment. The investment base, also called the "valuation of road properties," is then multiplied by the nominal rate of return, which is 17.5%.[4] The resulting figure, the nominal return on value, is then adjusted by applying a holding gain (or loss), which is the increase or decrease in value that a carrier will expect to realize by holding assets for 1 additional year.

GTW has submitted data for the forecast year showing the value of road property to be $10,840,414 ($7,114,609 for the Western Subsegment), consisting of an NLV of $10,824,008 ($7,108,717 for the Subsegment) and working capital of $16,406 ($5,892 for the Subsegment). As the railroad pays little, if any, income tax, it shows no income tax consequences. Applicant calculates the nominal return on value for the forecast year to be $1,897,072 ($1,245,057 for the Subsegment). The railroad shows the same figures as total return on value because it shows no holding gain or loss.

[4] The 17.5% pre-tax nominal cost of capital rate is determined from the after-tax cost of capital (11.7%) developed in Railroad Cost of Capital-1995, 1 S.T.B. 46 (1996).

For the subsidy year, GTW shows the value of road property to be $10,913,722 ($7,137,122 for the Subsegment), consisting of an NLV of $10,912,644 ($7,136,234 for the Subsegment) and working capital of $1,078 ($878 for the Subsegment). The railroad calculates the nominal return on value and the total return on value for the subsidy year to be $1,909,901 ($1,248,995 for the Western Subsegment).[5]

With the exceptions noted below, GTW's calculations are unchallenged and reasonable, and we will accept them. We need discuss only applicant's figures for NLV and holding gain or loss.

Net Liquidation Value (NLV).

NLV is the sum of the net salvage value for track and bridges and the value of the merchantable land in the right-of-way. GTW claims an NLV of $10,824,008 for the line inculding, $776,508 for track assets and $10,047,500 for real estate. For the Western Subsegment, applicant claims an NLV of $7,108,717, including $418,717 for track assets and $6,690,000 for real estate. Each of these values is discussed separately below.

a. Net Salvage Value. GTW estimates a gross salvage value of the line of $968,561, consisting of $967,423 for track and $1,138 for signals. The cost of removal and transportation is estimated at $192,053. GTW proposes to leave the bridges on the line in place because they provide access over roadways and waterways and do not detract from the marketability of the right-of-way. Applicant thus estimates a net salvage value of the line (other than real estate) of $776,508 ($418,717 for the Western Subsegment). Protestant does not challenge the net salvage value. Our review shows that applicant's estimate falls within the range typically seen in abandonment proceedings. Hence, we will accept it.

b. Net Land Value. Robert W. Scherer, Senior Appraiser of Real Estate for Colliers International, estimates the total real estate value to be $11,275,000. Net proceeds of $10,047,500 assertedly would result from the sale of the land, following a deduction for sales commissions and survey costs. For the Western Subsegment alone, Mr. Scherer estimates a value of $7,500,000, with net proceeds of $6,690,000. Mr. Scherer's appraisal assumes that marketable title is held for the entire line, although he fails to address that issue at all.

Mr. Scherer personally inspected the corridor in June 1998. He determined the value of the real estate by comparing recent sales in the area to the highest and best use for which the parcels underlying the right-of-way are suited (ATF valuation). Mr. Scherer divided the acreage into 14 segments and used 75 recent sales of varying types of land to determine the most appropriate comparable value for each segment. No assemblage factor was applied; each parcel was valued as

[5] While GTW has not specified an amount for a holding gain for the forecast year, we assume that the difference in NLV for the forecast year and the subsidy year represents the holding gain.

an individual sale. Mr. Scherer considered the characteristics of each comparable parcel as well as the features of the right-of-way in developing the ATF value.

In response, protestant has submitted a simplified appraisal review, called a "desk review," performed by James M. Fuller, a State Certified Appraiser.[6] Mr. Fuller claims that GTW's appraisal is deficient because no effort was made to determine the marketability of the parcels to the adjacent landowners. According to Fuller, the narrow widths of the parcels might present problems for improving them, and the level nature of the right-of-way might make assemblage with the surrounding parcels difficult. Mr. Fuller claims that such physical characteristics as the shape or grading of the right-of-way should be reflected in the appraised value of the parcels, but were not. He does not, however, provide an independent set of adjustments.

Past abandonment cases have shown that the market value of real estate usually is lower than ATF values when adjustments are made for location, size, and topography. Mr. Scherer, in reply, indicates that, in employing the ATF methodology, his appraisal not only specifically considered the potential for sale of the land to adjoining owners, but also considered street access, the topography of the right-of-way, easements and encumbrances, wetlands, and the relationship between the appraised land and adjacent parcels. Although adjustments have not apparently been made to the real estate value to reflect the unique sizes, shapes, and topography of the corridor's parcels, still, protestant only criticizes applicant's appraisal without providing any independent adjustments or supporting data that would allow our adjustment of the railroad's figures. However, with no evidence or even an assertion that the railroad holds marketable title to any of the real estate, we will not assign any value to it for the purpose of deciding the application.

Holding Gain. The other valuation factor that requires adjustment is holding gain. Applicant shows figures of zero dollars for holding gain or loss during the forecast and subsidy years. Holding gains are a deduction from return on value and should be included. We will use a figure of $6,359 ($3,428 for the Western Subsegment) as a holding gain for both the forecast and subsidy years. These amounts constitute the differences between forecast year NLVs and subsidy year NLVs.

SUMMARY OF COST AND REVENUE EVIDENCE

The evidence shows that, for the forecast year, total revenue attributable to the subject line is $241,109. Net avoidable costs of $288,374 result in a forecast year operating loss of $47,265. The record also shows that rehabilitation costs of $1,685,000 are required to bring the line into conformity with FRA Class 1 standards.

Considering the Western Subsegment alone, for the forecast year total revenue is $208,778,

[6] The appraiser states that a desk review does not include an inspection of the property or the comparable sales.

and total avoidable costs of $198,957 result in an operating profit of $9,821. Rehabilitation costs of $875,900 are required to bring the Western Subsegment into conformity with FRA Class 1 standards.[7]

SHIPPER AND COMMUNITY INTEREST

The City, as noted above, opposes abandonment of the Western Subsegment, the portion of the line extending between milepost 28.5 and milepost 37.7. The major portion of the Western Subsegment passes through the City, and the major customers on the line are situated either in the City or in Rochester Hills, which adjoins the City.

Protestant notes that applicant's evidence shows that the Western Subsegment operates at a profit. The City believes that proceeds from the disposition of the eastern section of the subject line could be used to upgrade the Western Subsegment, thereby enabling applicant to retain that profitable portion of the line. Protestant also argues that applicant's opportunity costs for the Western Subsegment are seriously inflated. The City believes that additional revenue from increased traffic[8] and from use of the line by the Trust might justify rehabilitation and continued operation of the Western Subsegment.

The Trust indicates that it plans to build and operate a rail museum, and that it has been dealing with the City to select a building site within the City along the Western Subsegment. It is the Trust's intention to negotiate a contract with GTW to operate a steam locomotive on the Western Subsegment in conjunction with museum activities. The Trust is willing to pay a fair share of the cost of continued maintenance of the Western Subsegment.

The City has also submitted a statement by William R. Church, president of Church's, identified above as one of applicant's shippers. Mr. Church indicates that Church's expects to increase carloads in the coming years, especially if service on the line can be improved. He asserts that abandonment would create a hardship for his business. The City also submits a copy of a resolution by the City Council of Rochester Hills supporting protestant's efforts to oppose the application.

In reply, GTW asserts that the City has not contradicted the railroad's estimates for the maintenance and rehabilitation required to return the line and the Western Subsegment to FRA

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[7] A complete summary of revenue and cost data is set forth in the appendix. Applicant's figures are shown in the first three columns of Tables I and II. Our restated figures are shown in the last two columns of those tables. Table I contains figures for the entire line, while Table II contains figures for the Western Subsegment only.

[8] According to protestant, revenue would increase approximately 5% during the forecast and subsidy years.

Class 1 condition. GTW avers that the level of traffic and associated freight revenues simply do not justify such substantial expenditures. Without these expenditures, applicant asserts, the line and the Western Subsegment cannot continue to remain operational. GTW adds that the City has provided no basis for revising applicant's real estate appraisal.

Regarding the statement of Mr. Church, applicant notes Church's has made no forecast or guarantee of any specific traffic volumes in the future. GTW also asserts that Church's has not countered applicant's evidence that the shipper's lumber can be moved directly by truck or by rail/truck transload as a satisfactory alternative to applicant's service.

Applicant replies further that the Trust has not committed to any particular contribution for its anticipated use of the Western Subsegment. Applicant questions the Trust's financial ability to carry out its proposals, and GTW also queries how the Trust's proposed use of the line for a steam locomotive operation would be consistent with freight operations on the line. Applicant asserts that speculative future use of the line with unspecified compensation for such use does not justify continued operation.

ALTERNATIVE TRANSPORTATION

Applicant asserts that all of the active customers on the line have available alternatives to its rail service. Specifically, applicant claims that Washington can receive its fertilizer by motor carrier via rail/truck transload from Richmond, MI, and that Church's and Wickes can receive their lumber by rail/truck transload or by direct motor carrier service from the point of origin. Applicant avers that Hubert can obtain its supplies by rail/truck transload or directly by truck, as it presumably has done during the long period when it was not receiving deliveries from applicant. Finally, according to applicant, Letica can receive its plastic resin by rail/truck transload through applicant's Cargo Flo facility in Warren, MI, or it can use truck service.[9]

DISCUSSION AND CONCLUSIONS

The statutory standard governing an abandonment or discontinuance is whether the present or future public convenience and necessity permit the proposed abandonment or discontinuance. 49 U.S.C. 10903(d). In implementing this standard, we must balance the potential harm to affected shippers and communities against the present and future burden that continued operations could impose on the railroad and on interstate commerce. Colorado v. United States, 271 U.S. 153 (1926).

[9] We note that applicant has submitted a letter from shipper Letica that disputes applicant's assertions regarding that shipper's alternative transportation options. The letter also states, however, that Letica does not oppose the application, in view of applicant's service commitment, as subsequently discussed.

The Board must determine whether the burden on the railroad from continued operation is outweighed by the burden on the shippers and public parties from the loss of rail service. This involves a question of whether, and to what degree, shippers will be harmed if rail service is no longer available. The fact that shippers are likely to incur some inconvenience and added expense is insufficient by itself to outweigh the detriment to the public interest of continued operation of uneconomic and excess facilities. Protestants must show that the harm to shippers and communities outweighs the demonstrated harm to the railroad and interstate commerce resulting from continued operation. See Chicago and North Western Transp. Co.--Abandonment, 354 I.C.C. 1, 7 (1977).

In determining whether to grant or deny an abandonment or discontinuance application, we consider a number of factors, including operating profit or loss, other costs the carrier may experience (including rehabilitation and economic costs), and the effects on shippers and communities. No one factor is conclusive. See Cartersville Elevator, Inc. v. ICC, 724 F.2d 668, aff'd on reh'g, en banc, 735 F.2d 1059 (8th Cir. 1984).

Here, the factors weigh in favor of a grant of the application in its entirety. The record shows that continued operation of the line, or even of the Western Subsegment alone, would impose a substantial economic burden on GTW. The forecast year operating loss for the line is $47,265, and the line requires rehabilitation expenditures of $1,685,000. While figures for the forecast year show that operation of the Western Subsegment would result in an operating profit of $9,821, rehabilitation expenses of $875,900 would be required to bring the Western Subsegment into conformity with FRA Class 1 safety standards, and expenses of $122,000 would be required to bring the line into conformity with excepted track status. The record does not reveal any concrete prospects for increased traffic levels in the future, and there is nothing to demonstrate that the Trust's contribution to the line, even if feasible, would substantially improve the financial picture. Thus, even without considering opportunity costs, we must conclude that continued operation of the line or the Western Subsegment would impose a substantial economic burden on applicant. When opportunity costs are considered, the line and the Western Subsegment show even greater losses.

In considering the potential harm to shippers, we note that we have heard opposition from only one actual user of the line, Church's. This shipper accounted for only 29 of the 200 carloads applicant handled on the line during the base year. Church's projects increased traffic, but it provides no specifics. Moreover, with one exception, the record also lacks any evidence contradicting applicant's assertion that shippers have available feasible alternative truck or rail/truck transload services. Although Letica has contradicted applicant's alternative service claims as to it, we note that that shipper is in the process of relocating off the line and has reached a service agreement with GTW.

The Trust's proposals, as applicant contends, are speculative and lacking specificity. There really is nothing before us to suggest that the Trust's use of the Western Subsegment, even if feasible, and even if viewed in the light of some increased traffic from shippers, would justify continued operations. Finally, we note that the sole protestant here does not argue, and there is nothing in the record to suggest, that there exist concrete proposals for increased traffic and revenues sufficient to justify continued operations.

On balance, we conclude that any harm to shippers and the community from the abandonment of service over the line is outweighed by the demonstrated harm to GTW and the burden on interstate commerce through continued operation of the line.

We note that 49 U.S.C. 10904 provides a mechanism for those who want to continue rail service that the Board has authorized to be discontinued or abandoned. Under section 10904, any financially responsible person (and all government agencies are deemed to be financially responsible) may file an offer of financial assistance (OFA) to acquire a line or subsidize the losses of the existing operator. Should protestant, the Trust, area shippers, or any other interested party determine that continued rail service over the line is in their best interest, they may avail themselves of the section 10904 procedures.

LABOR PROTECTION

In approving this abandonment application, we must ensure that rail employees are protected. 49 U.S.C. 10903(b)(2). We have found that the conditions imposed in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979), satisfy the statutory requirements, and we will impose those conditions here.

ENVIRONMENTAL ISSUES

The Board is also required to consider the environmental and energy impacts of the proposed abandonment. GTW submitted an environmental report with its application and has notified the appropriate Federal, state, and local agencies of the opportunity to submit information concerning the energy and environmental impacts of the proposed abandonment. See 49 CFR 1105.11. Our Section of Environmental Analysis (SEA) has examined the environmental report, verified its data, and analyzed the probable effects of the proposed action on the quality of the human environment. SEA served an environmental assessment (EA) on October 26, 1998, and requested comments. A comment was filed on November 20, 1998, by Mr. Mark Vermilion.

In the EA, SEA noted that the National Geodetic Survey (NGS) has identified 33 geodetic markers along the rail line and has requested 90 days' notice to plan relocation of any markers that may be disturbed or destroyed. SEA therefore recommends that the following condition be imposed on any grant of abandonment authority: GTW shall consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers.

SEA also indicated that the Michigan State Historic Preservation Officer has identified the bridge located at milepost 34.57 as eligible for the National Registry of Historic Places. Therefore, SEA recommends that the following condition be imposed on any grant of abandonment authority: GTW shall retain its interest in and take no steps to alter the historic integrity of the bridge located at milepost 34.57 until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

We agree with SEA's recommended conditions and, having considered the comment filed, conclude that they should remain unchanged. Hence, we will adopt SEA's recommendations.

CONSUMMATION

Under the provisions of 49 CFR 1152.29(e)(2), a railroad that receives authority from the Board to abandon a line must, within 1 year of the service date of the decision permitting the abandonment, file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. Here, GTW indicates that it has committed to continue serving shipper Letica until that shipper completes relocation of its facilities or until December 31, 1999, whichever comes first. Therefore, applicant requests an extension of time until March 31, 2000, to file the required notice of consummation. The request is reasonable and will be granted.

We find:

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1. The present or future public convenience and necessity permit the abandonment of the above-described line, subject to the employee protective conditions in Oregon Short Line R. Co. --Abandonment--Goshen, 360 I.C.C. 91 (1979), and the conditions that GTW: (1) consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic markers; and (2) retain its interest in and take no steps to alter the historic integrity of the bridge located at milepost 34.57 until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

2. Abandonment of the line will not have a serious, adverse impact on rural and community development.

3. The line may be suitable for other public purposes.

4. As conditioned, this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The application for abandonment of the above-described line is granted, subject to the conditions specified above.

2. GTW must promptly provide the City and any other interested persons the information they require in order to formulate an offer of financial assistance (OFA) to acquire or subsidize the line.

3. An OFA under 49 CFR 1152.27(c)(1) to allow rail service to continue must be received by GTW and the Board by January 4, 1999**,** subject to time extensions authorized under 49 CFR 1152.27(1)(c)(i)(C). The offeror must comply with 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). Each OFA must be accompanied by the filing fee, which currently is set at $1,000. See 49 CFR 1002.2(f)(25).

4. OFAs and related correspondence to the Board must refer to this proceeding. The following notation must be typed in bold face on the lower left-hand corner of the envelope: **"Office of Proceedings, AB-OFA."**

5. Provided no OFA has been received, this decision will be effective January 23, 1999.

6. Petitions to stay must be filed by January 10, 1999**,** and petitions to reopen must be filed by January 13, 1999.

7. Pursuant to the provisions of 49 CFR 1152.29(e)(2), GTW must file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by GTW's filing of a notice of consummation by March 31, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If any legal or regulatory barrier to consummation exists at the end of the specified time period, the notice of consummation must be filed not later than 60 days after satisfaction, expiration, or removal of the legal or regulatory barrier.

By the Board, Chairman Morgan, Vice Chairman Owen, and Commissioner Clyburn.

Vernon A. Williams
Secretary

APPENDIX
PROFORMA REVENUE AND COST DATA
Table I - Entire Line

	Applicant's			STB Restated	
	Base Year Figures	Forecast Year Figures	Subsidy Year Figures	Forecast Year Figures	Subsidy Year Figures
1. Freight Orig. and/or Term. on Branch	$216,782	$216,782	$216,782	$216,782	$216,782
2. Bridge Traffic	0	0	0	0	0
3. All Other Revenue and Income	24,327	24,327	24,327	24,327	24,327
4. Total Attributable Revenue (Ls. 1 thru 3)	$241,109	$241,109	$241,109	$241,109	$241,109
5. On-branch Costs:					
a. Maintenance-of-Way and Structures	$14,800	$373,000	$0	$152,500	$0
b. Maintenance-of-Equipment (Including Depreciation)	11,841	11,915	11,915	11,915	11,915
c. Transportation	13,453	13,626	13,626	13,626	13,626
d. General & Administrative	0	0	0	0	0
e. Deadheading, Taxi and Hotel	0	0	0	0	0
f. Overhead Movement	0	0	0	0	0
g. Freight Car Costs (Other Than Return)	670	679	679	679	679
h. Return on Value - Locomotives	0	0	0	0	0
i. Return on Value - Freight Cars	0	0	0	0	0
j. Revenue Taxes	0	0	0	0	0
k. Property Taxes	0	0	0	0	0
l. Total (Ls. 5a thru 5k)	$40,764	$399,220	$26,220	$178,720	$26,220
m. Holding Gains - Locomotives	0	0	0	0	0
n. Holding Gains (Loss) - Freight Cars	0	0	0	0	0
o. Net On-br Costs (Ls. 5l - 5m & 5n)	$40,764	$399,220	$26,220	$178,720	$26,220
6. Off-branch Costs:					
a. Off-Branch Costs (Other Than Return)	$108,259	$109,654	$109,654	$109,654	$109,654
b. Return on Value - Freight Cars	0	0	0	0	0
c. Holding Gains - Freight Cars	0	0	0	0	0
d. Net Off-br Costs (Ls. 6a+6b - 6c)	$108,259	$109,654	$109,654	$109,654	$109,654
7. Total Avoidable Costs (L. 5o + L. 6d)	$149,023	$508,874	$135,874	$288,374	$135,874
8. Rehabilitation	$0	$0	$1,685,000	$0	$1,685,000
9. Administrative Costs (Subsidy Year Only)	0	0	2,411	0	2,411
10. Casualty Reserve Account	0				0
11. Total Subsidization Cost (Ls. 8 thru 10)	$0	$0	$1,687,411	$0	$1,687,411
12. Valuation of Road Properties					
a. Working Capital	$0	$16,406	$1,078	$7,345	$1,078
b. Income Tax Consequences	0	0	0	0	0
c. Net Liquidation Value	0	10,824,008	10,912,644	776,508	776,508
d. Total (Ls. 12a thru 12c)	$0	$10,840,414	$10,913,722	$783,853	$777,586
13. Nominal Rate of Return		17.5%	17.5%	17.5%	17.5%
14. Nominal Return on Value (L. 12d x L. 13)	$0	$1,897,072	$1,909,901	$137,174	$136,077
15. Holding Gain (Loss)		$0	$0	$6,359	$6,359
16. Total Return on Value (L. 14 - L. 15)	$0	$1,897,072	$1,909,901	$130,815	$129,718
17. Avoidable (Loss) or Profit from Operations (L. 4 - l. 7)	$92,086	($267,765)	$105,235	($47,265)	$105,235
18. Avoidable (Loss) or Profit Including Return on Value (L.4 - Ls. 7&16)	$92,086	($2,164,837)	($1,804,666)	($178,080)	($24,483)

	Applicant's			STB Restated	
	Base Year Figures	Forecast Year Figures	Subsidy Year Figures	Forecast Year Figures	Subsidy Year Figures
19. Estimated Subsidy Payment (L.4 - Ls. 7, 11, & 16)	$92,086	($2,164,837)	($3,492,077)	($178,080)	($1,711,894)

Table II - Western Subsegment

	Applicant's			STB Restated	
	Base Year Figures	Forecast Year Figures	Subsidy Year Figures	Forecast Year Figures	Subsidy Year Figures
1. Freight Orig. and/or Term. on Branch	$196,478	$196,478	$196,478	$196,478	$196,478
2. Bridge Traffic	0	0	0	0	0
3. All Other Revenue and Income	12,300	12,300	12,300	12,300	12,300
4. Total Attributable Revenue (Ls. 1 thru 3)	$208,778	$208,778	$208,778	$208,778	$208,778
5. On-branch Costs:					
a. Maintenance-of-Way and Structures	$14,800	$122,000	$0	$78,100	$0
b. Maintenance-of-Equipment (Including Depreciation)	9,667	9,727	9,727	9,727	9,727
c. Transportation	10,981	11,122	11,122	11,122	11,122
d. General & Administrative	0	0	0	0	0
e. Deadheading, Taxi and Hotel	0	0	0	0	0
f. Overhead Movement	0	0	0	0	0
g. Freight Car Costs (Other Than Return)	505	512	512	512	512
h. Return on Value - Locomotives	0	0	0	0	0
i. Return on Value - Freight Cars	0	0	0	0	0
j. Revenue Taxes	0	0	0	0	0
k. Property Taxes	0	0	0	0	0
l. Total (Ls. 5a thru 5k)	$35,953	$143,361	$21,361	$99,461	$21,361
m. Holding Gains - Locomotives	0	0	0	0	0
n. Holding Gains (Loss) - Freight Cars	0	0	0	0	0
o. Net On-br Costs (Ls. 5l - 5m & 5n)	$35,953	$143,361	$21,361	$99,461	$21,361
6. Off-branch Costs:					
a. Off-Branch Costs (Other Than Return)	$99,231	$99,496	$99,496	$99,496	$99,496
b. Return on Value - Freight Cars	0	0	0	0	0
c. Holding Gains - Freight Cars	0	0	0	0	0
d. Net Off-br Costs (Ls. 6a+6b - 6c)	$99,231	$99,496	$99,496	$99,496	$99,496
7. Total Avoidable Costs (L. 5o + L. 6d)	$135,184	$242,857	$120,857	$198,957	$120,857
8. Rehabilitation	$0	$0	$875,900	$0	$875,900
9. Administrative Costs (Subsidy Year Only)	0	0	2,088	0	2,088
10. Casualty Reserve Account	0				0
11. Total Subsidization Cost (Ls. 8 thru 10)	$0	$0	$877,988	$0	$877,988
12. Valuation of Road Properties					
a. Working Capital	$0	$5,892	$878	$4,087	$878
b. Income Tax Consequences	0	0	0	0	0
c. Net Liquidation Value	0	7,108,717	7,136,234	418,717	418,717
d. Total (Ls. 12a thru 12c)	$0	$7,114,609	$7,137,112	$422,804	$419,595
13. Nominal Rate of Return		17.5%	17.5%	17.5%	17.5%
14. Nominal Return on Value (L. 12d x L. 13)	$0	$1,245,057	$1,248,995	$73,991	$73,429
15. Holding Gain (Loss)		$0	$0	$3,428	$3,428
16. Total Return on Value (L. 14 - L. 15)	$0	$1,245,057	$1,248,995	$70,563	$70,001
17. Avoidable (Loss) or Profit from Operations (L. 4 - l. 7)	$73,594	($34,079)	$87,921	$9,821	$87,921

	Applicant's			STB Restated	
	Base Year Figures	Forecast Year Figures	Subsidy Year Figures	Forecast Year Figures	Subsidy Year Figures
18. Avoidable (Loss) or Profit Including Return on Value (L.4 - Ls. 7&16)	$73,594	($1,279,136)	($1,161,074)	($60,742)	$17,920
19. Estimated Subsidy Payment (L.4 - Ls. 7, 11, & 16)	$73,594	($1,279,136)	($2,039,062)	($60,742)	($860,068)