

SURFACE TRANSPORTATION BOARD

DECISION

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

LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN MARQUETTE COUNTY, MI

Decided: July 21, 2005

By decision and notice of interim trail use or abandonment (NITU) served on January 19, 2005, the Board granted a petition for exemption filed by Lake Superior & Ishpeming Railroad Company (LS&I), for abandonment of a segment of a line of railroad known as the Republic Subdivision, extending from Humboldt Jct. (milepost 85.6) south approximately 8.9 miles to the end of the line at Republic Mine (milepost 94.5), in Marquette County, MI. A 180-day period was authorized for the Michigan Department of Natural Resources to negotiate an agreement with LS&I for interim trail use/rail banking.¹ The exemption was also made subject to environmental and standard employee protective conditions.

The environmental conditions imposed in the January 19 decision and notice required that LS&I: (1) notify the National Geodetic Survey 90 days prior to salvage activities to plan for the two identified geodetic station markers' potential removal; (2) be prohibited from salvaging or disposing of the right-of-way until consultations have been completed with the U.S. Fish and Wildlife Service-Marquette Office, the Michigan Department of Natural Resources, the U.S. Environmental Protection Agency, Region 5, and the Michigan Department of Environmental Quality, Water Division; (3) consult with the Republic Township Planning Commission prior to initiation of any salvage activities; and (4) consult with the Bay Mills Indian Community, the Keeweenaw Bay Indian Community, and the Sault Ste. Marie Tribe of Chippewa Indians regarding concerns of the presence of any traditional cultural properties, sacred sites, or other national register eligible properties prior to the institution of any salvage activities and if, during the course of salvage activities, any traditional cultural properties, sacred sites, or other national register eligible properties are inadvertently discovered, LS&I shall abide by the regulations as outlined at 36 CFR 800.13(b) of the National Historic Preservation Act.

¹ The Board also imposed a 180-day public use condition. The NITU negotiating period and the public use condition expired on July 18, 2005.

In a letter dated June 3, 2005, LS&I informed the Board's Section of Environmental Analysis (SEA) that it has consulted with the above three Native American tribes and has agreed to prepare a Salvage Operation Plan that satisfies tribal concerns with respect to objects or remains as outlined at 43 CFR Part 10. Specifically, the Salvage Operation Plan would provide that, in the event of an inadvertent discovery, LS&I will perform the following: (1) provide immediate notification, with written confirmation, to the responsible Federal agency official with the Board, the responsible state officials and law enforcement agencies, and the responsible Tribal officials of the three identified Federally recognized Indian tribes, and (2) stop all activity in the area of the inadvertent discovery and make a reasonable effort to protect the human remains, funerary objects, sacred objects, or objects of cultural patrimony discovered inadvertently.

SEA states that, pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the National Historic Preservation Act at 36 CFR 800, it has reviewed the proposed project and subsequent agreement and has determined that the abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. Therefore, based on the information provided, SEA recommends that the section 106 historic preservation condition be removed. Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.²

This action 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. Upon reconsideration, the section 106 historic preservation condition imposed in the January 19, 2005 decision and notice is removed.

² The other three environmental conditions imposed in the January 19, 2005 decision and notice remain in effect.

3. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary