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SERVICE DATE – NOVEMBER 23, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-364 (Sub-No. 4X)

MID-MICHIGAN RAILROAD, INC.–ABANDONMENT EXEMPTION–IN
KENT AND IONIA COUNTIES, MI

Decided: November 21, 2005

Mid-Michigan Railroad, Inc. (MMRR) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 5-mile line of its railroad between milepost 105.5, near Lowell, and milepost 110.5, at Elmdale, in Kent and Ionia Counties, MI. The notice was served and published in the Federal Register on May 26, 1999 (64 FR 28559-10).

By decision served June 24, 1999, the proceeding was reopened and made subject to the conditions that MMRR shall not conduct salvage operations until the requirements under section 7 of the Endangered Species Act, 16 U.S.C. 1531, have been completed and until the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers determine if permits are required under section 404 of the Clean Water Act, 33 U.S.C. 1344.¹

SEA states that the Michigan Department of Environmental Quality (MDEQ) and EPA have removed all objections to the abandonment provided that MMRR and its parent company RailAmerica (RA) abide by certain agreed-upon conditions to maintain the culverts in Kopf Creek on the line to be abandoned. In support, MDEQ submitted a letter dated October 18, 2005, and included a letter dated April 4, 2005, from MMRR and RA agreeing to assume full responsibility for all future maintenance of the culverts in Kopf Creek that are located on the line, and a guarantee that any future sale of the rail corridor will require the purchaser to assume the full responsibility for all maintenance of the culverts. SEA states that MMRR, RA, and MDEQ have negotiated a voluntary agreement, as recommended by EPA, that resolves all outstanding water quality issues. Therefore, based on the information provided, SEA

¹ On May 25, 1999, the North County Trail Association (NCTA) filed a request for issuance of a notice of interim trail use (NITU) for the entire line under the National Trails System Act, 16 U.S.C. 1247(d), and for a public use condition so that it could negotiate with MMRR for acquisition of the right-of-way for use as a recreational trail. In a June 24, 1999 decision, the proceeding was reopened, a 180-day public use condition was imposed, and MMRR was directed to inform the Board whether it was willing to negotiate for trail use with NCTA. On July 2, 1999, MMRR informed the Board that it was not willing to negotiate with NCTA for interim trail use. By decision served July 27, 1999, NCTA's request for issuance of a NITU was denied. The public use condition expired on December 22, 1999.

recommends that the section 404 condition be removed. Accordingly, the proceeding will be reopened and the previously imposed section 404 condition will be removed.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 404 condition imposed in the June 24, 1999 decision is removed.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary