

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**ENVIRONMENTAL ASSESSMENT**

NO. AB-68 (SUB-NO. 4X)

**Lake Superior & Ishpeming Railroad Company
Abandonment Exemption
In Marquette County, MI****BACKGROUND**

In this proceeding, Lake Superior & Ishpeming Railroad Company (LS&I) has filed a petition under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment and discontinuance of operations of rail line, located in Marquette County, Michigan. The rail line is approximately 8.9 miles long, from Humboldt Junction at milepost 86.5 to Republic Mine at milepost 94.5, and has been out of service for more than five (5) years. A map depicting the rail line in relationship to the area served is appended to the report. If the exemption becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances, and to dispose of the right-of-way.

On May 11, 2004, LS&I filed a petition seeking an exemption 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).

By decision served May 26, 2004, the Board's Director of the Office of Proceedings rejected the petition in its entirety. Because CN holds the majority interest in the first segment, the Director concluded that CN's absence as a party here meant that the agency could not process the abandonment authorization request as to that segment. And because petitioner sought abandonment authority for the entire 24.98 miles of railroad (all three segments), he further concluded that the request could not be processed as filed.

On June 15, 2004, LS&I filed a petition for reconsideration. By decision served on October 22, 2004, the Board found that reconsideration is warranted on grounds of changed circumstances. LS&I has demonstrated changed circumstances and seeks to withdraw two-thirds of its petition, and LS&I seeks to abandon only the third segment of the line.

DESCRIPTION OF THE LINE

In its Application, LS&I states that this rail line has been out of service for more than five (5) years. This rail line exclusively served the Humboldt and Republic Mines, both of which closed in 1981. LS&I's last shipment over this rail line consisted of tailings from the Republic Mine in October 1998. The terminus of this rail line is at Republic Mine and does not connect to any other rail lines. LS&I believes that there is no reasonable possibility for future development of new rail traffic over this rail line. Additionally, LS&I states that it does not believe that this rail line is suitable for alternative public use by rail carriers but it may be suitable for use as a recreational trail.

LS&I states that it has no knowledge of hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way (ROW).

If the abandonment is approved, LS&I states that it intends to salvage all rail, ties, and track materials as appropriate, but will leave the two bridges in place.

LS&I believes the abandonment, if approved, will enhance public health and safety by eliminating the 2 private and 7 public at-grade crossings.

There are a total of two (2) bridges located on the rail line proposed for abandonment that are 50 years old or older: 1) the Black River Bridge located at milepost 90.73 that was constructed in 1952, and 2) the Bruce Creek Bridge located at milepost 93.69 that was constructed in 1910. LS&I has indicated that both of the bridges are of pile and trestle construction and are of ordinary construction and therefore have no historic significance or value.

LS&I has stated that it believes this rail line is not suitable for alternative rail carriers but that it may be suitable for use as a recreational trail.

ENVIRONMENTAL REVIEW

The railroad has submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The railroad has served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules at 49 CFR 1105.7(b). We have investigated and reviewed the record in this proceeding.

Comments have been received from the following agencies stating that the proposed abandonment will result in no adverse impacts: U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Geodetic Survey; U.S. Department of Agriculture, Natural Resources Conservation Service, Michigan State Office; U.S. Department of Agriculture, Natural Resources Conservation Service, Marquette Office; Michigan Department of Environmental Quality,

Great Lakes Shorelands Section, Geological and Land Management Division; Michigan Department of Environmental Quality, Remediation and Redevelopment Division; City of Marquette; County of Marquette; State Department of History, Arts, and Libraries (SHPO); and the Humboldt Township Planning Commission.

Transportation

Because this rail line has been out of service for more than five years, SEA believes that there will be no adverse impact on transportation systems.

SEA notes that LS&I states that it will remove all nine (9), public and private, at-grade crossings located on the rail line proposed for abandonment.

Energy Consumption

Because this rail line has been out of service for more than five years, SEA believes that there will be no adverse impact on energy consumption.

Land Use

The City of Marquette, the County of Marquette, and the Humboldt Township Planning Commission have concluded that the abandonment, as proposed, will not result in any adverse effects.

The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), has determined that ROW transects 0.3 miles of prime or important farmland. However, the NRCS has indicated that any construction or conversion to another use, so long as it takes place within the existing ROW, would result in no adverse impact on prime agricultural farmland.

The NRCS has also concluded that the abandonment, as proposed, would not result in a negative effect on the timber industry as it relates to prime forest land.

The Republic Township Planning Commission has not yet completed its review.

As stated earlier, LS&I believes this rail line is not suitable for alternative rail carriers but that it may be suitable for use as a recreational trail.

The County of Marquette and the PCBM Management Company state that they support the development of the ROW into a recreational trail.

Air Quality

The Board has established air quality and noise level threshold levels set forth at 49 CFR 1105.7(e)(5)(ii) and (e)(6). These thresholds are guidelines that are considered, along with other

supporting information, to determine whether the air pollution and noise levels generated by rail traffic diverted to alternative modes warrant detailed analysis. The applicable threshold level for an attainment area when assessing air pollution is an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains per day on any segment of the rail line, or an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment.

Due to the fact that this rail line has been out of service for more than five years, SEA believes that the abandonment, as proposed, will not result in any adverse impacts to air quality.

Solid and Hazardous Waste

LS&I states that it has no knowledge of any hazardous waste sites or sites where there have been know hazardous material spills on the ROW.

The U.S. Environmental Protection Agency, Region 5 (U.S. EPA), states that removal and ultimate disposal of ballast and rails, if not recycled, should be handled in a manner consistent with applicable environmental regulations.

The U.S. EPA also states that per the July 3, 1984 Rebuttable Presumption Against Registration for three major wood preservatives under the Federal Insecticide, Fungicide, and Rodenticide Act, that wood treated with cresote should be buried in a non-hazardous waste landfill unless otherwise required by the State of Michigan.

The Michigan Department of Environmental Quality, Remediation and Redevelopment Division, states that it has no knowledge or information of environmental conditions on or adjacent to the ROW that would indicate that the abandonment, as proposed, would result in any adverse impact.

Biological Resources

The U.S. Fish and Wildlife Service (U.S. FWS) has indicated that two threatened species may be located within the proposed abandonment area: Gray wolf (*Canis lupus*) and the Canada lynx (*Lynx Canadensis*). To the knowledge of LS&I, there are no gray wolf dens in the area. In addition, Ms. Monica Joseph and Mr. Mike Koss, U.S. FWS, stated that the Gray Wolf is migratory while the Canada Lynx has a low density in the area

However, Mr. Brian Roell, Michigan Department of Natural Resources, and Ms. Christie Deloria-Sheffield, U.S. FWS, have indicated that they have not yet completed their review.

The U.S. Environmental Protection Agency, Region 5 (U.S. EPA), requests that any portion of the ROW that LS&I owns or intends to sell for alternative public or recreational trail use be revegetated with native flora following the removal of the ballast.

LS&I states that the proposed abandonment should not affect wildlife sanctuaries, refuges, National or State parks, or forests.

Water Resources

U.S. Environmental Protection Agency, Region 5 (U.S. EPA), and the Michigan Department of Environmental Quality, Water Division (MDEQ-WD), state that the rail line stream crossings have a significant potential to contribute sediment to waterbodies, other non-point source pollutants, and create fish migration problems if the crossings are not properly constructed or maintained. Furthermore, the U.S. EPA and the MDEQ-WD request that a complete rail line stream crossing survey of the proposed project be completed to identify water quality concerns and the need for rail line stream crossing maintenance prior to approving this proposed abandonment. The stream crossing survey may result in the need for corrective action on the part of LS&I to reduce water quality impairments and the survey should also be a part of any transfer in ownership of the property in question.

The U.S. EPA also states that LS&I should take all appropriate precautions with regard to the storing and refueling of construction equipment in areas away from water bodies, floodplains, or other sensitive habitats.

Cultural and Historic Resources

The National Geodetic Survey (NGS) has completed its review of the proposed abandonment and identified two (2) geodetic survey markers.

Additionally, in a letter dated May 6, 2004, the Michigan Department of History, Arts, and Libraries (SHPO) found that the abandonment, as proposed, will not result in any adverse impacts to historic structures. The SHPO further states that their review does not satisfy the STB's obligation to consult with the appropriate Indian Tribes and/or Tribal Historic Preservation Officers (THPO).

CONDITIONS

In response to the concerns expressed by U.S. Department of Commerce, National Geodetic Survey; U.S. Department of Interior, Fish and Wildlife Division, xx; U.S. Environmental Protection Agency, Region 5; Michigan Department of Natural Resources; Michigan Department of Environmental Quality, Water Division; and the Republic Township Planning Commission, we recommend that the following conditions be imposed on any decision granting abandonment authority.

- 1. Lake Superior & Ishpeming Railroad Company (LS&I) shall notify the U.S. Department of Commerce, National Geodetic Survey (NGS) prior to any salvage activities that will disturb or destroy any of the two (2) survey markers on the right-of-way. Therefore, we recommend, that LS&I consult with the NGS prior to undertaking any salvage operations. If salvage operations are expected to destroy or disturb any**

geodetic station markers LS&I shall notify the NGS in not less than ninety days prior to commencement of such operations.

2. The U.S. Fish and Wildlife Service, Marquette Office (U.S. FWS) and the Michigan Department of Natural Resources (MI-DNR) have completed their preliminary review of the proposed abandonment and have concerns regarding the threatened Gray Wolf (*Canis Lupus*) and the Canada Lynx (*Lynx canadensis*). Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting the Lake Superior & Ishpeming Railroad Company from salvaging or disposing of the right-of-way until consultation with the U.S FWS and MI-DNR has been completed.
3. The U.S. Environmental Protection Agency, Region 5 (U.S. EPA), has completed its review and requests that any portion of the ROW that the Lake Superior & Ishpeming Railroad Company (LS&I) owns or intends to sell for alternative public or recreational trail use first be revegetated with native flora following the removal of the ballast. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting LS&I from salvaging or disposing of the right-of-way until consultation with the U.S. EPA has been completed.
4. The U.S. Environmental Protection Agency, Region 5 (U.S. EPA), and the Michigan Department of Environmental Quality, Water Division (MDEQ-WD), have completed their review. Due to the potential for the stream crossings to contribute sediment, other non-point source pollutants, and to create barriers to fish migration, the U.S. EPA and MDEQ-WD request that the Lake Superior & Ishpeming Railroad Company (LS&I) complete a stream crossing survey. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting LS&I from salvaging or disposing of the right-of-way until consultation with the U.S EPA and the MDEQ-WD has been completed.
5. The U.S. Environmental Protection Agency, Region 5 (U.S. EPA), has completed its review and states that removal and disposal of ballast and rails, if not recycled, should be handled in a manner consistent with applicable environmental regulations. The U.S. EPA also states that wood treated with creosote should be buried in a non-hazardous waste landfill unless otherwise required by the State of Michigan. Therefore, we recommend that a condition be placed on any decision granting abandonment authority prohibiting Lake Superior & Ishpeming Railroad Company from salvaging or disposing of the right-of-way until consultation with the U.S EPA has been completed.
6. The Republic Township Planning Commission has not completed its review. Therefore, we recommend that Lake Superior & Ishpeming Railroad Company consult with the Township's Planning Commission prior to initiation of any salvage activities.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, and subject to the recommended mitigation measures, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

As stated earlier, LS&I believes this rail line is not suitable for alternative rail carriers but that it may be suitable for use as a recreational trail.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

The County of Marquette and the PCBM Management Company state that they support the development of the ROW into a recreational trail.

As stated earlier, LS&I believes this rail line is not suitable for alternative rail carriers but that it may be suitable for use as a recreational trail.

PUBLIC ASSISTANCE

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-

1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, you should send an **original and two copies** to Vernon A. Williams, Office of the Secretary, Washington, DC 20423, to the attention of Troy Brady, who prepared this environmental assessment. **Please refer to Docket No. AB- 68 (Sub No. 4X) in all correspondence addressed to the Board.** If you have questions regarding this environmental assessment, you should contact Troy Brady at (202) 565-1643.

Date made available to the public: **November 22, 2004.**

Comment due date: December 22, 2004. (30 Days)

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

APP-68 (SUC-100-90X)
ID NO. 3472.9

