

30407  
DO

SERVICE DATE - JULY 27, 1999

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: July 22, 1999

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). The exemption became effective on June 25, 1999.

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) (Trails Act), and for a public use condition so that it could negotiate with MMRR for acquisition of the right-of-way for use as a trail. NCTA submitted a statement indicating its willingness to assume full responsibility for management of, liability arising out of the transfer or use of, and liability for payment of taxes for, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to future reactivation for rail service. By decision served June 24, 1999, the proceeding was reopened and a 180-day public use condition was imposed at the request of NCTA. The condition required that MMRR leave the right-of-way intact, including bridges, culverts, and tunnels for a period of 180 days after the June 25, 1999 effective date of the exemption to permit NCTA and any other state or local government agency, or other interested person, to negotiate for acquisition of the line for public use.<sup>1</sup> The decision also stated that the NITU request would be addressed in a separate decision and directed MMRR to inform the Board within 10 days from the service date of the June 24 decision whether it is willing to negotiate for trail use.<sup>2</sup> By letter filed July 2, 1999, MMRR states that it is not willing to negotiate with NCTA for interim trail use. Because 16 U.S.C. 1247(d) permits only voluntary interim trail use, the Board cannot issue a NITU in this proceeding. See Rail Abandonment--Use of Rights-of-Way as Trails, 2 I.C.C.2d 591 (1986).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

---

<sup>1</sup> The public use condition will expire on December 22, 1999.

<sup>2</sup> The June 24, 1999 decision also imposed several environmental conditions.

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

It is ordered:

1. NCTA's request for issuance of a notice of interim trail use is denied.
2. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary