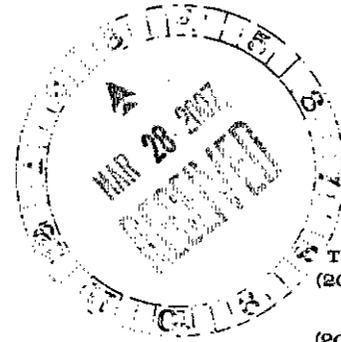


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March 28, 2007

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MAR 28 2007

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Public Record

BY HAND DELIVERY

The Hon. Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

FILE RECEIVED

Re: STB Docket No. AB-534 (Sub-No. 3X)
Lake State Railway Company
Abandonment Exemption – Rail
Line in Otsego County, Michigan

MAR 28 2007

SURFACE
TRANSPORTATION BOARD

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding please find an original and ten copies of the Verified Petition for Exemption of Lake State Railway Company regarding the abandonment of approximately 4.15 miles of rail line in the vicinity of Gaylord, Michigan. We also have enclosed electronic copies of this filing (as well as certain electronic materials related to the historic review and land value of the subject line) on three CD-ROMs, and have enclosed a check in the amount of \$5,300 to cover the applicable filing fee.

Finally, we have enclosed an additional copy of the petition to be date-stamped and returned to the bearer of this letter. Thank you for your attention to this matter.

Sincerely,

Andrew B. Kolesar III
An Attorney for Lake State
Railway Company

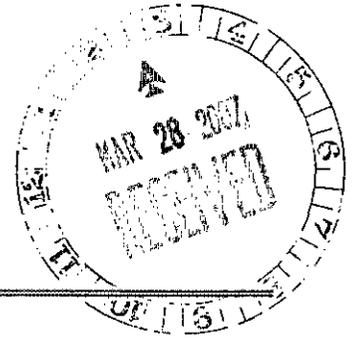
FILED

MAR 28 2007

SURFACE
TRANSPORTATION BOARD

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD



In the Matter of:)
)
)
LAKE STATE RAILWAY COMPANY –) Docket No. AB-534
ABANDONMENT EXEMPTION – RAIL) (Sub-No. 3X)
LINE IN OTSEGO COUNTY, MICHIGAN)
)

VERIFIED PETITION FOR EXEMPTION

Of Counsel:

Slover & Loftus
1224 Seventeenth St., N.W.
Washington, D.C. 20036
(202) 347-7170

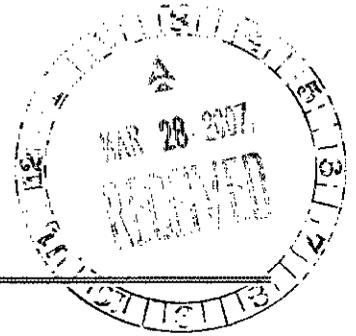
Dated: March 28, 2007

LAKE STATE RAILWAY COMPANY
750 North Washington Ave.
Saginaw, MI 48607

By: Kelvin J. Dowd
Andrew B. Kolesar III
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Attorneys and Practitioners

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



In the Matter of:)	
)	
)	
LAKE STATE RAILWAY COMPANY –)	Docket No. AB-534
ABANDONMENT EXEMPTION – RAIL)	(Sub-No. 3X)
LINE IN OTSEGO COUNTY, MICHIGAN)	
)	

VERIFIED PETITION FOR EXEMPTION

Pursuant to 49 U.S.C. § 10502 and the Board’s regulations set forth at 49 C.F.R. §§ 1121 and 1152.60, Lake State Railway Company (“Lake State”) hereby files this Verified Petition for Exemption from the prior approval requirements of 49 U.S.C. § 10903. This Petition for Exemption relates to the proposed abandonment of approximately 4.15 miles of underutilized and unprofitable rail line within Otsego County, Michigan. The line to be abandoned includes the northernmost portion of Lake State’s main line Mackinaw Subdivision extending from Milepost MP 116.8 (the point at which the Line crosses East McCoy Road) north to the dead end of the main line at Milepost MP 120.95 (the “Line”).

As Lake State will demonstrate, abandonment of the Line is appropriate because the current traffic and revenue levels on the Line cannot justify continued operation.¹ In addition, the significant opportunity cost associated with the Line also

¹ In support of this Petition, Lake State submits the Verified Statement of Mr. Wilford
(continued...)

militates in favor of abandonment. Exempt handling of this abandonment is warranted because each of the three criteria of 49 U.S.C. § 10502 is satisfied.

In accordance with the Board's regulations and in support of this Petition for Exemption, Lake State states as follows:

I. BACKGROUND

Lake State is a Class III railroad carrier operating in the state of Michigan. Lake State was formed in 1992 by former officers of the affiliated Central Michigan Railway Company ("CMR") and Detroit & Mackinac Railway Company ("D&M"). *See* Finance Docket No. 32012, *Lake State Ry. – Lease and Operation – Detroit and Mackinac Ry.*, Decision served Feb. 27, 1992 (authorizing Lake States' lease and operation of approximately 275 miles of railroad line – including the subject Line – owned by D&M in Michigan). In 1997, Lake State purchased this line from D&M. *See* Finance Docket No. 33372, *Lake State Ry. – Acquisition and Operation Exemption – Rail Lines of Detroit & Mackinac Ry.*, Notice of Exemption served March 28, 1997.

II. PROCEDURAL INFORMATION

Lake State provides the following information in accordance with 49 C.F.R. § 1152.22.

¹(...continued)
Gamble ("Gamble V.S."), set forth in Exhibit No. 1.

A. Exact Name of Petitioner
49 C.F.R. § 1152.22(a)(1)

The exact name of the petitioner is Lake State Railway Company.

B. Common Carrier Status
49 C.F.R. § 1152.22(a)(2)

Lake State is a Class III common carrier by railroad subject to 49 U.S.C.

Subtitle IV, chapter 105.

C. Relief Sought
49 C.F.R. § 1152.22(a)(3)

Lake State seeks authority to abandon the Line.

D. Detailed Map
49 C.F.R. § 1152.22(a)(4)

See Exhibit No. 2, attached hereto.

E. Reasons for Seeking Abandonment
49 C.F.R. § 1152.22(a)(6)

Lake State seeks authority to abandon the Line as the result of insufficient traffic levels on the Line itself. Abandonment also will permit Lake State to rationalize its system in an area in which Lake State provides service over a new rail spur.

Lake State provides service to only four shippers on the Line. These shippers receive only inbound deliveries, and there is no overhead traffic on the Line. In

2006, Lake State moved only 142 carloads of traffic to these four shippers. As described in the attached Verified Statement of Mr. Gamble, Lake State's Vice President – Operations, the costs of providing service over the Line exceed the revenues associated with these operations. In addition, Mr. Gamble explains the deferred maintenance that is required on the Line, and Mr. Gamble addresses the opportunity costs associated with the track along the Line and the underlying right of way, which Lake State owns.

Beyond this condition of unprofitability as to the Line itself, there were two significant events that took place in 2006 regarding Lake State's service to the Gaylord, Michigan area that each also support the abandonment of the Line. The first significant event was the construction of a new rail spur in the area located immediately to the southwest of the city and the Line. *See Gamble V.S.* at 2. Specifically, Lake State Railway, State and local government entities constructed a 2.5-mile long spur track through the property of Georgia Pacific Wood to serve the scrap facility of A&L Iron. This spur branches off from Lake State's main line running north into Gaylord at a point immediately south of the southernmost part of the subject Line. Notably, the newly constructed spur intersects or adjoins to properties totaling over 1,200 acres for potential development on the southwestern outskirts of Gaylord.

The second significant event that took place in 2006 is the sudden loss of Lake State's largest volume shipper in the Gaylord area. Specifically, in May of 2006, the last large remaining customer in the general area of the Gaylord, i.e., Georgia Pacific

Wood, shut down its plant and terminated its employees. Through this closing, Lake State lost a substantial share of its traffic to the northernmost portion of its Mackinaw Subdivision (i.e., 507 carloads in 2005) in a single day. While this shipper was not located on the Line itself, its traffic nevertheless bore a large share of the costs associated with Lake State's operations to the northernmost portions of its Mackinaw Subdivision.

Significantly, of the four shippers that exist on the subject Line, three of those shippers currently transload their deliveries into trucks for ultimate delivery to their facilities in Gaylord. Each of those three shippers could perform the same transloading operation at a point along the newly constructed rail spur to the southwest of Gaylord. The fourth shipper on the Line, Northern Energy, Inc., uses the products that it receives at its facility along the Line, but this shipper accounts for only 30-40 carloads per year. Moreover, Northern Energy could transload its products to motor carriers at a point along the new spur as well.

Lake State respectfully submits that the loss of the Georgia Pacific Wood traffic would justify an abandonment far larger in scope than the subject abandonment (e.g., an abandonment of the entirety of Lake State's 33.99-miles of line north of Grayling, Michigan). However, as a result of contractual restrictions associated with the construction of the new spur, Lake State is proposing a far more limited abandonment in this Petition. In any event, projections of available traffic on the Line itself indicate that future revenues simply cannot meet anticipated costs.

The opportunity cost associated with maintaining common carrier service over the Line is also significant particularly insofar as Lake State owns the underlying right-of-way. The relevant resources could be put to much more effective use elsewhere on the Lake State system. Following execution of the abandonment authorization sought in this proceeding, Lake State will remove the track and salvage (or scrap) its component parts to the extent consistent with environmental considerations relevant to the area.

F. Identity of Petitioner's Representative
49 C.F.R. § 1152.22(a)(7)

Andrew B. Kolesar III
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

G. List of All ZIP Codes Traversed
49 C.F.R. § 1152.22(a)(8)

The Line traverses United States Postal Service ZIP Code 49735.

H. Condition of Properties
49 C.F.R. § 1152.22(b)

The Line requires considerable deferred maintenance to restore it to FRA Class I operating requirements. As described in the Verified Statement of Mr. Gamble, Lake State has obtained a third-party estimate of the costs associated with restoring the

Line to Class I condition. *See* Gamble V.S. at 12 and Attachment WG-3. This estimate suggests that the costs of rehabilitating the Line would be over \$489,000. *Id.*

I. Service Provided
49 C.F.R. § 1152.22(e)

Lake State provides service to Gaylord in general, and to the Line in particular, three times per week. Trains are operated with a single locomotive (and five to twenty cars), and the average crew size for trains operating on the Line is two (2) crewmen. The commodities which Lake State currently transports over the Line include sand, lubrication oils, and miscellaneous chemicals. All of this traffic is received in interchange at Bay City, Michigan and terminates on the Line. No traffic originates on the Line.

J. Revenue/Cost Data
49 C.F.R. § 1152.22(d)

Due to the fact that Lake State seeks exempt handling of this abandonment, it has not prepared a detailed analysis of the information called for in § 1152.22(d). Nevertheless, Lake State can confirm that revenues from the Line will not cover its costs. Mr. Gamble describes the Line's revenues and costs in his attached Verified Statement. Mr. Gamble's statement also addresses the opportunity costs associated with the continued operation of the Line.

K. Description of Community
49 C.F.R. § 1152.22(e)(1)

The Line is located within the City of Gaylord, Otsego County, Michigan.

The population of Gaylord is approximately 4,000.

L. Identification of Significant Users
49 C.F.R. § 1152.22(e)(2)

There are only four companies that have used the Line in the last four years:

- (1) Superior Well Services
614 Expressway Court
Gaylord, MI 49735

Receives sand (no outbound products)

Carloads: 2003 = 0
2004 = 0
2005 = 5
2006 = 9

- (2) Halliburton
P.O. Box 519
Kalkaska, MI 49646

Receives sand (no outbound products)

Carloads: 2003 = 38
2004 = 88
2005 = 97
2006 = 85

- (3) Northern Energy, Inc.
231 South Indiana Avenue
Gaylord, MI 49735

Receives lubrication oils and miscellaneous chemicals
(no outbound products)

Carloads: 2003 = 0
2004 = 24
2005 = 37
2006 = 41

- (4) Magnum Solvents Inc.
470 Magnum Drive NE
P.O. Box 1041
Kalkaska, Michigan 49646

Carloads: 2003 = 0
2004 = 9
2005 = 6
2006 = 7

Receives triethylene and PTSM chloride (no outbound products)

M. Alternate Sources of Transportation
49 C.F.R. § 1152.22(e)(3)

As is indicated in the attached statement of Wil Gamble, three of the four active shippers on the Line currently transload all of the deliveries that they receive from Lake State into trucks for delivery to their final destination in the vicinity of Gaylord. Gamble V.S. at 2. Consequently, it would be possible for each of these shippers to receive deliveries from Lake State at another point on Lake State's system, including points located along the rail spur to the southwest of Gaylord that was constructed in

2006. In fact, as the articles referenced by Mr. Gamble in his statement indicate, these shippers expect to experience little or no adverse impact from the proposed abandonment.

Id. at Attachment WG-1.

While the fourth shipper on the Line, i.e., Northern Energy, Inc. does not transload its deliveries to a point off the Line, it nevertheless would be possible for the Northern Energy to utilize the new Gaylord spur to establish a transloading operation for final delivery of its products.

The highway system in and around Gaylord is adequate to permit the delivery of the limited traffic currently received by Lake State's customers in their transloading operations, and likewise is adequate to permit the delivery of the incremental Northern Energy traffic that currently ships by rail directly to destination.

N. Suitability of Right-of-Way
49 C.F.R. § 1152.22(e)(4)

Upon information and belief, the right-of-way underlying the Line is suitable for use for other public purposes. This right-of-way varies from 25 to 100 feet wide. This right-of-way is owned by Lake State.

O. Environmental/Historic Impact
49 C.F.R. §§ 1121.3 and 1152.22(f)

See Exhibit No. 3 (Environmental Report and responses thereto), Exhibit No. 4 (Historic Report and response thereto), and Exhibit No. 5 (Certificate of Service regarding draft report), attached hereto.

To date, Lake State has received responses to a draft of its Environmental Report from three entities. As indicated, those responses are included within Exhibit No.

3. The following is a summary of those responses:

(1) The Fish and Wildlife Service of the United States Department of the Interior responded on January 11, 2007, stating that they “do not have any concerns regarding real estate matters in the abandonment.”

(2) The United States Department of Agriculture responded on January 17, 2007, stating that “if there is no new conversion of agricultural lands associated with this rail line abandonment in Otsego County, Michigan, then the exemption should be granted.” The Department further stated that “[a]s the DER is written, no new conversion of agricultural lands is anticipated.”

(3) On March 12, 2007, the National Geodetic Survey (“NGS”) responded that there are no geodetic survey marks located in the area described. NGS further stated that “[i]f marks will be disturbed by the abandonment, NGS requests 90-day advance notice to attempt their formal relocation.”

In addition to these Environmental responses, Lake State received a response to its draft Historic Report from the Staff of the Michigan State Historic Preservation Officer (“SHPO”) requesting the submission of historic information in a form that does not correspond to the form established in the Board’s regulations. *See* Exhibit No. 4. Based upon conversations with the Michigan SHPO staff and with the Board’s staff, Lake State submitted historic information to the Michigan SHPO in the prescribed format. This submission to the Michigan SHPO is included within Exhibit No. 4 hereto and in the electronic materials submitted with this filing.

P. Passenger Service
49 C.F.R. § 1152.22(g)

Passenger service has not been conducted on the Line since the 1950s.

Q. Federal Register Notice
49 C.F.R. § 1152.60(e)

See Exhibit No. 6, attached hereto.

R. Certificate of Compliance
with Service Requirements of
49 C.F.R. § 1152.60(d)

The required certification is set forth at Exhibit No. 7 to this Petition for Exemption. In accordance with 49 C.F.R. § 1152.60(d), Lake State states that based on information in its possession, the Line does not contain federally granted right-of-way.

Lake State will make any documentation in its possession available promptly to those requesting it.

S. Certificate of Compliance with Publication Requirements of 49 C.F.R. § 1105.12

The required certification (Exhibit No. 8) and newspaper notice (Exhibit No. 9) are attached to this Petition for Exemption.

T. Labor Protection

Lake State understands that in exempting a proposed abandonment, the Board does not relieve a carrier of its statutory obligation to protect the interests of employees. *See* 49 U.S.C. § 10903(b)(2) and 49 C.F.R. § 1121.4(f). Lake State confirms that no employee of any railroad will be adversely affected by the abandonment of the Line. To the extent the Board deems it legally necessary to prescribe labor protection conditions, however, the conditions imposed should be those established pursuant to *Oregon Short Line R.R. Co. -- Abandonment -- Goshen*, 360 I.C.C. 91 (1979).

U. Verification
49 C.F.R. § 1152.22(j)

The required verification is attached hereto.

III. ABANDONMENT OF THE LINE SHOULD BE EXEMPTED FROM PRIOR APPROVAL REQUIREMENTS

In the ordinary course, Lake State's abandonment of the Line could not be effected without prior approval of the Board under 49 U.S.C. § 10903. Pursuant to 49 U.S.C. § 10502, however, the Board is directed to exempt a transaction or service (such as an abandonment) from regulation if it is found that (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101; and (2) either (A) the transaction or service is of limited scope, or (B) regulation is not needed to protect shippers from the abuse of market power.

Lake State respectfully submits that all prerequisites for exemption relief under 49 U.S.C. § 10502 are present in this case.

A. Detailed Scrutiny of the Abandonment Is Not Necessary to Further National Transportation Policy Goals

Detailed scrutiny of Lake State's proposed abandonment is not necessary to carry out the National Transportation Policy goals of 49 U.S.C. § 10101 because abandonment of the Line will foster the following goals of the National Transportation Policy.

Abandonment of the Line will allow Lake State to exit the transportation market in an area where there is limited opportunity for future business. As a result, the abandonment will allow Lake State to concentrate its resources on the portions of its system which hold commercial promise. 49 U.S.C. § 10101(7). In turn, allowing Lake

State to apply its assets more productively elsewhere (because maintenance and operating expenses for the Line will be avoided) will foster sound economic conditions and encourage efficient management. 49 U.S.C. §§ 10101(3), (5) and (9). Further, administrative expenses will be minimized by the Board's consideration of Lake State's abandonment of the Line under exemption procedures by decreasing regulatory control and expediting the Board's regulatory decisions. 49 U.S.C. § 10101(2). See Docket No. AB-367 (Sub-No. 2X), *Georgia Central Ry. – Abandonment Exemption – Rail Line in Chatham County, GA*, Decision served September 17, 1999; Docket No. AB-1 (Sub-No. 179X), *Chicago and North Western Transp. Co. – Abandonment Exemption – In Kossuth County, IA*, Decision served July 19, 1985.

Because Lake State has demonstrated its expertise and success in the rail industry, an exemption which allows Lake State to abandon its unused track will enhance the continuation of a sound rail transportation system and will promote efficient management. See 49 U.S.C. §§ 10101(4), (5) and (9). Other goals of the National Rail Transportation Policy are not adversely affected. Cf. Docket No. AB-402, *Fox Valley & Western Ltd. – Abandonment Exemption – In Portage and Waupaca Counties, WI*, Decision served June 7, 1995. Finally, abandonment of the Line will not operate to the detriment of the public health or safety. 49 U.S.C. § 10101(8).

Accordingly, under these circumstances, the first prong of the statutory test of 49 U.S.C. § 10502 should be deemed to be satisfied.

B. The Transaction Is Limited In Scope

The proposed abandonment is limited in scope. The Line is only 4.15 miles long, is located within the limits of one county, and is a small portion of Lake State's overall system. Further, Lake State's operations over the Line have also been very limited in scope. During the past four years, Lake State has served only four customers on the Line. If operations were to continue, Lake State would be faced with limited rail traffic, and substantial on-going losses. Abandonments with circumstances similar to those here present have been routinely granted by the Board and the Commission. *See, e.g.,* Docket No. AB-290 (Sub-No. 123X), *Norfolk Southern Railway Company – Abandonment Exemption – In Franklin, Marion, and Winston Counties, AL*, Decision served May 3, 1993, at 5 (stating that “the transaction is limited in scope because the proposed abandonment involves only 33 miles of rail line and no through service is currently provided on the line”); Docket No. AB-6 (Sub-No. 337X), *Burlington Northern Railroad Company – Abandonment Exemption – In Floyd, Hale and Lubbock Counties, TX*, Decision served March 27, 1992, at 2 (stating that “because the proposed abandonment affects only four shippers with minimal traffic levels, the transaction is of limited scope”); Docket No. AB-6 (Sub-No. 338X), *Burlington Northern Railroad Company – Abandonment Exemption – In Collingsworth and Childress Counties, TX*, Decision served February 6, 1992, at 4 (“the transaction is of limited scope because it involves a 30.81 mile line with only two recent shippers offering very little traffic”).

C. Detailed Scrutiny of the Transaction
Is Not Needed to Protect Shippers From
Abuse of Market Power

Because the instant abandonment meets the “limited scope” test of 49 U.S.C. § 10502(a)(2)(A), it is not necessary to consider whether scrutiny of the matter under the formal procedures of Section 10903 is necessary to protect shippers from abuse of railroad market power. Assuming that such consideration is appropriate, however, the proposed abandonment of the Line does not threaten shippers with reductions in available, competitive alternatives, or otherwise expose them to market power abuse.

The principal reason why the abandonment poses no competitive threat is that the shippers on the line can use alternative service to transport their products. *See* Docket No. AB-367 (Sub-No. 2X), *Georgia Central Ry., supra*, Decision served September 17, 1999 at 5 (“The record establishes that alternative truck and water carrier services are available . . .”). Where few, if any, shippers utilize the line, and they have adequate alternatives, or do not oppose the abandonment, potential abuse of market power is not a meaningful concern. *See* Docket No. AB-290 (Sub-No. 123X), *Norfolk Southern Railway Company – Abandonment Exemption – In Franklin, Marion, and Winston Counties, AL*, Decision served May 3, 1995, at 5; Docket No. AB-375X, *Lake Erie, Franklin and Clarion County Railroad Company – Abandonment Exemption – In Clarion and Jefferson Counties, PA*, Decision served September 17, 1992, at 2 (stating that “. . . regulation is not necessary to protect shippers from the abuse of market power, since the

shippers on the line appear to have adequate transportation alternatives. The shippers were served with copies of the petition and they have not objected to the exemption.”).

Lake State submits that the proposed abandonment is not a transaction with market power abuse implications as no substantial anticompetitive or adverse effects on shippers will result from the abandonment of the Line.

D. Summary

The Line is now and is projected to remain in a condition of unprofitability. Under the circumstances here present, Lake State’s abandonment of the Line is fully consistent with the goals of the National Rail Transportation Policy. The transaction is limited in scope, and no shipper faces a threat of market power abuse as a result of the abandonment. Since the criteria of Section 10502(a) have been met, Lake State’s exemption petition should be granted.

CONCLUSION

For all the reasons set forth herein, Lake State respectfully requests that the Board exercise its authority under Section 10502 to exempt Lake State's proposed abandonment of from the prior approval requirements of 49 U.S.C. § 10903.

Respectfully submitted,

Lake State Railway Company
750 North Washington Ave.
Saginaw, MI 48607

OF COUNSEL:

SLOVER & LOFTUS
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

By: Kelvin J. Dowd
Andrew B. Kolesar III 
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Date: March 28, 2007

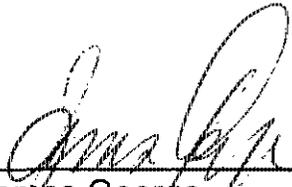
Attorneys for Lake State
Railway Company

VERIFICATION

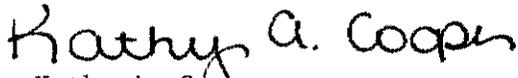
County of Iosco)
)
)
)
)
State of Michigan)

ss:

James George, President and Chief Executive Officer of Lake State Railway Company, being duly sworn, deposes and says that he has been authorized by Lake State Railway Company to verify and file with the Surface Transportation Board the foregoing Petition for Abandonment Exemption in Docket No. AB-534 (Sub-No. 3X); that he has carefully examined all of the statements in the application as well as the exhibits attached thereto and made a part thereof; that he has knowledge of the facts and matters relied upon in the Petition, including but not limited to all cost and revenue projections; and that all representations set forth therein are true and correct to the best of his knowledge, information, and belief.


James George

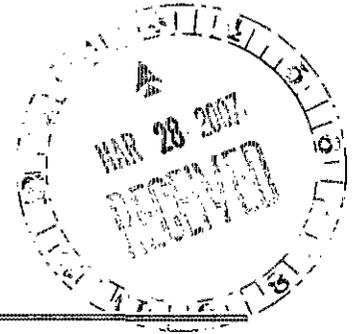
Subscribed and sworn to
before me this 23rd day
of March, 2007


Kathy A. Cooper
Notary Public in and for the
County of Iosco, State of
Michigan

KATHY A. COOPER
Notary Public, Iosco County, MI
My Commission Expires Feb. 24, 2008

My Commission Expires: _____

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



In the Matter of:)	
)	
LAKE STATE RAILWAY COMPANY –)	Docket No. AB-534
ABANDONMENT EXEMPTION – RAIL)	(Sub-No. 3X)
LINE IN OTSEGO COUNTY, MICHIGAN)	
)	

**VERIFIED STATEMENT OF
WILFORD GAMBLE**

My name is Wil Gamble. I am the Vice President – Operations for Lake State Railway Company (“Lake State”). The purpose of this statement is to provide some background regarding the circumstances that have led Lake State to file its accompanying Petition for Exemption and to advise the Board of the historic and projected revenues for the subject Line. In addition, I will address the revenues and costs associated with the Line, including: (i) Lake State’s operating and maintenance costs; (ii) the rehabilitation costs associated with restoring the Line to Class I condition; and (iii) the opportunity costs associated with the continued operation of the Line.

I. Background

The subject line was built in the 1870’s by the J. L. & S. R.R. Co. to provide passenger and freight service to individuals and companies between Saginaw and Mackinaw City, Michigan. Over the years, the line was incorporated into larger

carriers ending with the Penn Central which sold the line to the Detroit and Mackinaw. The D&M operated it for freight service only until the late 1980's when the line was abandoned north from Gaylord to Mackinaw City, Michigan due to the loss of traffic from Proctor & Gamble and the abandonment of the Straits Car Ferry operation across the Straits of Mackinaw. In 1992, Lake State Railway acquired the right to operate and subsequently purchased the existing line segment.

In early 2006, the last large remaining customer, Georgia Pacific Wood, closed its plant in Gaylord. During this same time frame, Lake State Railway, State and local government entities constructed a 2.5-mile long spur track through the Georgia Pacific property to serve A&L Iron, which is a scrap facility south of the city. This spur branches off from Lake State's main line running north into Gaylord at a point immediately south of the southernmost part of the subject Line. The north line, which is the subject of the contemplated abandonment exemption petition, has limited, if any, possibility for increased traffic due to site availability. The newly constructed spur, however, intersects or adjoins to properties totaling over 1,200 acres for potential development.

A substantial portion of the commodities currently shipping via the Line (i.e., approximately 75% of the 120 to 150 annual carloads, three of the four active shippers) is transloaded to trucks for ultimate delivery within the Gaylord, Michigan area. The result of the abandonment of the Line therefore simply would be to relocate

the point at which this transloading from rail to trucks currently occurs. As to the remaining carloads which currently do not rely upon truckload service for ultimate delivery, the abandonment could result in the diversion of these carloads (less than 40 per year in recent years) to truckload service for ultimate delivery.

Lake State has been active in communicating with its Gaylord customers regarding this proposed abandonment, and has consistently explained that Lake State intends to preserve its presence in the Gaylord area through its service over the A&L spur. This has included a number of meetings and written communications with the interested parties. In fact, the minimal impact of the proposed abandonment on those customers on the Line who currently utilize a transloading service has been noted in the local press. I have attached copies of two articles regarding the abandonment in Attachment WG-1 that suggest that the abandonment would have a “minimal” effect.

One other background item is worth addressing at this point. Specifically, in March of 2006, upon the closure of the Georgia Pacific facility, we imposed a \$300 per carload surcharge on all traffic moving into Gaylord in an effort to help offset some of the cost impact associated with the closing. Notably, a number of customers on the Line declined to pay this surcharge, and in some cases, insisted that the surcharge be paid by the originating shipper of the products that they received. To date, Lake State has not received any surcharge payments related to the traffic moving to Northern Energy, Inc.,

which is the only customer on the Line that does not transload its Gaylord products into trucks for subsequent transportation.

II. Revenues

In the recent past, there have been four active shippers on the Line. These include Superior Well Services, Halliburton, Northern Energy, Inc., and Magnum Solvents. Each of these shippers receives goods on the Line that we receive in interchange at Bay City, Michigan.

Recent carload and revenue levels for traffic terminating on the Line are as follows:

<u>Shipper</u>	Carloads		
	<u>2004</u>	<u>2005</u>	<u>2006</u>
Superior Well Service	0	5	9
Halliburton	88	97	85
Northern Energy	24	37	41
Magnum Solvents	9	6	7
	—	—	—
Total:	121	145	142

	Revenue		
<u>Shipper</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Superior Well Service	—	\$ 3,477	\$11,621
Halliburton	\$67,985	\$84,639	\$93,944
Northern Energy	\$16,578	\$36,322	\$44,586
Magnum Solvents	\$11,352	\$ 6,129	\$ 8,881
	—————	—————	—————
Total:	\$95,915	\$130,567	\$159,032

Of course, the revenues that are associated with the traffic that terminates on the Line are attributable to Lake State's entire service from its point of receipt in Bay City, Michigan to Gaylord. The distance from Bay City to the northernmost point of the Line is 120.99 miles. Thus, the share of these revenues that is directly related to service over the 4.15-mile Line is only a small fraction of the total for each year. Moreover, since the substantial majority of the traffic on the Line is currently transloaded to motor carrier service (and could receive service at points along the new Lake State spur in Gaylord), Lake State would continue to receive revenues for its service to Gaylord even if the Board were to permit abandonment of the Line.

III. Avoidable Costs Associated with the Line

In order to determine the avoidable costs associated with the Line, I have calculated both the Line's operating costs and its maintenance costs.

A. Operating Costs

During Lake State's operation of the Line, train service generally has been available three days per week. Trains on the Line are operated with a single locomotive (and five to twenty cars), and the crew size for trains operating on the Line is two (2) crewmen. All of the traffic on the Line is received in interchange at Bay City, Michigan and terminates on the Line, and no traffic originates on the Line.

The Line's annual operating costs, based upon our actual experience and our 2005 costs (which are the most recent audited costs that we have available), are as follows:

<u>Item</u>	<u>Amount</u>
T&E Wages	\$48,733
Locomotive Fuel Costs	\$38,911
M/E Locomotives	\$ 7,926
Administrative	\$12,308
Indirect T&E Costs	\$ 5,091

Total	\$112,969

1. T&E Wages

In 2005, Lake State's cost for trainmen was \$26.03 per hour, including wages and associated fringes (e.g., insurance, medical, etc.). Service on the Line required a total of eighteen hours each per week (6 hours per trip for each of three trips). Our standard crew make-up is two individuals per train. This results in a total cost of

\$48,733 per year ($\26.03 per hour \times 2 crew members \times 18 hours per week \times 52 weeks per year = \$48,733 per year).

2. Locomotive Fuel Costs

On average, Lake State locomotives consumed 120 gallons of fuel per trip (i.e., 360 gallons per week) to the Line in 2005. We paid an average of \$2.0786 per gallon for diesel fuel in 2005. (120 gallons per trip \times 3 trips per week \times 52 weeks \times \$2.0786 per gallon = \$38,911 per year).

3. M/E Locomotives

In order to determine the Line's attributable share of our annual locomotive maintenance cost, I started with Lake State's 2005 total maintenance of equipment cost of \$1,185,582. From that total, I have subtracted the cost of car repair materials (\$104,206) and car repair labor (\$235,750) to yield a net locomotive maintenance cost of \$845,626. Based on fifteen (15) locomotives in service, and a locomotive availability factor of 76%, I determined Lake State's 2005 locomotive cost per hour of \$8.47. Multiplying this figure by 18 hours of service per week on the Line and 52 weeks per year results in a total M/E Locomotives cost for the Line of \$7,926.

4. Administrative

In order to calculate an attributable share of Lake State's administrative costs, I determined our total administrative costs (\$1,453,561), then calculated a cost per car load on the system ($\$1,453,561/17,125$ system car loads = \$84.88 per car), then

multiplied that cost by the number of car loads (145) on the Line in 2005. The result of this calculation is an attributable administrative cost for the Line of \$12,308 ($\84.88 per car load x 145 car loads = \$12,308).

5. Indirect T&E Costs

In order to calculate an attributable share of the indirect costs associated with T&E operations on the Lake State system (*e.g.*, the costs associated with a road foreman, a track supervisor, liability insurance, safety shoes, lanterns, etc.), I have started with Lake State's 2005 total transportation cost (\$3,365,066), then removed the following costs from the total: (i) car hire of \$468,249; (ii) wages & fringes of \$1,194,223; and (iii) fuel cost of \$1,101,361 to yield a net additional cost of \$601,233. I divided this total by the number of car loads on our system (17,125) and then multiplied that per car load figure ($\$601,233/17,125 = \35.11 per car load) by the number of car loads on the Line (145) to yield an attributable cost for the Line of \$5,091 ($\35.11×145 car loads = \$5,091).

B. Maintenance Costs

In addition to these operating costs, there are considerable annual maintenance costs that would be associated with keeping the Line in Class I condition. I have developed an estimate of these costs from Lake State's maintenance records:

<u>Item</u>	<u>Amount</u>
M/W Wages Patrolling	\$12,319
M/W Wages Snow Removal	\$51,454

Total:	\$63,773

The total maintenance cost on the Line is \$67,773. Given the 4.15 mile length of the Line, these costs yields an annual maintenance expense of approximately \$15,367 per mile. This figure is somewhat high because of the extensive snow removal work that is required on the Line. This results from the significant snowfall in the Gaylord area, and from the fact that the right-of-way for the Line is used as a snow-mobile path. Notably, the grooming devices used to prepare that path routinely plow snow near or onto the track itself. This plowing then forces Lake State to devote substantial additional labor and equipment hours to clearing the tracks during the winter months.

I have calculated the Line's maintenance costs using the following methods. First, with respect to the maintenance-of-way patrolling cost, I have calculated both the labor and the equipment cost associated with weekly inspection and maintenance of the Line by a two-person crew composed of a MOW foreman and a MOW laborer. This work requires 2.5 hours per day for the two-person crew with a combined labor cost of \$42.12 per hour (i.e., a \$22.69 wage and benefits cost per hour for the MOW foreman and a \$19.44 wage and benefits cost per hour for the MOW

laborer) and an equipment cost of \$131.60 per day for a HiRail Truck. The total labor cost for maintenance-of-way patrolling is \$42.12 per hour x 2.5 hours per day x 1 day per week x 52 weeks per year or \$5,476. The total equipment cost for maintenance-of-way patrolling is \$131.60 per day x 1 day per week x 52 weeks per year or \$6,843. The combined labor and equipment cost for snow removal on the Line is \$12,319.

Second, with respect to the snow removal cost, I have calculated both the labor and the equipment cost associated with snow removal occurring three times per week for sixteen weeks per year. This work requires six hours per day for a two-person crew with a combined labor cost of \$42.12 per hour (*i.e.*, a \$22.69 wage and benefits cost per hour for a MOW foreman and a \$19.44 wage and benefits cost per hour for a MOW laborer) and an equipment cost of \$819.22 per day (\$131.60 per day for a HiRail Truck; \$201.02 per day for a Back Hoe and \$486.60 per day for a Regulator). The total labor cost for snow removal is \$42.12 per hour x 6 hours per day x 3 days per week x 16 weeks per year or \$12,131. The total equipment cost for snow removal is \$819.22 per day x 3 days per week x 16 weeks per year or \$39,323. The combined labor and equipment cost for snow removal on the Line is \$51,454.

* * *

Adding the operating and maintenance cost components together yields an annual, direct avoidable cost of \$176,742.

III. Opportunity Costs

In addition to the foregoing operating/maintenance costs, there are significant opportunity costs associated with the Line that also militate in favor of abandonment. These costs include both the value of the underlying right-of-way, which Lake State owns, and the value of the rail making up the Line. In the aggregate, we have calculated a net value for the Line and the track assets of \$1,086,464.

This figure is based upon the following railroad asset and land values: (i) a \$540,000 value for the 90 lb. track itself (772 tons at \$700 per ton) which we would use on other portions of our system rather than purchasing re-lay rail for our needs; (ii) a \$30,000 value for the five switches on the Line (5 switches x \$6,000 per switch); (iii) a \$74,000 value for the signal at the route M-32 crossing on the Line; and (iv) a \$661,800 value for 77 acres of land constituting the Line's right-of-way (based on comparable land sales in the vicinity of the Line as shown in Attachment WG-2 and in the electronic materials submitted with this filing). These four asset categories generate a gross value of \$1,306,200.

From this total, we have subtracted: (i) the \$133,760 cost of landfill disposal (and associated transportation to the landfill) for the Line's 13,376 ties (13,376 ties x \$10 per tie); (ii) the \$35,000 cost of crossing restoration for the Line; (iii) the \$36,480 cost of labor for the various salvage and restoration projects (1,920 hours at \$19 per hour); and an equipment cost of \$14,496 (240 hours for a Backhoe at \$17.89 per

hour, 240 hours each for two Hi-Rail Trucks at \$12.31 per hour, and 240 hours for a Crane at \$17.89 per hour). This total offset amount is \$219,736.

Reducing the gross asset value by the cost of these offsets yields a net value of the Line of \$1,086,464 (*i.e.*, \$1,306,200 - \$219,736).

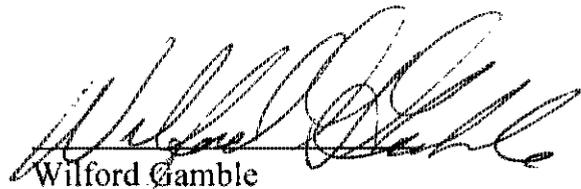
IV. Rehabilitation Costs

Currently, the Line is in a condition that does not meet FRA Class I standards. In conjunction with this proceeding, we retained an independent inspection firm, Armond Cassil Railroad Construction, Inc. to Warren, Michigan, to evaluate the condition of the track. As the report attached as Attachment WG-3 indicates, Armond Cassil determined that the Line was in substantial disrepair, requiring over \$489,000 of work to restore to Class I condition. The largest components of this work relate to tie replacement.

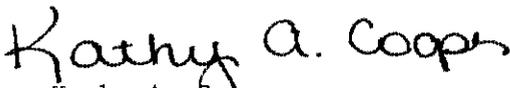
VERIFICATION

County of Iosco)
)
) ss:
)
State of Michigan)

Wilford Gamble, Vice President – Operations for Lake State Railway Company, being duly sworn, deposes and says that he has read the foregoing Verified Statement, knows the contents thereof, and that all representations set forth therein are true and correct to the best of his knowledge, information, and belief.


Wilford Gamble

Subscribed and sworn to
before me this 23rd day
of March, 2007


Kathy A. Cooper

Notary Public in and for the
County of Iosco, State of
Michigan

KATHY A. COOPER
Notary Public, Iosco County, MI
My Commission Expires Feb. 24, 2008

My Commission Expires: _____



Attachment WG-1

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Gaylord railway users say abandonment 'isn't helpful to ... local businesses'

Several parties commented on the potential effect of closing down the rail line:

"It isn't helpful to our local businesses. These are companies that serve a key base industry (oil) in our community ... and this affects their ability to serve that industry," said Jeff Ratcliffe, executive director of the Otsego County Economic Alliance. Ratcliffe also stated that railways are key to the transportation infrastructure like the airports and highways. "We need to keep the railway viable for our future growth and development. Once rail is gone, it's gone," he added.

"Personally it's not going to hurt us," said operations manager Mike Benner of Superior Well Service (SWS), who called the possible closure's effect "minimal" on his company. Currently, SWS receives about 20 cars annually via the rail carrying about 4 million pounds of sand. According to Benner, SWS already brings in about 80 percent of its sand by truck and the only significant impact would be felt because the company spent between \$40,000 and \$50,000 on silos in 2004 located to access the railway through property leased by SWS until 2008. Benner did not

have an estimate of the lease costs.

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"That's a concern we had when Georgia-Pacific left," said state Rep. Kevin Elsenheimer, R-Bellaire. "One of the reasons this property is so attractive is the fact that it has rail service in addition to being so close to an airport and so close to I-75."

According to Elsenheimer, the track closing could make it more difficult to keep jobs in the area. He declined further comment until he has time to talk some of the parties involved as he saw the letter sent to various Michigan government officials by the city for the first time on Monday at the Herald Times.

"I know there are businesses that are negatively affected by this (potential) change. Fortunately, we are not," said Roe Leisman, operations manager for Magnum Solvents. He said the company can truck the chemicals currently brought in on about 12 railcars per year in Gaylord from a location in Kalkaska.

Leisman explained Magnum Solvents operates an unmanned chemical storage facility on Old 27 and costs of bringing in the chemicals from Kalkaska would be about the same as the company had been trucking half the chemicals from Gaylord to Kalkaska. Now the process will be reversed causing what he termed "a minor inconvenience."

According to the letter sent to various Michigan government officials by the city, Northern Energy shared several concerns with city officials regarding the potential closing. The letter states that Northern Energy, a lubricant distributor which employs approximately 35 people from around Otsego County, receives 90 percent of its lubricants via rail and recently added a 6,000-square-foot warehouse. Closure of the railway would potentially lead to a 36- to 40-cent increase in charges to supply translating to a cost increase of between \$360,000 and \$400,000 annually and those costs may make continuing

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business difficult.

Calls to Northern Energy representatives and as well as to a Haliburton representative were not immediately returned.

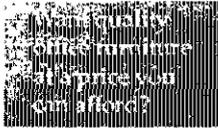
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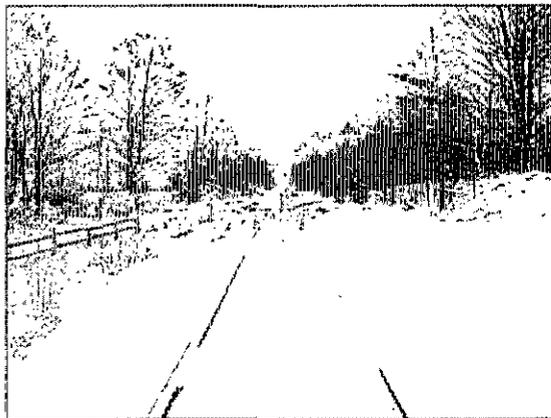
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Business News

01/09/2007



Record-Eagle/Shen McWhirter
 The end of the track through Gaylord is located just after Superior Well Service.

End of the line looms

BY SHERI MCWHIRTER
sherimcwhirter@hotmail.com

GAYLORD — A downstate railroad company may abandon its northernmost stretch of track that runs through Gaylord, potentially cutting off several businesses from that mode of transport.

Lake State Railway Co. intends to close down a nearly five-mile stretch of railroad track from south of Gaylord running north through the city.

"We have three customers on the line and winter months with the snow make maintenance costs higher than they should be. The track is old," said Will Gamble, vice president of operations for the Saginaw-based railroad company.

The train infrastructure was first built in 1887 and updated in 1929, he said.

"We don't want to lose the area, but it's a matter of high maintenance costs on that section," Gamble said. He added there's a chance the company will keep the line running but that it's not likely.

One of the businesses that stands to be affected is Superior Well Service, which does cement and fracturing work on oil and natural gas wells across the region. Operations Manager Mike Benner said the company hauls sand for oil fields on the railway.

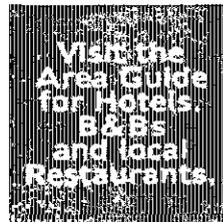
The potential loss of the track won't mean the loss of any of the 40 jobs at the company, but it will mean a financial hit, he said.

"We usually run about 400,000 pounds a month, which would be two cars, so it's not a lot," Benner said. "The rail is cheaper, but the truck is more reliable."

Another downfall is the silos the company built two years ago to store sand

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Ratcliffe said officials will work with the railroad company and the affected businesses to either maintain the tracks or relocate them.

Gaylord City Manager Joe Duff said other businesses hang more in the balance, including an energy company with 35 employees, which gets 90 percent of its volume of lubricants via rail.

Local officials asked state leaders to help find money to relocate the affected businesses, Duff said.

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Attachment WG-2

Land value for the City of Gaylord's 4.2 miles of right of way which is being considered for abandonment was arrived in the following method.

Section 1: Grandview Road to McCoy Road

Area: 12 acres

Value: @ \$ 4,200 per acre = \$50,400

Section 2: Second Street to Grandview Road

Area: 7 acres

Value: @ \$ 6,500 per acre = \$ 45,500

Section 3: Main Street (M-32) to Second Street

Area: 1.79 acres (Front Footage 100')

Value: @ \$ 2,100 per foot = \$ 210,000

Section 4: Main Street (M-32) to Mitchell Street (First Street)

Area: 1.29 acres (Front Footage 131')

Value: @ \$ 1,800 per foot = \$ 235,800

Section 5: Mitchell Street (First Street) to Fairview Street

Area: 11 acres

Value: @ \$ 6,100 per acre = \$ 67,100

Section 6: Fairview Road and End of line (MP-121)

Area: 22 acres

Value: @ \$ 2,400 per acre = \$ 52,800

Total Approximate Acres = 77

Estimated Value = \$ 661,800

Attachment WG-3

Armond Cassil Railroad Construction, Inc.
 6403 Rinke Street
 Warren, MI 48091
 (586) 754-4200 Voice
 (586) 754-4408 Fax



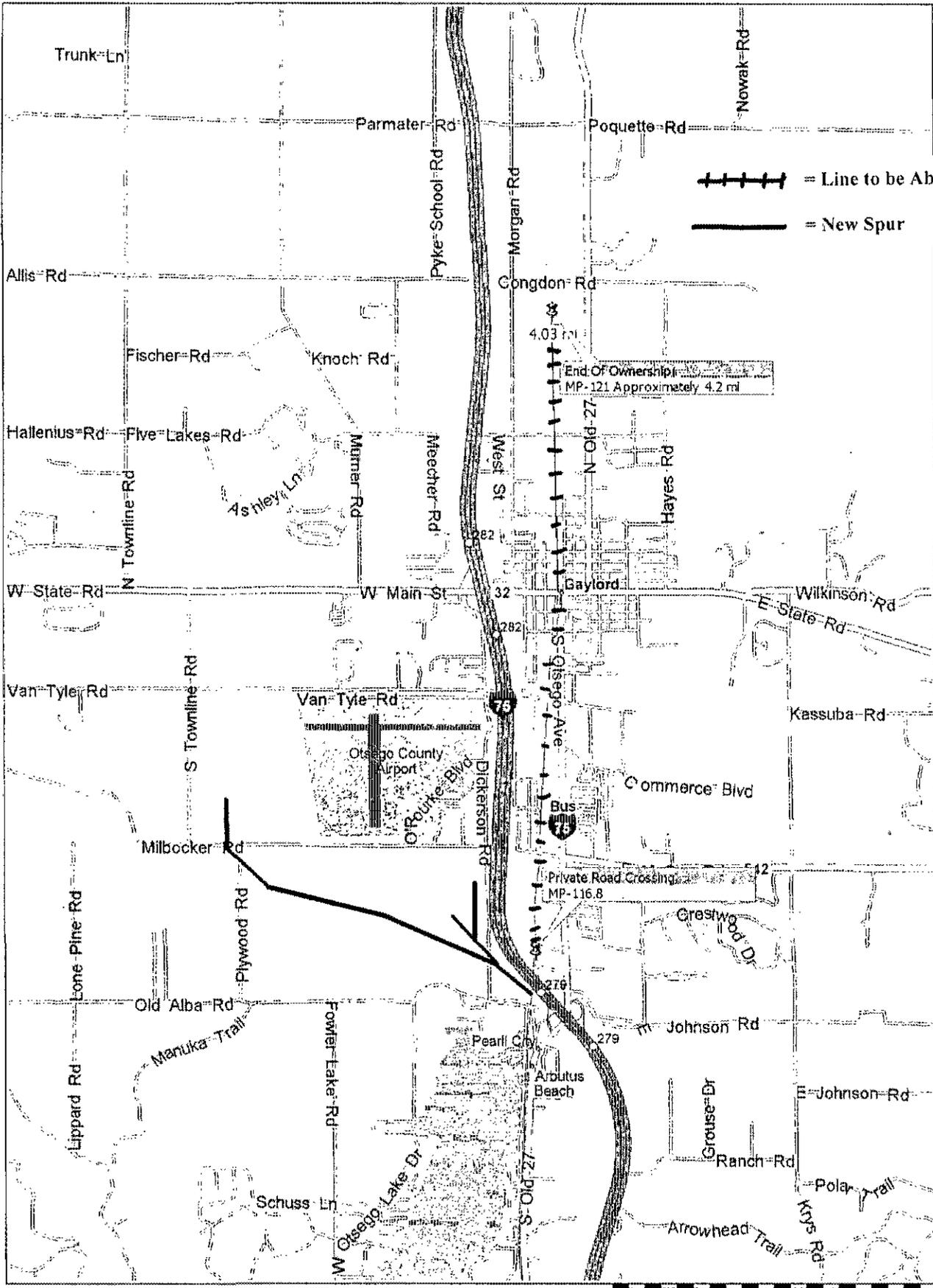
Fax

To: Mr. Jim Ancel **From:** David A. Maga
Company: Lake State Railway Company **Pages:** One (1) including cover
Fax: 1-989-757-2134 **Date:** March 2, 2007
Subject: Estimated cost of Class 1 rehab of 4.15 miles of Track through the Gaylord, Michigan area owned by Lake State Railway Company.

DESCRIPTION	EST QUANT	UNIT	EST UNIT PRICE	EST TOTAL PRICES
MOBILIZATION	1	LS	\$22,695.93	\$22,695.93
BALLAST #4	1,257	TON	\$25.30	\$31,802.10
TIE, 7"	3,000	EA	\$56.28	\$168,840.00
TIE, INSTALL	3,000	EA	\$32.46	\$97,380.00
TIE BUTT REMOVAL	1	LS	\$4,839.93	\$4,839.93
TIE DISPOSAL	3,000	EA	\$7.74	\$23,220.00
TIE PLATE, SS	10	EA	\$3.44	\$34.40
TIE PLATE, DS	1,000	EA	\$15.60	\$15,600.00
TRACK BOLT UNIT	500	UNIT	\$11.85	\$5,925.00
JOINT BAR, 105#	10	SET	\$35.61	\$356.10
RAIL ANCHOR, 105#	18,152	EA	\$2.38	\$43,201.76
TRACK, SURFACE AND ALIGN	26,400	TFT	\$1.40	\$36,960.00
RAIL REPLACEMENT, 105#, IK	726	FT	\$34.82	\$25,279.32
TRACK BOLTS, TIGHTEN	1	LS	\$7,854.18	\$7,854.18
TRACK, GAUGING	1,000	TFT	\$5.98	\$5,980.00
			ESTIMATED	\$489,968.72

Please note that this is an estimate only.
 Price may increase based on material pricing and availability at time of performance.
 There is no Railroad protective Insurance, Owner's protective insurance or
 Performance and payment bond costs in this estimate.

Copy of Gaylord, Michigan, United States



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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

In the Matter of:

LAKE STATE RAILWAY COMPANY –
ABANDONMENT EXEMPTION – RAIL
LINE IN OTSEGO COUNTY, MICHIGAN

}
} Docket No. AB-534
} (Sub-No. 3X)
}

ENVIRONMENTAL REPORT

Of Counsel:

Slover & Loftus
1224 Seventeenth St., N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: March 28, 2007

LAKE STATE RAILWAY COMPANY
211 Newman Street
East Tawas, MI 48730

By: Kelvin J. Dowd
Andrew B. Kolesar III
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Attorneys and Practitioners

**ENVIRONMENTAL REPORT ON THE
PROPOSED EXEMPT ABANDONMENT BY
LAKE STATE RAILWAY COMPANY
OF ITS RAIL LINE LOCATED IN
OTSEGO COUNTY, MICHIGAN**

This environmental report has been prepared by Lake State Railway Company ("Lake State"), in compliance with the Board's regulations set forth at 49 C.F.R. Part 1105.7. The sections of this report are numbered in the same sequence as the information requests set forth at 49 C.F.R. Part 1105.7(e).

- (1) Proposed action and alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Pursuant to a Petition for Exemption to be filed under 49 C.F.R. Part 1152.60, Lake State proposes to abandon approximately 4.15 miles of its rail line in the City of Gaylord, Otsego County, Michigan. The line to be abandoned includes the northernmost portion of Lake State's main line Mackinaw Subdivision extending from Milepost MP 116.8 (the point at which the Line crosses East McCoy Road) north to the dead end of the main line at Milepost MP 120.95 (the "Line").

The Line is used to transport sand to two customers, lubricating oil to one customer, and both PSTM chloride and triethylene to one customer. None of the four active shippers on the Line originates any traffic. Lake State generally has provided service on the Line three days per week.

The Line's two customers receiving inbound shipments of sand (Halliburton and Superior Well Service) and the Line's single shipper of inbound PSTM chloride and triethylene (Magnum Solvents) currently transload their inbound rail shipments to trucks in order to deliver their products to their ultimate destination. If the

Board were to grant Lake State's petition regarding the abandonment of the Line, these customers would be able to transload their shipments to trucks at a point south of Milepost MP 116.8 or elsewhere along the Lake State system including points along the new industrial spur that Lake State owns in Gaylord, Michigan (see Attachment A). The single customer shipping lubricating oil on the Line (Northern Energy) receives that oil at its facility in downtown Gaylord. If the Board were to grant Lake State's petition regarding the abandonment of the Line, this customer would be required to relocate the point at which it receives lubricating oil, but again, Lake State's new industrial spur in Gaylord would be available for this unloading.

There are no historic structures on the Line. As for the rail, plates, and other track materials which will be released by the abandonment, Lake State intends either to use those items to repair other actively used segments of its lines, or sell the items for scrap value. Productive use of these assets will enhance service elsewhere.

Abandonment of the subject Line will positively impact Lake State as it will allow it to avoid the costs associated with maintenance of 4.15 miles of underutilized track.

- (2) Transportation system. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

As indicated previously, a substantial portion of the commodities currently shipping via the Line (i.e., approximately 75% of the 120 to 150 annual carloads) is transloaded to trucks for ultimate delivery within the Gaylord, Michigan area. The result of the abandonment of the Line therefore simply would be to relocate the point at which this transloading from rail to trucks currently occurs. As to the remaining carloads which currently do not rely upon truckload service for ultimate delivery, the abandonment could

result in the diversion of these carloads (on the order of 40 per year in recent years) to truckload service for ultimate delivery.

The abandonment also would reduce the number of trains moving through the downtown area in Gaylord, Michigan.

(3) Land use.

- (i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

Lake State anticipates that the proposed abandonment will have no discernible affect on existing land use, future land use, land use plans, or the land use planning process.

- (ii) Based upon consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

Lake State anticipates no effect on any prime agricultural land as a result of the abandonment.

- (iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.

To the best of Lake State's knowledge, the subject Line is not within a designated coastal zone; therefore, the proposed abandonment will have no impact.

- (iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

The right-of-way on which the subject Line is located may be suitable for trail or other, similar use.

(4) Energy.

- (i) Describe the effect of the proposed action on transportation of energy resources.

The proposed action will have no effect on the transportation of energy resources as Lake State has never transported such resources over the subject Line.

- (ii) Describe the effect of the proposed action on recyclable commodities.

Except to the extent that disposition of rail and ties may add to the pool of available recycled steel and/or ties, the proposed action should have no effect on the movement and/or recovery of recyclable commodities.

- (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

See Part 4(iv), below.

- (iv) If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in § 1105.7(e)(4)(iii) need not be supplied if the more detailed information in § 1105.7(e)(4)(iv) is required.

Given the existing use of truckload service to transport approximately 75% of the Line's annual traffic, the proposed abandonment will not cause diversions from present rail service to motor carriage in excess of the threshold levels.

(5) Air.

- (i) If the proposed action will result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains per day on any segment of rail line affected the proposal, or (B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) 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, quantify the anticipated effect on air emissions.

Lake State anticipates that the above thresholds will not be exceeded.

- (ii) If the proposed action affects a Class I or non-attainment area under the Clean Air Act, and will result in either: (A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains per day on any segment of the rail line, (B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.

Lake State anticipates that the above thresholds will not be exceeded.

- (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

The transportation of ozone depleting materials is not contemplated.

- (6) Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause: (i) An incremental increase in noise levels of three decibels Ldn or more; or (ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

The thresholds identified in item (5)(i) will not be surpassed, so this item is not applicable.

- (7) Safety.

- (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

There will be no adverse impact on public health and safety. In fact, as removal of the tracks, ties and other material also will eliminate several at-grade road crossings, public health and safety likely will be improved.

- (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

Currently, Lake State transports approximately six (6) carloads per year of triethylene on the Line, which can be considered to be a hazardous substance. Given that the proposed transaction is an abandonment, Lake State does not expect to transport hazardous materials as a result of the transaction.

- (iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

There are no known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way of the subject Line.

(8) Biological Resources.

- (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

Lake State is not aware of any critical habitat that would be destroyed or modified as a result of the abandonment, of any impact or adverse effects on any wildlife, nor of any endangered species that will be adversely affected.

- (ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

Lake State does not anticipate that the abandonment will have any effect on these areas.

(9) Water.

- (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

Lake State does not anticipate that the abandonment will be inconsistent with any Federal, State, and/or local water quality standards.

- (ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. §1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

No discernible effect on either wetlands or 100-year flood plains are expected in connection with the proposed abandonment. Further, the proposed abandonment does not implicate discharges of dredged or fill materials into the navigable waters of specified disposal sites under 33 U.S.C. § 1344. Consequently, Lake State does not believe that a Section 404 permit will be required.

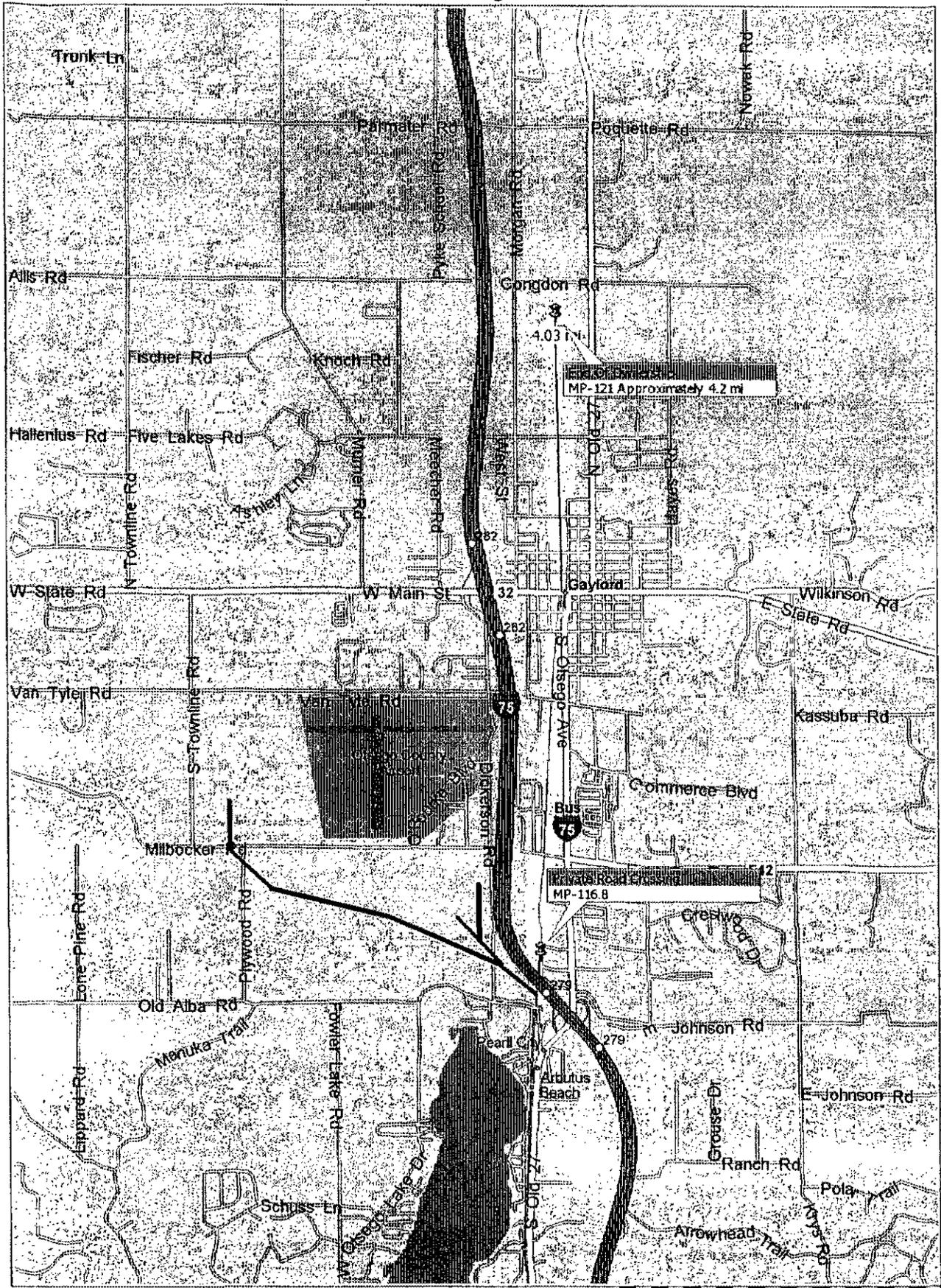
- (iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

The proposed abandonment does not implicate the discharge of any pollutant, or combination of pollutants, into navigable waters under 33 U.S.C. § 1342. Consequently, Lake State does not believe that a Section 402 permit will be required.

- (10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Lake State believes that there will be no adverse environmental impacts as a result of the proposed abandonment, and consequently, no mitigation is necessary or appropriate.

Copy of Gaylord, Michigan, United States



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United States Department of Agriculture



Helping People Help the Land

Natural Resources Conservation Service

3001 Coolidge Road, Suite 250

East Lansing, MI 48823

T (517) 324-5270/ F (517) 324-5171/ www.ml.nrcs.usda.gov

RECEIVED JAN 23 2007

January 17, 2007

Section of Environmental Analysis

Surface Transportation Board

Room 504

1925 K Street NW

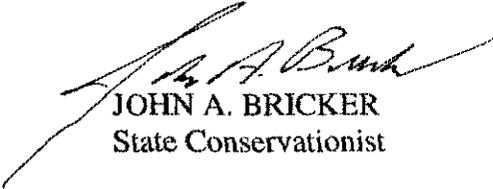
Washington, DC 20423

RE: Lake State Railway Company Abandonment Exemption – Rail Line in Otsego County, Michigan [(STB Docket No. AB-534 (Sub-No.3X)]

We have reviewed the Draft Environmental Report (DER) with respect to the abandonment proposed, the request for exemption and the effects that the loss of the rail line may have on prime farmland. Our opinion is that if there is no new conversion of agricultural lands associated with this rail line abandonment in Otsego County, Michigan, then the exemption should be granted. As the DER is written, no new conversion of agricultural lands is anticipated. Additionally, the line was not used to transport agriculturally related products from the area.

We appreciate this opportunity to comment.

Sincerely,



JOHN A. BRICKER
State Conservationist

cc:

Andrew B. Kolesar III, Slover & Loftus, 1224 Seventeenth St., N.W.,
Washington, D.C. 20036-3003

Aaron Lauster, Area Conservationist, NRCS, Grayling, MI

Jacque Korn, District Conservationist, NRCS, Gaylord, Michigan



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Bishop Henry Whipple Federal Building
1 Federal Drive
Fort Snelling, MN 55111-4056

IN REPLY REFER TO:

FWS/NWRS-RE - General
Railroad Abandonments

RECEIVED JAN 18 2007

January 11, 2007

Mr. Andrew B. Kolesar III
Slover & Loftus
Attorneys at Law
1224 Seventeenth Street, N.W.
Washington, D.C. 20036-3003

Dear Mr. Kolesar:

Thank you for the opportunity to comment on the proposed abandonment of approximately 4.15 miles of rail line in the vicinity of Gaylord, located in Otsego County, Michigan; STB Docket No. AB-534 (Sub-No. 3X) Lake State Railway Company.

We have researched our ownerships in the vicinity and have determined we do not own any lands or interests in land in the vicinity of the proposed rail line abandonment. We do not have any concerns regarding real estate matters in the abandonment.

Sincerely,

Patrick G. Carroll
Senior Realty Officer
Division of Realty

Andrew B. Kolesar

From: Simon Monroe [Simon.Monroe@noaa.gov]
Sent: Monday, March 12, 2007 2:48 PM
To: abk@sloverandloftus.com
Cc: Surface Transportation Board; National Society of Professional Surveyors; Gilbert Mitchell; Dave.Rigney@noaa.gov
Subject: [Fwd: [Fwd: NGS Response, STB Docket AB-534 (SUB NO. 3X)]]

Thank you for sharing your railroad abandonment environmental report for Otsego County, Gaylord, Michigan.

Approximately 00 geodetic survey marks may be located in the area described. If marks will be disturbed by the abandonment, NGS requests 90-day advance notice to attempt their formal relocation. These marks are described on the attached file. Additional advice is provided at <http://geodesy.noaa.gov/marks/railroads/>

Dist	PID...	H V	Vert_Source	Approx.	Approx..	Stab	Designation

- No Stations Found.-

**HISTORIC REPORT FOR THE
PROPOSED EXEMPT ABANDONMENT BY
LAKE STATE RAILWAY COMPANY
OF ITS RAIL LINE LOCATED IN
OTSEGO COUNTY, MICHIGAN**

Pursuant to a Petition for Exemption to be filed under 49 C.F.R. Part 1152.60, Lake State Railway Company ("Lake State") proposes to abandon approximately 4.15 miles of its rail line in the vicinity of Gaylord, Otsego County, Michigan. The sections of this historic report are numbered in the same sequence as the information requests set forth at 49 C.F.R. Part 1105.8.

I.

Contents Required by 49 U.S.C. § 1105.8(d)

- (1) Map. A U.S.G.S. topographical map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.

A scaled map of the subject line is appended hereto as Attachment A.

There are no railroad structures that are 50 years old or older along the line.

- (2) Description of the Right-of-Way. A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area.

The line to be abandoned includes the northernmost portion of Lake State's main line Mackinaw Subdivision extending from Milepost MP 116.8 (the point at which the Line crosses East McCoy Road) north to the dead end of the main line at Milepost MP 120.95. The underlying right-of-way is between 25 and 100 feet wide, and falls within the limits of Otsego County, Michigan. The total length of the track and right-of-way is 4.15 miles. The subject line traverses an urban area (i.e., Gaylord, Michigan).

- (3) Photographs of Structures. Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediate surrounding area.

There are no railroad structures on the subject line that are 50 years old or older.

- (4) Date(s) of Construction. The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known.

Not applicable.

- (5) History of Operations. A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.

The subject line was built in the 1870's by the J. L. & S. R.R. Co. to provide passenger and freight service to individuals and companies between Saginaw and Mackinaw City, Michigan. Over the years, the line was incorporated into larger carriers ending with the Penn Central which sold the line to the Detroit and Mackinaw. The D&M operated it for freight service only until the late 1980's when the line was abandoned north from Gaylord to Mackinaw City, Michigan due to the loss of traffic from Proctor & Gamble and the abandonment of the Straits Car Ferry operation across the Straits of Mackinaw. In 1992, Lake State Railway acquired the right to operate and subsequently purchased the existing line segment. In early 2006, the last large remaining customer, Georgia Pacific Wood, closed its plant in Gaylord. During this same time frame, Lake State Railway, State and local government entities constructed a 2.5 mile long spur track through the Georgia Pacific property to serve A&L Iron, which is a scrap facility south of the city. The north line which is the subject of the contemplated abandonment exemption petition has limited, if any, possibility for increased traffic due to site availability. The newly constructed spur intersects or is adjoins to properties

totaling over 1200 acres for potential development. The line currently services only four active shippers. Three of the four customers on the line use rail to truck transfers and could be relocated to a site on the newly constructed spur.

Following abandonment on the line, Lake State will remove the track and salvage (or scrap) its component parts.

- (6) Documents in Possession of Carrier. A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.

Lake State has in its possession Valuation Maps that document the line, and will retain them if and as necessary.

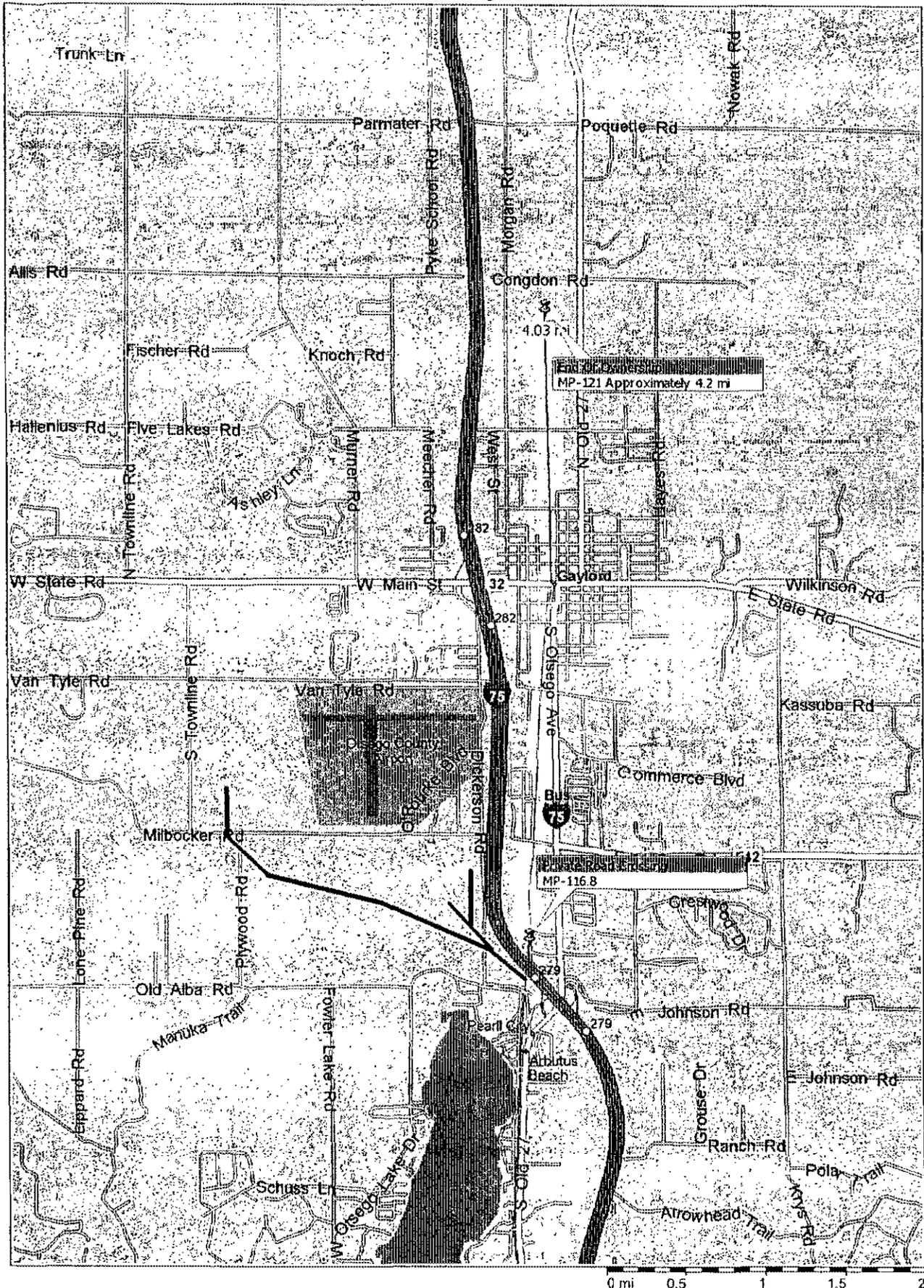
- (7) Historic Structures. An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Preservation Office, local historical societies or universities).

Lake State is of the opinion that no historic structures or structures available for listing as historic structures exist on the subject line. To the best of Lake State's knowledge, information and belief, the likelihood that there are archeological resources or any other previously unknown historic properties in the project area is very slim. These opinions are based on information in Lake State's possession, as well as information gleaned by Lake State personnel through the past conduct of rail operations.

- (8) Conditions Affecting Recovery of Resources. A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

To the best of Lake State's knowledge, information and belief, there are no known prior subsurface ground disturbance or fill, or environmental conditions (naturally occurring or man-made) that might affect archeological recovery of resources.

Copy of Gaylord, Michigan, United States





STATE OF MICHIGAN
DEPARTMENT OF HISTORY, ARTS AND LIBRARIES
LANSING



JENNIFER GRANHOLM
GOVERNOR

DR. WILLIAM ANDERSON
DIRECTOR

January 9, 2007

ANDREW B KOLESAR III
SLOVER & LOFTUS
1224 SEVENTEENTH STREET NW
WASHINGTON DC 20036-3003

Dear Mr. Kolesar:

The State Historic Preservation Officer (SHPO) received the information you submitted for review under Section 106 of the National Historic Preservation Act of 1966, as amended. The Section 106 regulations specify what is required for a Section 106 consultation [36 CFR § 800.11]. The information that you have sent is incomplete. The SHPO cannot initiate the Section 106 review process until we receive complete project information. We are therefore returning your project for resubmittal.

The SHPO receives approximately 3,500 projects for review annually. Consistency and accuracy in the information submitted is necessary to facilitate the timely review of these projects. For this reason, we cannot review projects that do not meet this standard and that do not provide us with adequate information in the required format.

The mandatory application form and instructions for submitting projects for review under Section 106 may be downloaded in MS Word format from our website at www.michigan.gov/shpo. Please read each requirement carefully in its respective field, and respond in full. In addition, please ensure that future project submissions will utilize the application form. Incomplete applications and projects not submitted on the application forms will be sent back to the applicant without comment.

Once the required information is received in full by the SHPO, we can proceed with the review. The Section 106 process for this project is not complete. If you have any questions, please contact the Environmental Review section of the SHPO at (517) 335-2721 or by e-mail at ER@michigan.gov.

Thank you for your cooperation.

Sincerely,

Brian G. Grennell
Environmental Review Assistant

for Brian D. Conway
State Historic Preservation Officer

Enclosure(s)

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
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OF COUNSEL
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WASHINGTON, D. C. 20036-3003



TELEPHONE:
(802) 347-7170
FAX:
(802) 347-3610

WRITER'S E-MAIL:
abk@sloverandloftus.com

March 26, 2007

Michigan State Historic Preservation Office
Environmental Review Office
Michigan Historical Center
702 W. Kalamazoo Street
P.O. Box 30740
Lansing, MI 48909-8240

Re: STB Docket No. AB-534 (Sub-No. 3X)
Lake State Railway Company
Abandonment Exemption – Rail
Line in Otsego County, Michigan

Dear Sir or Madam:

Enclosed please find an Application for Section 106 Review submitted in conjunction with Lake State Railway Company's proposed petition for exemption before the federal Surface Transportation Board regarding the abandonment of a 4.15-mile rail line in the vicinity of Gaylord, Michigan.

Sincerely,

A handwritten signature in black ink that reads "Andrew B. Kolesar III". The signature is written in a cursive style with a clear "III" at the end.

Andrew B. Kolesar III
An Attorney for Lake State
Railway Company

Enclosure

STATE HISTORIC PRESERVATION OFFICE
Application for Section 106 Review

SHPO Use Only				
<input type="checkbox"/> IN	Received Date	____/____/____	Log In Date	____/____/____
<input type="checkbox"/> OUT	Response Date	____/____/____	Log Out Date	____/____/____
	Sent Date	____/____/____		

Submit one copy for each project for which review is requested. This application is required. Please type. Applications must be complete for review to begin. Incomplete applications will be sent back to the applicant without comment. Send only the information and attachments requested on this application. Materials submitted for review cannot be returned. Due to limited resources we are unable to accept this application electronically.

I. GENERAL INFORMATION

- THIS IS A NEW SUBMITTAL THIS IS MORE INFORMATION RELATING TO ER#
- Funding Notice
 - Survey
 - MOA or PA
 - Other: Petition for Exemption to the Surface Transportation Board regarding the abandonment of rail line in Gaylord, Michigan

- a. Project Name: Surface Transportation Board Docket No. AB-534 (Sub-No. 3X), Lake State Railway Company – Abandonment Exemption – Rail Line in Otsego County, Michigan
- b. Project Address (if available): N/A
- c. Municipal Unit: City of Gaylord, Bagley and Livingston Townships County: Otsego
- d. Federal Agency and Contact (If you do not know the federal agency involved in your project please contact the party requiring you to apply for Section 106 review, not the SHPO, for this information.): Surface Transportation Board; Ms. Victoria Rutson, Chief, Section of Environmental Analysis (202-565-1545)
- e. State Agency and Contact (if applicable): N/A
- f. Consultant or Applicant Contact Information (if applicable): Andrew B. Kolesar III, Slover & Loftus, 1224 Seventeenth St., N.W., Washington, D.C. 20036 (202-347-7170)

II. GROUND DISTURBING ACTIVITY (INCLUDING EXCAVATION, GRADING, TREE REMOVALS, UTILITY INSTALLATION, ETC.)

DOES THIS PROJECT INVOLVE GROUND-DISTURBING ACTIVITY? YES NO (If no, proceed to section III.)

Exact project location must be submitted on a USGS Quad map (portions, photocopies of portions, and electronic USGS maps are acceptable as long as the location is clearly marked).

- a. USGS Quad Map Name:
- b. Township: Range: Section:
- c. Description of width, length and depth of proposed ground disturbing activity:
- d. Previous land use and disturbances:
- e. Current land use and conditions:
- f. Does the landowner know of any archaeological resources found on the property? YES
Please describe:

III. PROJECT WORK DESCRIPTION AND AREA OF POTENTIAL EFFECTS (APE)

Note: Every project has an APE.

- a. Provide a detailed written description of the project (plans, specifications, Environmental Impact Statements (EIS), Environmental Assessments (EA), etc. **cannot** be substituted for the written description): Lake State Railway Company seeks exemption authority from the Surface Transportation Board to abandon approximately 4.15 miles of its railroad line in Gaylord, Michigan. This line extends from the northernmost portion of Lake State's main line Mackinaw Subdivision extending from Milepost MP 116.8 (the point at which

the line crosses East McCoy Road) north to the dead end of the main line at Milepost MP 120.95. Upon receipt of abandonment authority from the Surface Transportation Board, Lake State will remove the rail track and ties present along the line, and will restore the street crossings along the line.

- b. Provide a localized map indicating the location of the project; road names must be included and legible.
- c. On the above-mentioned map, identify the APE.
- d. Provide a written description of the APE (physical, visual, auditory, and sociocultural), the steps taken to identify the APE, and the justification for the boundaries chosen. The APE for this project is the right-of-way for the line. Lake State has chosen that APE on the basis of guidance from the Surface Transportation Board. The right-of-way for the subject line varies between 25 feet wide and 100 feet wide, as indicated on the enclosed map. There are no historic properties, or any other properties, located in the APE. We have included a CD-ROM along with this submission that contains photographs of the Line with a key showing the locations, by milepost number, of the crossings from which the photographs were taken. In addition, we have provided a valuation map that reflects the right-of-way (APE) for the property to be abandoned.

IV. IDENTIFICATION OF HISTORIC PROPERTIES

- a. List and date **all** properties 50 years of age or older located in the APE. If the property is located within a National Register eligible, listed or local district it is only necessary to identify the district: None
 - b. Describe the steps taken to identify whether or not any **historic** properties exist in the APE and include the level of effort made to carry out such steps: There are no properties, historic or otherwise, that are located within the APE
 - c. Based on the information contained in "b", please choose one:
 Historic Properties Present in the APE
 No Historic Properties Present in the APE
 - d. Describe the condition, previous disturbance to, and history of any historic properties located in the APE: There are no historic properties, or any other properties, located in the APE
-

V. PHOTOGRAPHS

Note: All photographs must be keyed to a localized map.

- a. Provide photographs of the site itself.
 - b. Provide photographs of all properties 50 years of age or older located in the APE (faxed or photocopied photographs are not acceptable).
-

VI. DETERMINATION OF EFFECT

- No historic properties affected based on [36 CFR § 800.4(d)(1)], please provide the basis for this determination.
- No Adverse Effect [36 CFR § 800.5(b)] on historic properties, explain why the criteria of adverse effect, 36 CFR Part 800.5(a)(1), were found not applicable.
- Adverse Effect [36 CFR § 800.5(d)(2)] on historic properties, explain why the criteria of adverse effect, [36 CFR Part 800.5(a)(1)], were found applicable.

***Please print and mail completed form and required information to:
State Historic Preservation Office, Environmental Review Office, Michigan Historical Center, 702
W. Kalamazoo Street, P.O. Box 30740, Lansing, MI 48909-8240***

**CERTIFICATE OF COMPLIANCE WITH
REQUIREMENTS OF 49 C.F.R. § 1152.22(f)**

On behalf of Lake State Railway Company, and pursuant to 49 C.F.R. § 1152.22(f), the undersigned attorney hereby certifies that on the 4th day of January, 2007, draft versions of Lake State's Environmental and Historic Report were served, via first class mail, postage prepaid on the following entities/organizations (as listed in 49 C.F.R. § 1105.7(b)):

Environmental Report:

Michigan Department of Transportation
State Transportation Building
425 W. Ottawa Street
P.O. Box 30050
Lansing, MI 48909

Natural Resources Conservation Service
3001 Coolidge Road, Suite 250
East Lansing, MI 48823

Michigan Dept. of Environ. Quality
525 West Allegan Street
P.O. Box 30473
Lansing, MI 48909-7973

NGS Information Services, NOAA
N/NGS12
Nat'l Geodetic Survey SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Civil Works Office
U.S. Army Corps of Engineers
U.S. Army Engineer District, Detroit
P.O. Box 1027
Detroit, MI 48231-1027

Mr. John M. Burt
Otsego County Administrator
Otsego County-City Building
225 West Main
Gaylord, MI 49735

Ms. Mary A. Gade
Regional Administrator
U.S. Environmental Protection Agency
77 West Jackson Blvd.
Chicago, IL 60604

Regional Director
U.S. Fish and Wildlife Service
Federal Building
1 Federal Drive
Ft. Snelling, MN 55111

Mr. Ernie Quintana
Regional Director, Midwest Region
National Park Service
601 Riverfront Drive
Omaha, NE 68102-4226

Michigan Dept. of Natural Resources
Gaylord Operations Service Center
1732 West M-32
Gaylord, MI 49735

Historic Report:

Michigan State Historic Preservation
Office
Michigan Historical Center
P.O. Box 30740
702 W. Kalamazoo Street
Lansing, MI 48909-8240



Andrew B. Kolesar III
An Attorney for Lake State
Railway Company

Draft Federal Register Notice
49 C.F.R. § 1152.60(c)

STB No. AB-534 (Sub-No. 3X)

Notice of Petition for Exemption to Abandon Service

On March 28, 2007, Lake State Railway Company (“Lake State”) filed with the Surface Transportation Board, Washington, D.C. 20423-0001, a petition for exemption for the abandonment of approximately 4.15 miles of underutilized and unprofitable rail line within Otsego County, Michigan. The line to be abandoned includes the northernmost portion of Lake State’s main line Mackinaw Subdivision extending from Milepost MP 116.8 (the point at which the Line crosses East McCoy Road) north to the dead end of the main line at Milepost MP 120.95.

The line does not contain federally granted rights-of-way. Any documentation in the railroad’s possession will be made available promptly to those requesting it.

In interest of railroad employees will be protected by Oregon Short Line Railroad Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for public use condition and any request for trail use/rail banking will be due not later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board’s Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during

its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

**CERTIFICATE OF COMPLIANCE
WITH SERVICE REQUIREMENTS
OF 49 C.F.R. § 1152.60(d) AND
ADDITIONAL SERVICE OF THE PETITION**

On behalf of Lake State Railway Company, and pursuant to 49 C.F.R. § 1152.60(d), the undersigned attorney hereby certifies that on the 28th day of March, 2007, copies of this Petition for Exemption were served, via first class mail, postage prepaid on the following individuals and organizations:

Michigan Public Service Comm.
P.O. Box 30221
Lansing, MI 48909

Michigan Department of
Transportation
State Transportation Bldg.
425 W. Ottawa St.
Lansing, MI 48913

U.S. Department of Agriculture
Chief of the Forest Service
P.O. Box 96090
Washington, D.C. 20690-6090

U.S. Department of Defense
Military Traffic Mgt. Command
Transp. Engineering Agency
Railroads for National Defense
5611 Columbia Pike
Falls Church, VA 22041-5050

U.S. Department of Interior
National Park Service
Recreation Resources
Assistance Division
P.O. Box 37127
Washington, D.C. 20013-7127

and also were served, via first class mail, postage prepaid on all five of the companies that are located along the Line:

Superior Well Services
614 Expressway Court
Gaylord, MI 49735

Halliburton
P.O. Box 519
Kalkaska, MI 49646

Northern Energy, Inc.
231 South Indiana Avenue
Gaylord, MI 49735

Magnum Solvents Inc.
470 Magnum Drive NE
P.O. Box 1041
Kalkaska, Michigan 49646

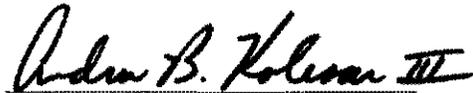
Wickes Lumber
1054 Old 27 North
Gaylord, Michigan 49734



Andrew B. Kolesar III
An Attorney for Lake State
Railway Company

**CERTIFICATE OF COMPLIANCE WITH PUBLICATION
REQUIREMENTS OF 49 C.F.R. § 1105.12**

On behalf of Lake State Railway Company, and pursuant to 49 C.F.R. § 1105.12, the undersigned attorney hereby certifies that on the 17th day of February, 2007, the newspaper notice attached hereto as Exhibit No. 9 was published in the Gaylord Herald Times, a newspaper of general circulation in Otsego County, Michigan, the county in which the Line is located.



Andrew B. Kolesar III
An Attorney for Lake State
Railway Company

PETITION FOR ABANDONMENT EXEMPTION

Lake State Railway Company ("Lake State") gives notice that on or about March 1, 2007, it intends to file with the Surface Transportation Board (the "Board"), Washington, D.C. 20423-0001, a Petition for Exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, permitting the abandonment of approximately 4.15 miles of its rail line in Otsego County, Michigan. The line to be abandoned includes the northernmost portion of Lake State's main line Mackinaw Subdivision extending from Milepost MP 116.8 (the point at which the Line crosses East McCoy Road) north to the dead end of the main line at Milepost MP 120.95. The line is located within United States Postal Service ZIP Code 49735. The proceeding in which Lake State's Petition will be filed has been docketed as AB-534 (Sub-No. 3X).

The Board's Section of Environmental Analysis ("SEA") will generally prepare an Environmental Assessment ("EA"), which will normally be available 60 days after the filing of the Petition for Abandonment Exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to SEA, Surface Transportation Board, 1925 K Street, N.W., Washington, D.C. 20423-0001 or by calling SEA at 202-565-1538.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street, N.W., Washington, D.C. 20423-0001 [See 49 C.F.R. 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 C.F.R. 1104.12(a)]. Questions regarding offers of financial assistance, public use, or trails use may be directed to the Board's Office of Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative: Andrew B. Kolesar III, Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, D.C. 20036.