STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING

GRETCHEN WHITMER
GOVERNOR

M. SCOTT BOWEN
DIRECTOR

November 15, 2026

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ENTERED
Office of Chief Counsel
November 18, 2026
Part of
Public Record

VIA E-FILING

Chief of Case Administration
Office of General Counsel
Surface Transportation Board
395 E Street, SW
Washington, DC 20024

Dear Chief of Case Administration:

SUBJECT: Lake State Railway Company – Abandonment Exemption – In Alpena and Presque Isle Counties, Michigan
Docket No. AB-534 (Sub-No. 2X)
Notice of Partial Termination of Notice of Interim Trail Use (image included)

This letter is being filed on behalf of the Michigan Department of Natural Resources (MDNR), the interim trail sponsor, in order to provide the Surface Transportation Board (Board) with notice that MDNR intends to terminate trail use on a portion of the right-of-way covered by the interim trail use agreement, as more fully described below.

By decision served May 22, 2000 (a copy of which is enclosed herewith), the Board issued a Notice of Interim Trail Use (NITU) to the MDNR as interim trail sponsor for the Lake State Railway Company (Lake State) approximately 37.55-mile rail line consisting of a portion of Lake State's Huron Subdivision (main line) between milepost 125.2 and milepost 151.25 and the entire Rogers City Branch (RCB) extending from the main line at milepost 141.8 ending at RCB milepost 11.5. By decision served April 22, 2004 (a copy of which is enclosed herewith), the Board, at the request of Lake State, clarified the RCB endpoint as milepost 12.7. On August 30, 2004, the MDNR and Lake State entered into a Railbanking Agreement for the RCB rail line.

The MDNR has, along with Lake State, decided to terminate trail use over the 4.7-mile portion of the RCB rail line between the end of the line at milepost 12.7 and milepost 8.0 (the Terminated Segment) as shown on the image enclosed herewith. The MDNR and Lake State will amend the Railbanking Agreement to exclude the Terminated Segment effective concurrently with the effective date that the Terminated Segment is vacated.

In accordance with ordering paragraph 4 of the May 22, 2000, decision, the MDNR gives notice of its intent to terminate trail use over the Terminated Segment and requests that the NITU for the Terminated Segment be vacated effective as of the later of (a) the date that the Board issues a replacement NITU for the remainder of the Rail Line between milepost 125.2 and milepost 151.25 and the entire RCB extending from the main line at milepost 141.8 ending at RCB milepost 8.0.

If there are any questions regarding this filing, please contact Roger Storm at 517-899-4203 or by email at StormR@Michigan.gov.

By signing below, I certify service by e-mail of a copy of this notice and request on counsel for Lake State and on other parties of record shown below.

Sincerely,

M. Scott Bowen,
Director, Michigan Department of Natural Resources

Enclosures

cc: Mr. Brady Smith, Lake State Railway Company
Mr. John Agnew, Lake State Railway Company
Ms. Angela Schwenk, Carmeuse
Ms. Shannon Lott, Natural Resources Deputy, MDNR
Ms. Kristin Phillips, Chief Administrative Officer, MDNR
Mr. Thomas Bissett, Chief, MDNR
Mr. Tim Novak, MDNR
Ms. Meghan Stevens, MDNR
Mr. Greg Kinser, MDNR
Mr. Roger Storm, MDNR

34654 SERVICE DATE - APRIL 22, 2004
DO

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-534 (Sub-No. 2X)

LAKE STATE RAILWAY COMPANY–ABANDONMENT EXEMPTION–IN ALPENA AND PRESQUE ISLE COUNTIES, MI

Decided: April 20, 2004

By decision and notice of interim trail use or abandonment (NITU) served on May 22, 2000, a 180-day period was authorized for the Michigan Department of Natural Resources (MIDNR) to negotiate an interim trail use/rail banking agreement with Lake State Railway Company (Lake State) for a portion of Lake State's Huron Subdivision (the main line) extending northward from the U.S. Highway 23 crossing in Alpena (milepost 125.2) to the end of the main line just north of Metz, MI (milepost 151.25), and Lake State's entire Rogers City Branch extending northward from a point on the main line at Posen, MI (milepost 141.8), to Rogers City, MI, ending at RCB milepost 11.5, a distance of 37.55 miles, in Alpena and Presque Isle Counties, MI. The 180-day period under the NITU was extended by decisions served on November 17, 2000, May 4, 2001, December 18, 2001, May 17, 2002, November 8, 2002, May 23, 2003, and November 10, 2003. The latest extension is scheduled to expire on May 1, 2004.

In the May 23, 2003 decision, the NITU negotiating period was extended, at the request of Lake State, only for the portion of Lake State's Huron Subdivision extending northward from the U.S. Highway 23 crossing in Alpena (milepost 125.2) to the end of the main line just north of Metz, MI (milepost 151.25), and Lake State's Rogers City Branch extending northward from a point on the main line at Posen, MI (milepost 141.8), to Rogers City, MI, ending at milepost 6.7. The decision excluded from the NITU the portion of the right-of-way extending from milepost 6.7 to milepost 11.5 on the Rogers City Branch and stated that Lake State may fully abandon that portion, subject to meeting the conditions imposed in the May 22, 2000 decision. By decision served on August 8, 2003, Lake State's request to modify the May 23, 2003 decision to include interim trail use/rail banking for the portion of the right-of-way extending from milepost 6.7 to milepost 11.5 on the Rogers City Branch was granted.

On April 7, 2004, Lake State filed a letter advising the Board that Lake State discovered that it had inadvertently described in its petition for exemption the point at which the Rogers City Branch comes to a dead end as RCB milepost 11.5 and that the actual end point should have been identified as RCB milepost 12.7. Lake State requests that the Board clarify the May 22, 2000 decision and the Board's subsequent decisions in this proceeding to reflect RCB milepost 12.7 as the correct end point of the Rogers City Branch. Because it does not appear that anyone has been

prejudiced by the description of the Rogers City Branch line, Lake State's request will be granted. The decisions refer to the "entirety" of the branch and so it appears that whether the end point is milepost 11.5 or milepost 12.7 is not critical to the notice given and the action taken in the proceeding.

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

It is ordered:

1. Lake State's request to clarify the Board's May 22, 2000 decision and the subsequent decisions in this proceeding is granted and the decisions are modified to show that RCB milepost 12.7 is the end point of the Rogers City Branch.

2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

30846 SERVICE DATE - MAY 22, 2000
EB

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-534 (Sub-No. 2X)

LAKE STATE RAILWAY COMPANY--ABANDONMENT EXEMPTION--IN ALPENA AND PRESQUE ISLE COUNTIES, MI

Decided: May 19, 2000

By petition filed on February 2, 2000,[1] Lake State Railway Company (Lake State) seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon approximately 37.55 miles of rail line in Alpena and Presque Isle Counties, MI. The line to be abandoned consists of: (1) a portion of Lake State's Huron Subdivision (the main line) extending northward from the U.S. Highway 23 crossing in Alpena (milepost 125.2) to the end of the main line just north of Metz, MI (milepost 151.25); and (2) Lake State's entire Rogers City Branch extending northward from a point on the main line at Posen, MI (milepost 141.8), to Rogers City, MI, ending at RCB milepost 11.5. A request for imposition of a public use condition and issuance of a notice of interim trail use (NITU) was filed by the Michigan Department of Natural Resources (MIDNR). We will grant the exemption, subject to trail use, public use, environmental and standard employee protective conditions.

BACKGROUND

Lake State is a Class III rail carrier that operates in the State of Michigan. Formed in 1992, Lake State began operating after it was authorized to lease approximately 275 miles of rail line, including the line proposed for abandonment, from Detroit & Mackinac Railway Company (D&M).[2] In 1997, Lake State purchased the 275-mile line from D&M.[3] Lake State currently maintains connections with CSX Transportation, Inc., and Central Michigan Railway Company in Bay City, MI.

According to Lake State, traffic on the line declined in the mid-1980s when Procter & Gamble, which had shipped 20 boxcars over the line per day, closed its production facility. Lake

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[1] Notice was served and published in the Federal Register on February 22, 2000 (65 FR 8760-61).

[2] See Lake State Railway Company--Lease and Operation Exemption--Detroit and Mackinac Railway Company, Finance Docket No. 32012 (ICC served Feb. 27, 1992).

[3] See Lake State Railway Company--Acquisition and Operation Exemption--Detroit & Mackinac Railway Company, STB Finance Docket No. 33372 (STB served Mar. 28, 1997).

State submits that the line currently serves three companies: Rogers City Industries/Cadillac Products (Cadillac Products); Austin Powder (Austin); and Dyno Nobel Midwest (Dyno).[4] In 1999, traffic on the line was as follows: 79 carloads received by Cadillac Products; 18 carloads received by Austin; and 29 carloads received by Dyno. The total revenue generated from this traffic was $280,566. Operating expenses for the same period were $55,417. In December 1999, Cadillac Products advised Lake State that it would be relocating 50% of its operations to an off-line facility. Lake State projects that the total revenues from the line will decline to $171,300 for the year 2000.

Lake State asserts that the line is in considerable disrepair. It estimates that it will cost $507,326 to rehabilitate the track in order to bring the line up to Federal Railroad Administration (FRA) Class 1 safety standards. After rehabilitation, Lake State projects annual normalized maintenance costs of $209,543 to maintain the line in FRA Class 1 condition. When operating costs are added to normalized maintenance, avoidable costs for the line total $264,960. Lake State submits that the salvage value of the line is in excess of $900,000.

Lake State concludes that the economic prospects for the line have deteriorated to the point that current traffic and revenue levels on the line cannot justify continued operation. It argues that projections of available traffic indicate that future revenue simply cannot meet anticipated costs. As an alternative for the shippers, Lake State is prepared to place rail cars at its Alpena Yard, where freight can be transferred to motor carriers for final delivery. According to Lake State, its customers on the line are currently evaluating this proposal. Even if they do not take advantage of the proposal, Lake State submits that these receivers have adequate transportation alternatives.

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 10903, a rail line may not be abandoned without our prior approval. Under 49 U.S.C. 10502, however, we must exempt a transaction or service from regulation when we find 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 necessary to protect shippers from the abuse of market power.

Detailed scrutiny under 49 U.S.C. 10903 is not necessary to carry out the rail transportation policy. By minimizing the administrative expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. 10101(7)]. An exemption will also foster sound economic conditions and encourage efficient management by relieving Lake State from the cost of operating and maintaining the line and allowing it to use its assets more productively elsewhere on

[4] Lake State indicates that although Michigan Limestone occasionally has requested rates for service during the past 3 years, it has elected to use motor carrier and water transportation instead.

its system [49 U.S.C. 10101(5) and (9)]. Other aspects of the rail transportation policy will not be affected adversely.

Regulation of the proposed transaction is not necessary to protect shippers from the abuse of market power because Lake State's customers appear to have adequate transportation alternatives available, including Lake State's proposed alternative service at Alpena Yard. Nevertheless, to ensure that Cadillac Products, Austin, and Dyno are informed of our action, we will require Lake State to serve a copy of this decision on them within 5 days of the service date and certify to us that it has done so. Given our market power finding, we need not determine whether the proposed transaction is limited in scope.

Under 49 U.S.C. 10502(g), we may not use our exemption authority to relieve a carrier of its statutory obligation to protect the interests of its employees. Accordingly, as a condition to granting this exemption, we will impose the employee protective conditions in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979).

Lake State has submitted an environmental report with its petition and has notified the appropriate Federal, state, and local agencies of the opportunity to submit information concerning the energy and environmental impacts of the proposed abandonment. See 49 CFR 1105.11. Our Section of Environmental Analysis (SEA) has examined the environmental report, verified the data it contains, analyzed the probable effects of the proposed action on the quality of the human environment, and served an environmental assessment (EA) on March 31, 2000.

In the EA, SEA recommends that conditions be imposed on any decision granting abandonment authority to alleviate the concerns of the U.S. Department of Commerce, National Geodetic Survey (NGS), the Michigan State Historic Preservation Office (MISHPO), and the Michigan Department of Environmental Quality (MIDEQ). The conditions are: (1) Lake State shall notify NGS at least 90 days prior to commencement of salvage operations that are expected to destroy or disturb eight geodetic markers along the rail line that were identified by NGS (QJ0010, QJ0011, QJ0014, QJ0015, QJ0018, QJ0019, QJ0160, and QJ0159); (2) Lake State shall immediately cease salvage operations and notify MISHPO if artifacts or any kind of bones are discovered; and (3) Lake State shall continue to maintain the Swan River Bridge as long as it owns it so that it is structurally sound and in sufficient repair to prevent the abutments, fill or deck from falling into the river or its associated floodplain, and Lake State shall remove all soils requiring stockpiling as a result of salvage operations and all salvaged materials from wetlands and floodplains.

No comments to the EA were filed by the May 1, 2000 due date. We will impose the conditions recommended by SEA. Accordingly, based on SEA's recommendation, we conclude that the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

On March 10, 2000, MIDNR filed a request for interim trail use/rail banking under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and submitted a statement of willingness to assume financial responsibility for the right-of-way and acknowledged that use of the right-of-way is subject to possible future reconstruction and reactivation of the right-of-way for rail service as required under 49 CFR 1152.29. By letter filed on March 27, 2000, Lake State indicates that it is willing to negotiate with MIDNR for interim trail use. MIDNR's request complies with the requirements of 49 CFR 1152.29 and Lake State is willing to enter into negotiations. Therefore, we will issue a NITU for the subject line. The parties may negotiate an agreement during the 180-day period prescribed below. If an agreement is executed, no further Board action is necessary. If no agreement is reached within 180 days, Lake State may fully abandon the line, subject to the conditions imposed below. See 49 CFR 1152.29(d)(l). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

SEA has indicated in its EA that the right-of-way may be suitable for other public use following abandonment. MIDNR also requests imposition of a 180-day public use condition, precluding Lake State from: (1) disposing of the rail corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms; and (2) removing or destroying potential trail-related structures such as bridges, trestles, culverts and tunnels. MIDNR states that the corridor would provide an extension of a rail corridor already developed for trail use by MIDNR.

We have determined that persons who file under the Trails Act may also file for public use under 49 U.S.C. 10905. See Rail Abandonments--Use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 609 (1986) Trails. When the need for both conditions is established, it is our policy to impose them concurrently, subject to the execution of a trail use agreement. MIDNR has met the public use criteria prescribed at 49 CFR 1152.28(a)(2) by specifying: (1) the condition sought; (2) the public importance of the condition; (3) the period of time for which the condition would be effective; and (4) justification for the period of time requested. Accordingly, a 180-day public use condition also will be imposed on the line to be abandoned, commencing from the effective date of this decision and notice. If a trail use agreement is reached on a portion of the right-of-way, Lake State must keep the remaining right-of-way intact for the remainder of the 180-day period to permit public use negotiations. Also, we note that a public use condition is not imposed for the benefit of any one potential purchaser. Rather, it provides an opportunity for any interested person to acquire the right-of-way that has been found suitable for public purposes, including trail use. Therefore, with respect to the public use condition, Lake State is not required to deal exclusively with MIDNR, but may engage in negotiations with other interested persons.

The parties should note that operation of the trail use procedures could be delayed, or even foreclosed, by the financial assistance process under 49 U.S.C. 10904. As stated in Trails, 2 I.C.C.2d at 608, offers of financial assistance (OFA) to acquire rail lines for continued rail service or to subsidize rail operations take priority over interim trail use/rail banking and public use. Accordingly, if an OFA is timely filed under 49 CFR 1152.27(c)(1), the effective date of this decision and notice will be postponed beyond the effective date indicated here. See 49 CFR

1152.27(e)(2). In addition, the effective date may be further postponed at later stages in the OFA process. See 49 CFR 1152.27(f). Finally, if the line is sold under the OFA procedures, the petition for abandonment exemption will be dismissed and trail use and public use precluded. Alternatively, if a sale under the OFA procedures does not occur, the trail use and public use processes may proceed.

It is ordered:

1. Under 49 U.S.C. 10502, we exempt from the prior approval requirements of 49 U.S.C. 10903, the abandonment by Lake State of the above-described line, subject to the employee protective conditions in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979), and subject to the conditions that: (1) Lake State shall notify NGS at least 90 days prior to commencement of salvage operations if geodetic markers QJ0010, QJ0011, QJ0014, QJ0015, QJ0018, QJ0019, QJ0160, and QJ0159 may be disturbed or destroyed by such operations; (2) Lake State shall immediately cease salvage operations and notify MISHPO if artifacts or any kind of bones are discovered; (3) Lake State shall continue to maintain the Swan River Bridge as long as it owns it so that it is structurally sound and in sufficient repair to prevent the abutments, fill or deck from falling into the river or associated floodplain, and remove all soils requiring stockpiling as a result of salvage operations and all salvaged materials from wetlands and floodplains; (4) Lake State shall leave intact all of the right-of-way, including bridges, trestles, culverts and tunnels (but not track and track materials), for a period of 180 days from the effective date of this decision and notice, to enable any State or local government agency or any other interested person to negotiate the acquisition of the line for public use; and (5) Lake State shall comply with the terms and conditions for implementing interim trail use/rail banking procedures set forth below.

2. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.

3. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

4. If interim trail use is implemented and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

5. If an agreement for interim trail use/rail banking is reached by the 180th day after service of this decision and notice, interim trail use may be implemented. If no agreement is reached by that time, Lake State may fully abandon the line, provided the conditions imposed above are met.

6. Lake State is directed to serve a copy of this decision on Cadillac Products, Austin, and Dyno within 5 days after the service date of this decision and to certify to the Board that it has done so.

7. An OFA under 49 CFR 1152.27(c)(1) to allow rail service to continue must be received by the railroad and the Board by June 1, 2000, subject to time extensions authorized under 49 CFR 1152.27(c)(1)(i)(C). The offeror must comply with 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). Each OFA must be accompanied by the filing fee, which currently is set at $1,000. See 49 CFR 1002.2(f)(25).

8. OFAs and related correspondence to the Board must refer to this proceeding. The following notation must be typed in bold face on the lower left-hand corner of the envelope: **"Office of Proceedings, AB-OFA."**

9. Provided no OFA has been received, this exemption will be effective June 21, 2000. Petitions to stay must be filed by June 6, 2000, and petitions to reopen must be filed by June 16, 2000.

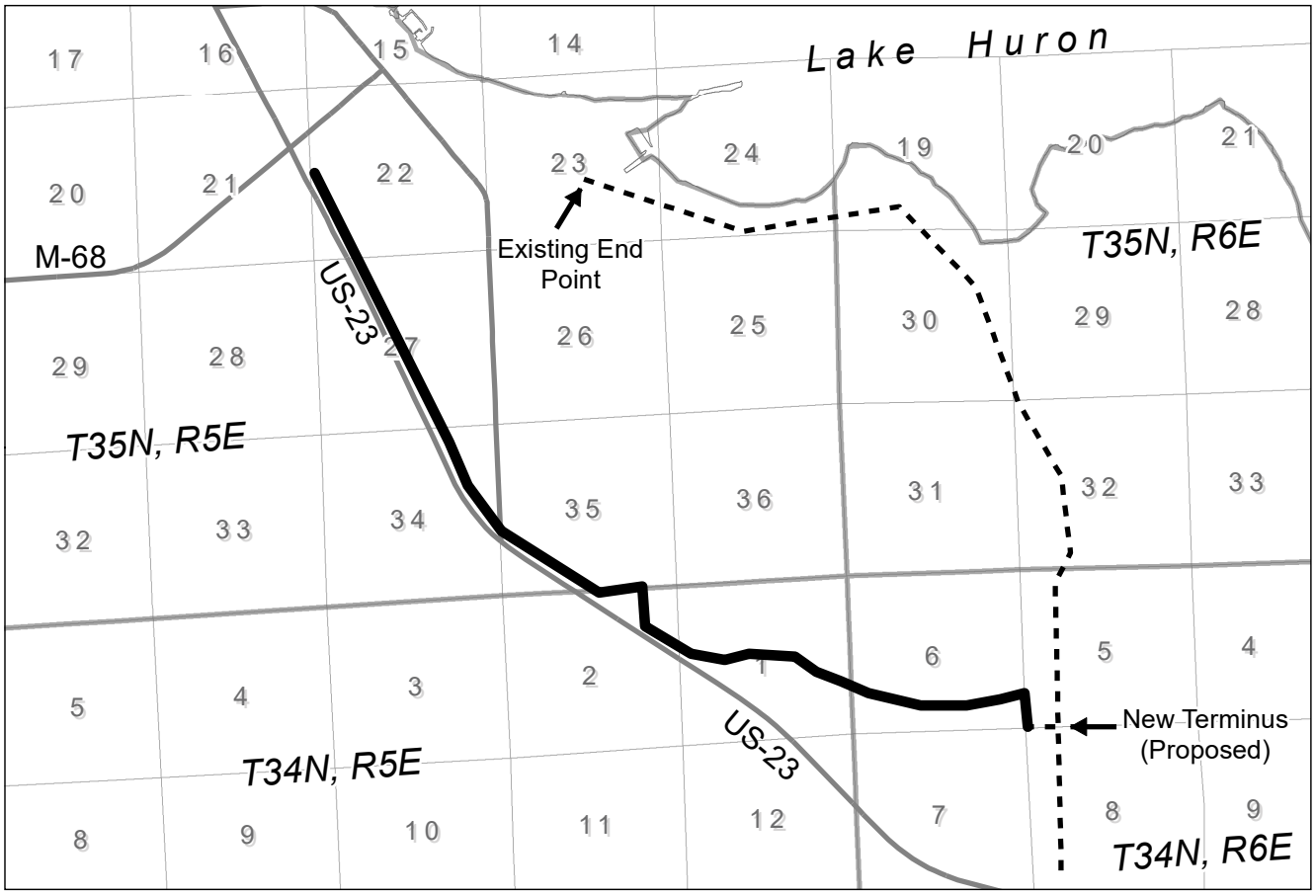
10. Pursuant to the provisions of 49 CFR 1152.29(e)(2), Lake State shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Lake State's filing of a notice of consummation by May 22, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If a legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed no later than 60 days after satisfaction, expiration, or removal of the legal or regulatory barrier.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams
Secretary

STATE TRAIL GIFT OF EASEMENT

Rogers City Spur Trail, Presque Isle County
Land Transaction Case # 20240041

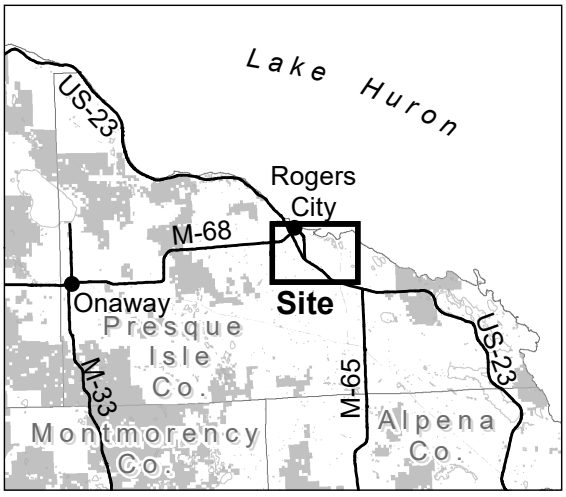


T35N, R5E, Sections 22, 27, 34, 35
T34N, R5E, Sections 1, 2
T34N, R6E, Section 6

Proposed gift to be acquired by the DNR

Existing Rogers City Spur Trail





DNR-Managed Land

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