

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

DOCKET NO. AB-1053 (Sub-No. 1X)

Michigan Air-Line Railway Co. - Abandonment Exemption - in Oakland County, Mich.

BACKGROUND

In this proceeding, Michigan Air-Line Railway Co. (MAL Railway or railroad) filed a petition under 49 C.F.R. § 1152.20 seeking exemption from the requirements of 49 U.S.C. §10903 in connection with the abandonment of a line of railroad in Oakland County, Michigan (MI). The rail line proposed for abandonment is a 5.45-mile segment between Milepost 45.26, at the west line of Haggerty Road, and Milepost 50.65, at the intersection with the right-of-way with a CSX Transportation, Inc. rail line, in the City of Wixom, Oakland County, MI (the Line). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA). If the petition becomes effective, the railroad would be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

The Line is located in southeastern Michigan. The right-of-way is approximately 50 feet wide and traverses residential, light industrial, woodland and wetlands areas. According to the railroad, the only MAL Railway-owned structure on the Line that is 50 years old or older is the Walled Lake Depot. The Depot was constructed in 1877, but partially destroyed by fire in the 1940s. When the Depot was repaired following the fire, an addition was added to the west end of the building. MAL Railway is not aware of any known hazardous waste sites on the Line.

MAL Railway was formed in 1875 after the foreclosure and reorganization of a parent railroad. Today, the only segment of the original MAL Railway that has not been abandoned is the segment from Wixom, MI to West Bloomfield Township in Oakland County, MI. The Line proposed for abandonment is the eastern 5.45 miles of this segment.

ENVIRONMENTAL REVIEW

MAL Railway submitted an environmental report that concludes the quality of the human environment would not be affected significantly because of the abandonment or any post-abandonment activities. MAL Railway served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's

(Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) reviewed and investigated the record in this proceeding.

Diversion of Traffic

American Plastic Toys, Inc. (APT) is the only active shipper on the Line. APT receives plastic pellets in hopper railcars and ships out toys via trucks. In 2008, 2009 and 2010, APT received 67, 52, and 52 railcars of pellets, respectively. No outbound shipments occurred during this period. According to the railroad, after being informed of the proposed abandonment of the Line, APT initiated procedures for alternative transportation arrangements, which would include the use of trucks to bring materials to and from the APT facility, as needed. Using the maximum number of railcars moved annually for this shipper in the past three years (i.e., 67 railcars in 2007), and a railcar to truck ratio of 1:4, shipping this material by truck rather than railcar would generate approximately 268 incoming truck trips per year (i.e., 536 roundtrips), or less than a dozen truck trips per week. This very limited increase in truck traffic would result in negligible impacts to air quality or the local or regional transportation networks. The proposed abandonment would also not adversely impact the development, use and transportation of energy resources or recyclable commodities; or transportation of ozone-depleting materials.

Salvage Activities

MAL Railway intends to remove rails, crossties, and other track materials from the rail bed. The railroad would leave the ballast in place and grade the rail bed to a condition suitable for use as a recreational trail. Dredging or the use of fill material is not anticipated and the railroad does not intend to perform any activities that would cause erosion or sedimentation of soil. Removal of material would be accomplished using the existing right-of-way and along existing public and private crossings. No new access roads would be constructed. All waste material would be transported away from the right-of-way and appropriate measures would be implemented to prevent or control spills of fuels, lubricants or any other potential pollutants.

The railroad believes that the proposed abandonment would not be inconsistent with local or regional land use plans. The potential sale of the right-of-way for trail use would be consistent with the Oakland County Trails Master Plan which was adopted by the Oakland County Parks & Recreation Commission in 2008.

The Natural Resources Conservation Service (NRCS) has not responded to the railroad's environmental report. MAL Railway states that prime farmland soils are in the vicinity of the Line, but does not believe its salvaging activities would affect these soils. OEA has provided a copy of this EA to NRCS for review and comment.

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-1053 (Sub-No. 1X).

The U.S. Fish and Wildlife Service, East Lansing Field Office (USFWS) has not responded in writing to the proposed abandonment or to the railroad's statement that it does not believe that the proposed abandonment would have any impact on endangered or threatened species, or on any area designated as a critical habitat. Based on the information available to date, OEA is unable to determine whether any Federally listed threatened or endangered species exist in the area of the proposed abandonment. However, due to the temporary nature of the proposed salvage activities, OEA believes that potential impacts to any such species could be appropriately mitigated through consultation with the USFWS pursuant to Section 7 of the Endangered Species Act (ESA). Accordingly, OEA recommends that a condition be imposed, requiring the railroad to contact the USFWS prior to beginning salvage activities to discuss potential impacts to any Federally listed endangered or threatened species. The railroad shall report the results of this consultation to OEA in writing. Should any potential impacts be identified, the railroad shall consult with OEA and USFWS to develop appropriate mitigation measures. OEA has provided the USFWS with a copy of this EA for review and comment.

The U.S. Army Corps of Engineers, Detroit District (Corps) notes that the State of Michigan has assumed the Corps' regulatory responsibilities under Section 404 of the Clean Water Act (33 U.S.C. § 1344); and therefore, a separate authorization from the Corps is not required. The Michigan Department of Natural Resources and Environment (MDNRE), which assumed the Section 404 permitting authority from the Corps, has not responded to the railroad's environmental report. Although the railroad does not intend to perform any salvaging activities in wetlands or other waters of the United States, the Line is located near some water resources. Therefore, OEA is recommending a condition that would require the railroad to consult with MDNRE regarding its Section 404 permitting requirements and, if applicable, comply with the reasonable requirements of MDNRE. OEA has provided a copy of this EA to MDNRE for review and comment.

The National Geodetic Survey (NGS) states that two geodetic station markers have been identified and the markers could be affected by the proposed abandonment. MAL Railway states that it retained a licensed professional land surveyor to locate and recover the markers. The surveyor was unable to locate the markers and NGS has been informed of these field search results. At this time, NGS has not responded to these findings. Accordingly, OEA recommends a condition that requires MAL Railway to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities to determine if any additional actions need to be taken.

HISTORIC REVIEW

The railroad submitted an historic report as required by the Surface Transportation Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Michigan State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c). OEA has not heard from the SHPO; and therefore, has not been able to consider the SHPO's opinion before determining if the rail line, including the Walled Lake Depot, may be potentially eligible for listing on the National Register of Historic Places. Accordingly, we are recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic

integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

OEA conducted a search of the Native American Consultation Database at www.cast.uark.edu/other/nps/nacd/ to identify Federally recognized tribes that may have ancestral connections to the project area. The database identified the following three tribes for Oakland County:

- Forest County Potawatomi Community, Wisconsin
- Hannahville Indian Community, Michigan
- Saginaw Chippewa Indian Tribe of Michigan

A copy of this EA has been provided to each tribe for review and comment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. MAL Railway shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers.
2. MAL Railway shall contact the U.S. Fish and Wildlife Service, East Lansing Field Office (USFWS) prior to beginning salvage activities to discuss potential impacts to any Federally listed endangered or threatened species. The railroad shall report the results of this consultation to the Board's Office of Environmental Analysis (OEA) in writing. Should any potential impacts be identified, the railroad shall consult with OEA and USFWS to develop appropriate mitigation measures.
3. MAL Railway shall consult with the Michigan Department of Natural Resources and Environment (MDNRE) prior to beginning salvage activities regarding permitting requirements under Section 404 of the Clean Water Act (33 U.S.C. § 1344) and, if applicable, shall comply with the reasonable requirements of MDNRE
4. MAL Railway shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. MAL Railway shall report to the Office of Environmental Analysis (OEA) regarding any

consultations with the State Historic Preservation Office and the public. MAL Railway may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

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

PUBLIC USE

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

TRAILS USE

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

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at 202-245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, please send an **original and one copy** to Surface Transportation Board, 395 E Street SW, Washington, DC

20423, to the attention of Dave Navecky, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-1053 (Sub-No. 1X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Dave Navecky, the environmental contact for this case, by phone at 202-245-0294, fax at 202-245-0454, or e-mail at david.navecky@stb.dot.gov.

Date made available to the public: March 29, 2011.

Comment due date: April 27, 2011.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment