

SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS

EO-1451
CG

POST ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS
IN DOCKET NO. AB 415 (Sub-No. 2X)

June 9, 2010

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

() Notice of Exemption (X) Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

SEA served an Environmental Assessment (EA) in this proceeding on May 7, 2010 for public review and comment. Since issuance of the EA, SEA has received two comments: the first, from the Michigan State Historic Preservation Office and the other from the Michigan Department of Natural Resources and Environment. Both comments were forwarded to SEA by the Escanaba & Lake Superior Railroad Company, the applicant.

In the EA, SEA recommended four environmental conditions and concluded that the proposed action would not significantly impact the quality of the human environment as long as the four conditions shown below were imposed. Based on the comments received, however, we are recommending that conditions 2 and 3 be removed. We are also recommending that conditions 1 and 4 remain attached to the proceeding.

The existing conditions are:

1. Escanaba & Lake Superior Railroad Company shall notify the National Geodetic Survey at least 90 days prior to beginning salvage activities that would disturb or destroy and geodetic station markers.
2. Escanaba & Lake Superior Railroad Company (ELS) 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 on 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. ELS shall report back to the Section of Environmental Analysis regarding any consultations with the Michigan State Historic Preservation Office, the public, and any other Section 106 consulting parties that have been identified. ELS 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.

3. Prior to beginning any salvage activities, Escanaba & Lake Superior Railroad Company (ELS) shall consult with Mr. Chris Antieau (517-373-3894 or antieauc@michigan.gov), at the Michigan Department of Environmental Quality, to determine whether state coastal management consistency certification is required. If consistency certification is required, ELS shall be prohibited from performing any salvage activities until it obtains consistency certification and shall then notify the Board's Section of Environmental Analysis, pursuant to the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq. and the Board's environmental regulations at 49 C.F.R. § 1105.9.
4. Prior to commencement of any salvage activities, Escanaba & Lake Superior Railroad Company shall consult with the U.S. Army Corps of Engineers (Corps) regarding potential impacts to waters of the United States, including wetlands, and shall comply with the reasonable requirements of the Corps.

Comments on the EA

In an April 27, 2010 letter to SEA, the Michigan State Historic Preservation Office (SHPO) stated that the abandonment will have No Adverse Effect to historic properties pursuant to Section 106 of the National Historic Preservation Act (see attached SHPO letter). We concur with the SHPO findings that the proposed undertaking does not meet the criteria of adverse effect [36 C.F.R. § 800.5(a)(1) and therefore would have No Adverse Effect on historic properties within the area of potential effects. Consequently, we recommend that the existing historic preservation condition (shown as Condition 2 above) be removed.

By letter dated May 7, 2010, Chris Antieau of the Land and Water Management Division, Michigan Department of Natural Resources and Environment, indicated to the applicant that the proposed action is located outside Michigan's coastal management boundary and that no adverse effects from the action are anticipated as the project is consistent with Michigan's Coastal Management Program (see letter attached). Consequently, SEA is recommending that Condition 3 dealing with the Coastal Zone Management Act, also be removed.

Conclusions

To conclude, SEA requests that the Section 106 condition and the Coastal Zone Management Act conditions (shown above as conditions 2 and 3) be removed. We request that the remaining National Geodetic Survey and U.S Army Corps of Engineers conditions (conditions 1 and 4) remain attached to this proceeding. SEA believes that the proposed action will not significantly affect the quality of the human environment as long as the two recommended conditions continue to be imposed.

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