



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EI-1759

APR 16 2004

REPLY TO THE ATTENTION OF

B-19J



Victoria Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: Docket No. AB-68, Sub. No. 4X, *Lake Superior & Ishpeming Railroad Company Abandonment Exemption*

Dear Ms. Rutson:

In accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (U.S. EPA) has reviewed an Environmental/Historic Report (Report) submitted by the attorneys for the Lake Superior & Ishpeming Railroad Company (LS&I). The Report addresses a petition for abandonment offered by LS&I for approximately 25 miles of rail line in Marquette County, Michigan.

Pursuant to a review of this document, we understand the abandonment petition covers three distinct, contiguous sections of track. The first section of track is jointly owned by LS&I and Canadian National Railway Company (CN), and CN has the right to purchase LS&I's interest and continue use of the tracks in this section. The second section of track is wholly owned by LS&I with CN operating over a segment of the section. CN has been offered the option of purchasing this segment to continue its current operation. The third section of track is wholly owned by LS&I and is the only portion of track that will be physically dismantled and salvaged.

Following our review of the Report, the U.S. EPA has prepared the following comments concerning LS&I's abandonment petition.

- If CN does not acquire trackage rights, there will be a diversion from rail to motor carriage of approximately 50 rail carloads per mile per year in connection with shipments by Ferrellgas. The resulting net change in energy consumption should be quantified.
- Retention of culverts and bridges increase the likelihood that the ROW will be utilized for an alternative use. However, maintenance is an important issue to the U.S. EPA and the Michigan Department of Environmental Quality - Water Division (MDEQ-Water Division). We request completion of the rail line stream crossing survey required by MDEQ-Water Division to identify water quality and maintenance concerns prior to commencing with abandonment. In particular, provision of maintenance activities for culverts and bridges

should be provided until the property is sold, at which time maintenance activities will be transferred to the new owner via specific real estate provisions.

- The Report indicates that the proposed abandonment should have no effect on any known sites or properties listed or eligible for listing in the National Register of Historic Places. Further, the Report states that bridge structures along the 25 miles of track do not meet listing criteria. We request confirmation of these opinions with the Michigan State Historic Preservation Office (SHPO) by transmitting the required information to the SHPO. We feel the Report is incomplete without the SHPO's opinion.
- Portions of the ROW which LS&I owns or intends to sell for alternative public or recreational trail use are recommended to be revegetated with native flora following the removal of ballast. Long-term benefits of this mitigation activity go beyond stormwater and soil protection to include development of habitat for wildlife, improved aesthetics, and decreased erosion.
- Removal and ultimate disposal of ballast and rails, if not recycled, should be conducted according to applicable environmental regulations.
- Per the July 3, 1984 Rebuttable Presumption Against Registration for three major wood preservatives under the Federal Insecticide, Fungicide, and Rodenticide Act, wood treated with creosote should be buried in a non-hazardous waste landfill unless otherwise required by the State of Michigan.
- Storing and fueling of construction equipment should take place in upland areas, away from water bodies, floodplains or other sensitive habitat.
- Prevention and/or control of spills (i.e., fuels, lubricants or other pollutants) from construction equipment should be conducted according to applicable environmental regulations.

We look forward to receiving the STB's final decision regarding this abandonment. Should you have any questions, please do not hesitate to contact me or Kathleen Kowal of my staff at (312) 353-5206 or via e-mail at kowal.kathleen@epa.gov.

Sincerely,



Kenneth A. Westlake, Chief
Environmental Planning and Evaluation Branch

cc: Edward T. Lyons, Jr., Esq., Jones & Keller, P.C.