

THOMAS R OGOREUC
Attorney at Law

DID#0101941001

205302

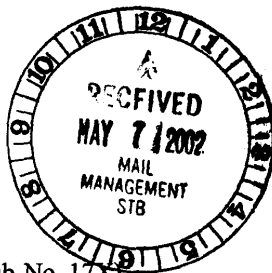
135 Jamison Lane
P.O. Box 68
Monroeville, PA 15146

Tel: 412-829-6893
Fax: 412-829-6607
ogoreuc@hotmail.com

May 1, 2002

VIA OVERNIGHT MAIL

Honorable Vernon A. Williams
Secretary of the Board
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001



FEE RECEIVED

MAY 07 2002

SURFACE
TRANSPORTATION BOARD

Re: STB No. AB-101 (Sub-No. 17A)
Duluth, Missabe and Iron Range Railway Company's Petition for Exemption to
Abandon Service over a portion of the Sliver Branch in Virginia, Minnesota

Dear Secretary Williams:

Enclosed for filing is an original and ten (10) copies of the Duluth, Missabe and Iron Range Railway Company's Petition for Exemption to Abandon Service. A check in the amount of \$4,400.00 is enclosed to cover the filing fee.

Please acknowledge receipt by date-stamping the enclosed copy of this letter and returning it in the enclosed self-addressed stamped envelope.

Should you have any questions, please contact me at the above number.

FILED

MAY 07 2002

SURFACE
TRANSPORTATION BOARD

Very truly yours,

Thomas R. Ogoreuc

Counsel for
Duluth, Missabe and Iron Range
Railway Company

ENTERED
Office of the Secretary

MAY 07 2002

Part of
Public Record

Enclosures

THOMAS R OGOREUC
Attorney at Law

205302

135 Jamison Lane
P.O. Box 68
Monroeville, PA 15146

Tel: 412-829-6893
Fax: 412-829-6607
E-Mail: trogoreuc@hotmail.com

May 6, 2002

VIA OVERNIGHT MAIL

Surface Transportation Board
ATTN: Ms. Barbara Saddler
1925 K Street, NW
Washington, D.C. 20423-0001



Re: STB No. AB-101 (Sub-No. 17X)
Duluth, Missabe and Iron Range Railway Company's Petition for Exemption to
Abandon Service over a portion of the Sliver Branch in Virginia, Minnesota

Dear Ms. Saddler:

Enclosed is a \$500.00 check to cover the balance due regarding the Duluth, Missabe and
Iron Range Railway Company's petition for exemption filing fee.

Should you have any questions, please contact me at the above number.

FEE RECEIVED

MAY 07 2002

**SURFACE
TRANSPORTATION BOARD**

Very truly yours,

Thomas R. Ogoreuc

ENTERED
Office of the Secretary

MAY 07 2002

Public Record

Counsel for
Duluth, Missabe and Iron Range
Railway Company

Enclosures

FILED

MAY 07 2002

**SURFACE
TRANSPORTATION BOARD**

ORIGINAL
205302

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB No. AB-101 (Sub-No. 17X)

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
ABANDONMENT OF SLIVER BRANCH IN ST. LOUIS COUNTY, MINNESOTA

PETITION FOR EXEMPTION

FEE RECEIVED

MAY 07 2002

SURFACE
TRANSPORTATION BOARD

THOMAS R. OGOREUC
135 Jamison Lane
Monroeville, PA 15146
(412) 829-6893

Counsel for

DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB No. AB-101(Sub-No. 17X)

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
ABANDONMENT OF SLIVER BRANCH IN ST. LOUIS COUNTY, MINNESOTA

PETITION FOR EXEMPTION

Petitioner, Duluth, Missabe and Iron Range Railway Company ("DM&IR"), a class II Rail Carrier, petitions the Surface Transportation Board pursuant to 49 U.S.C. 10502 and 49 C.F.R. 1121 for an exemption permitting the abandonment of a portion of the Sliver Branch in the City of Virginia, St. Louis County, Minnesota, described as follows:

The proposed line for abandonment consist of 2.0 miles of switching track located between railroad milepost S-0.0 and railroad milepost S-2.0 in the City of Virginia, Minnesota. The proposed line is located in an area composed of a mix of residential and commercial development. The right-of-way extends 50' on each side of the tracks.

The line traverses through United States Postal Service Zip Code 55792. A map showing the trackage proposed for abandonment is attached to this Petition as Exhibit A.

Petitioner submits that regulation of this transaction is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101(a) and that this transaction is of limited scope and will not abuse shippers in any way.

In support of its Petition, Petitioner Duluth, Missabe and Iron Range Railway Company sets forth the following:

1. The portion of the Sliver Branch proposed for abandonment is the 2.0 miles of trackage located between railroad milepost S-0.0 and railroad milepost S-2.0 in the City of Virginia, Minnesota. Ferrellgas, Inc. is the only shipper or receiver of materials on this segment of trackage, receiving an annual average of 55 tank cars of propane between the years 1997-2001. Attached as Exhibit B is a letter from Ferrellgas, Inc. supporting the abandonment of the Sliver Branch. In its letter, Ferrellgas, Inc. indicates that abandonment will have no detrimental effect on their business and that they desire the removal of tracks from the vicinity.

2. Attached as Exhibit C is a Five Year Profit (Loss) Estimate for the Sliver Branch. The estimate breaks down the revenue and costs associated with the operation of the Sliver Branch and shows that Petitioner has operated this line at a loss. This estimate was prepared only to reflect the operation of the trackage proposed for abandonment.

3. The rail transportation policy set forth in 49 U.S.C. 10101 requires, as relevant here, that in exercising its regulatory authority, the Board will minimize the need for Federal regulatory control over the rail transportation system and, when regulation is necessary, render fair and expeditious regulatory decisions; reduce barriers to exit from the industry; foster sound economic conditions and encourage efficient management; and promote a sound transportation system meeting the needs of the public and the national defense.

Exemption of the proposed abandonment serves all of these elements of the rail transportation policy. Specifically, by minimizing the administrative expense and time lag inherent in a full abandonment application, exemption will expedite regulatory decisions and reduce regulatory barriers to exit. Exemption will also foster sound economic conditions and encourage efficient management. As indicated above, the only rail patron on the line has no objection to the abandonment and removal of track. As a result, the DM&IR should not be

burdened with the high costs of maintaining a line of railroad which is clearly being used to provide minimal and unnecessary service. The valuable rail and other rail materials on the line can be more economically used by the DM&IR at other locations on its system. Further, the line does not serve a military facility. Given this fact, it seems very unlikely that this line is necessary for national defense. Nevertheless, the DM&IR has served a copy of this petition on the Military Traffic Management Command, which should advise the Board of any national defense concerns about the line.

In short, full abandonment proceedings in this case are unnecessary to carry out any of the relevant rail transportation policy elements of 49 U.S.C. 10101. No vital interest of shippers, competitors or communities will be adversely affected and the abandonment exemption the DM&IR seeks here will free it from the burdens associated with ownership and maintenance of the line.

4. Petitioner has prepared and served upon all appropriate parties an Environmental Report and Historic Report, copy of which is attached hereto as Exhibit D and E, respectively. As the reports show, there are no historic structures on the line within the meaning of historic regulations. In addition, track removal will take place in an urban area culminating with the close-out of nine at-grade street crossings. The Board should find based on the report that there are no environmental or historic consequences of the proposed abandonment here sought to be exempted.

5. The DM&IR understands the Board will impose labor protective conditions as stated in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979), to satisfy the requirements of 49 U.S.C. 10502(g). There are no known employees who would be adversely affected by this abandonment.

6. All communications with respect to this petition should be directed to:

Thomas R. Ogoreuc, Esq.
135 Jamison Lane
Monroeville, PA 15146
(412) 829-6893

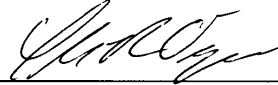
7. Based on information in the possession of the DM&IR, the line does not contain federally granted rights-of-way. Any documentation in petitioner's possession will be made available promptly to those requesting it.

8. The newspaper notice required by 49 C.F.R. 1105.12 was published in the Mesabi Daily News on March 14, 2002. An affidavit of publication from the Mesabi Daily News is attached as Exhibit F.

9. Petitioner has prepared a Notice for publication in the Federal Register, which is being submitted with this Petition.

The DM&IR accordingly requests that the Board grant an exemption from the provisions of 49 U.S.C. 10903 with regard to the proposed abandonment of that portion of its Sliver Branch in the City of Virginia, St. Louis County, Minnesota.

Respectfully submitted,



THOMAS R. OGOREUC
135 Jamison Lane
Monroeville, PA 15146
(412) 829-6893

Counsel for
DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY

Dated: April 26, 2002

STB No. AB-101 (Sub-No. 17X)

Notice of Petition for Exemption to Abandon Service

On May 1, 2002, the Duluth, Missabe and Iron Range Railway Company (DM&IR) filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment of a line of railroad known as the Sliver Branch, extending from railroad milepost S-0.0 to railroad milepost S-2.0 in the City of Virginia, Minnesota, which traverses through United States Postal Service ZIP Code 55792, a distance of 2.0 miles, in St. Louis County, Minnesota.

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.

The interest of railroad employees will be protected by Oregon Short Line R. 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 a public use condition and any request for trail use/rail banking will be due no 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) 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 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 SERVICE AND PUBLICATION

1. I hereby certify that I have served the following Notices and papers by first class mail with postage prepaid as follows:

A. Notice of Petition for Exemption to Abandon Service upon:

Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

Department of Defense
Military Traffic Command
Traffic Engineering Agency
Railroads for the National Defense Program
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

National Park Service
Recreation Resources Assistance Division
1849 C Street NW
Washington, D.C. 20240

Mike Dombek, Chief
USDA Forest Service
P.O. Box 96090
Washington, D.C. 20090-6090

as set forth in 49 C.F.R. § 1152.50(d)(1)(i)-(iv) by letter dated May 1, 2002, and mailed that date (copies attached hereto);

B. A copy of the Environmental and Historic Reports, along with a Transmittal

Letter pursuant to 49 C.F.R. § 1105.11, upon:

MN Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

MN Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4040

Minnesota DNR, Division of Waters
1201 E. Highway 2
Grand Rapids, MN 55744

St. Louis County Commissioners
Duluth Courthouse
100 N. 5th Avenue West
Duluth, MN 55802

US Environmental Protection Agency
Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

US Fish and Wildlife Service
Region 3
1 Federal Drive
BHW Federal Building
Fort Snelling, MN 55111

US Army Corps of Engineers
St. Paul District
190 Fifth Street East
St. Paul, MN 55101-1638

William W. Schenk, Superintendent
National Park Service – Midwest Region
1709 Jackson Street
Omaha, NE 68102

USDA – Natural Resources Conservation
Service
375 Jackson Street, Suite 600
St. Paul, MN 55101-1854

Mr. Gilbert Mitchell
National Geodetic Survey, N/NGS1
1315 East-West Highway
Silver Spring, MD 20910

Elwyn Tinklenberg, Commissioner
MN Department of Transportation
395 John Ireland Blvd.
Mailstop 100
St. Paul, MN 55155-1899

Mr. Dennis A. Gimmestadt
MN State Historic Preservation Office
345 Kellogg Blvd. West
St. Paul, MN 55102-1906

Mr. Thomas E. Estabrooks
Pollution Control Specialist, Intermediate
Minnesota Pollution Control Agency
525 Lake Avenue South, Suite 400
Duluth, MN 55802

Mr. Andy Hubley
Arrowhead Regional Development
Commission
221 West First Street
Duluth, MN 55802

Mr. Steven M. Savageau
Manager of Administrative Services
St. Louis County Historical Society
506 West Michigan Street
Duluth, MN 55802-1505

Mr. Terry Leoni
Office of the City Department Director
City of Virginia
327 First Street South
Virginia, MN 55792-2623

by letter dated February 7, 2002, and mailed that date.

2. I further certify that I caused to be published a Legal Notice in the March 14, 2002 issue of the *Mesabi Daily News* as required in 49 C.F.R. § 1105.11 providing public notification of the Duluth, Missabe and Iron Range Railway Company's intent to file this Petition of Exemption.



Thomas R. Ogoreuc, Esq.
135 Jamison Lane
Monroeville, PA 15146
(412) 829-6893

Counsel for
DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY

THOMAS R OGOREUC
Attorney at Law

135 Jamison Lane
P.O. Box 68
Monroeville, PA 15146

Tel: 412-829-6893
Fax: 412-829-6607
E-Mail: trogoreuc@hotmail.com

May 1, 2002

National Park Service
Recreation Resources Assistance Division
1849 C Street NW
Washington, D.C. 20240

Re: Duluth, Missabe and Iron Range Railway Company's Petition for Exemption to
Abandon Service of the Sliver Branch in the City of Virginia, Minnesota.
STB No. AB-101 (Sub-No. 17X)

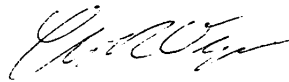
Dear Sir or Madam:

The Duluth, Missabe and Iron Range Railway Company gives notice that on May 1, 2002, it filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption pursuant to 49 U.S.C. 10502 and 49 C.F.R. 1121 to abandon service over trackage located in the City of Virginia, St. Louis County, Minnesota, known as the Sliver Branch, extending from railroad station milepost S-0.0 to milepost S-2.0, which traverses through United States Postal Service ZIP Code 55792. The proceeding will be docketed as STB No. AB-101 (Sub-No. 17X). A copy of the petition is enclosed for your reference.

Based on information in our possession, 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.

Any questions regarding this matter may be addressed to the undersigned or the Surface Transportation Board, Washington, D.C. 20423.

Very truly yours,



Thomas R. Ogoreuc

*Counsel for
Duluth, Missabe and Iron Range
Railway Company*

Enclosure

THOMAS R OGOREUC
Attorney at Law

135 Jamison Lane
P.O. Box 68
Monroeville, PA 15146

Tel: 412-829-6893
Fax: 412-829-6607
E-Mail: trogoreuc@hotmail.com

May 1, 2002

Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

Re: Duluth, Missabe and Iron Range Railway Company's Petition for Exemption to
Abandon Service of the Sliver Branch in the City of Virginia, Minnesota.
STB No. AB-101 (Sub-No. 17X)

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Any questions regarding this matter may be addressed to the undersigned or the Surface Transportation Board, Washington, D.C. 20423.

Very truly yours,



Thomas R. Ogoreuc

*Counsel for
Duluth, Missabe and Iron Range
Railway Company*

Enclosure

THOMAS R OGOREUC
Attorney at Law

135 Jamison Lane
P.O. Box 68
Monroeville, PA 15146

Tel: 412-829-6893
Fax: 412-829-6607
E-Mail: trogoreuc@hotmail.com

May 1, 2002

Mike Dombeck, Chief
USDA Forest Service
P.O. Box 96090
Washington, D.C. 20090-6090

Re: Duluth, Missabe and Iron Range Railway Company's Petition for Exemption to
Abandon Service of the Sliver Branch in the City of Virginia, Minnesota.
STB No. AB-101 (Sub-No. 17X)

Dear Mr. Dombeck:

The Duluth, Missabe and Iron Range Railway Company gives notice that on May 1, 2002, it filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption pursuant to 49 U.S.C. 10502 and 49 C.F.R. 1121 to abandon service over trackage located in the City of Virginia, St. Louis County, Minnesota, known as the Sliver Branch, extending from railroad station milepost S-0.0 to milepost S-2.0, which traverses through United States Postal Service ZIP Code 55792. The proceeding will be docketed as STB No. AB-101 (Sub-No. 17X). A copy of the petition is enclosed for your reference.

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Any questions regarding this matter may be addressed to the undersigned or the Surface Transportation Board, Washington, D.C. 20423.

Very truly yours,



Thomas R. Ogoreuc

*Counsel for
Duluth, Missabe and Iron Range
Railway Company*

Enclosure

THOMAS R OGOREUC
Attorney at Law

135 Jamison Lane
P.O. Box 68
Monroeville, PA 15146

May 1, 2002

Tel: 412-829-6893
Fax: 412-829-6607
E-Mail: trogoreuc@hotmail.com

Department of Defense
Military Traffic Management Command
Transportation Engineering Agency
Railroads for National Defense Program
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

Re: Duluth, Missabe and Iron Range Railway Company's Petition for Exemption to
Abandon Service of the Sliver Branch in the City of Virginia, Minnesota.
STB No. AB-101 (Sub-No. 17X)

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Any questions regarding this matter may be addressed to the undersigned or the Surface Transportation Board, Washington, D.C. 20423.

Very truly yours,

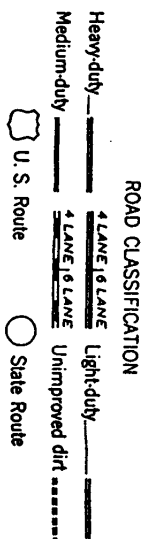


Thomas R. Ogoreuc

Counsel for
Duluth, Missabe and Iron Range
Railway Company

Enclosure

EXHIBIT
A



SCALE: 1"=1600'



EXHIBIT

B

Mr. Ted L. Frase
DM&IR Railway Company
500 Missabe Building
Duluth, MN 55802

Re: Proposal to Abandon and Discontinue Service over the Sliver Branch in Virginia,
Minnesota
STB Docket No. AB 101 (Sub No. 17X)

Dear Mr. Adams:

Ferrellgas, Inc. has reviewed the DM&IR's proposal to abandon and discontinue service over the Sliver Branch in Virginia, Minnesota and takes no objection to such proposal.

Over the past five years, Ferrellgas has received an average of 55 tank cars of propane per year from the DM&IR over the Sliver Branch. Loss of this service from the DM&IR will have no detrimental effect on the business and operations of Ferrellgas.

As it is our desire to eventually have the tracks of the Sliver Branch removed from the vicinity, Ferrellgas supports the DM&IR's proposal to abandon and discontinue service and petition for exemption before the Surface Transportation Board.

Very truly yours,

Ferrellgas, L.P. by
Ferrellgas, Inc., its general partner

Cc: T. R. Ogoreuc, Esq.

Michael W. Eggleston
Michael W. Eggleston
Director of Legal and Real Estate

EXHIBIT

C

**Profit (Loss) Estimate for Silver Branch
Years 1997 - 2001****Revenues 1997 - 2001**

275 Carloads @ \$616 Average Rate Per Car \$169,358

Track and R.O.W. Maintenance Costs - 5 Years

750 Ties @ \$50	\$37,500
1,250 ft. Rail @ \$20	25,000
2.5 Crossings \$6,000	15,000
Misc. Mtce. & Inspection	37,500
Weed Control	2,500
Turnouts 5 @ \$7,500	37,500
Snow Removal	37,500
Equipment	5,000
Highway 53 Signal Maintenance	<u>30,000</u>

Total Track & ROW Costs \$227,500

Train Costs - 5 Years

Locomotives: 2 Units @ 3.5 Hours x 92 trips
@ \$50/Hour \$16,100

Crews: 92 trips @ 3.5 Hours @ \$126/hour 40,572

Total Train Costs 56,672

Total All Costs 284,172

Total Profit (Loss) - 5 Years \$(114,814)

Average Annual Loss \$(22,962)

TLF:amm

DM&IR Executive Department
February 28, 2002

silver branch exhibit

EXHIBIT

D

ENVIRONMENTAL REPORT

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY

PROPOSED RAIL LINE ABANDONMENT

* * * * *

Abandonment of Sliver Branch Line

From MP S-0.0 to MP S-2.0

**ENVIRONMENTAL REPORT ON ABANDONMENT OF DULUTH, MISSABE AND
IRON RANGE RAILWAY COMPANY'S SLIVER BRANCH LINE FROM MP S-0.0 TO
MP S-2.0 IN ST. LOUIS COUNTY, MINNESOTA**

§ 1105.7(d): Documentation.

Any written responses received from agencies that were contacted in preparing the Environmental Report shall be attached to the report. Oral responses from such agencies shall be briefly summarized in the report and the names, titles and telephone numbers of the persons contacted shall be supplied. A copy of, or appropriate citation to, any reference materials relied upon shall also be provided.

All written responses received prior to the filing of the Application for Abandonment and Discontinuance have been attached to the report. Oral responses, citations to reference materials and persons contacted are contained in the section of the report to which they apply.

§ 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.

Abandon the Duluth Missabe and Iron Range Railway Company's (DM&IR) Sliver Branch Line from MP S-0.0 to MP S-2.0 in the City of Virginia, St. Louis County, Minnesota. A map delineating the line proposed for abandonment is attached as Exhibit A. This section of track runs through a residential and commercial neighborhood and crosses city streets at nine different points.

The only rail customer on the line is Ferrellgas, Inc., which receives 20 to 70 tanks cars of propane annually. Ferrellgas has no outbound rail shipments. The DM&IR cannot provide continued service to Ferrellgas except at a financial loss. If abandonment is approved, DM&IR rail service to Ferrellgas would cease. However, Ferrellgas has discussed relocating the transfer of tank cars to the Duluth Winnipeg & Pacific Railway Company's (DWP) yard located ¼ mile west of their facility. Ferrellgas would then be served by the DWP.

Removal of track materials and grade crossings would take place following abandonment. This includes removal of the crossing and traffic protection devices from State Highway 53, a busy four lane artery. There are no bridges, buildings or other structures on or near the line.

§ 1105.7(e)(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.

There will be no effect on local or regional transportation systems or patterns, except that traffic flow on Highway 53 in Virginia would improve to a minor degree. The proposed action could divert approximately 20 to 70 tank cars of propane per year from the DM&IR to the DWP, within the locale of Virginia.

§ 1105.7(e)(3): Land use.

(i) Based on consultation with local and/or regional planning agencies and/or a 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.

The City of Virginia has advised the DM&IR that it approves of the proposed abandonment. See attached letter.

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

To the best of the DM&IR's knowledge, no prime agricultural land will be affected by the proposed abandonment. No response was received from the Natural Resources Conservation Service.

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

The proposed abandonment is not within a designated coastal zone. See attached letter from Minnesota Pollution Control Agency (MPCA).

(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. § 10906 and explain why.

The DM&IR will continue to own only a small segment of the right-of-way, which is 100' in width through most of the area. Most of the right-of-way will revert to other owners. Whether they would be willing to sell or grant easements for alternative public use is unknown.

§ 1105.7(e)(4): Energy.

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

The proposed action would make it impossible for Ferrellgas, Inc. to receive propane from the DM&IR. However, Ferrellgas has initiated discussions with the DWP to receive service at the DWP's yard, only ¼ mile away. Should Ferrellgas be serviced by the DWP, the 20 to 70 tank cars received annually would travel a shorter total distance.

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

The proposed abandonment will have no effect on recyclable commodities.

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

The proposed abandonment will increase overall energy efficiency as Ferrellgas, Inc. will receive loaded tank cars that traveled a shorter distance over the DWP's lines versus over the DM&IR's lines.

(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.

The proposed abandonment will not cause diversions from rail to motor carriage.

§ 1105.7(e)(5): Air.

(i) If the proposed action will result in either:

- (A) an increase in rail traffic of at least 100% (measured in gross ton miles

- annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or
- (B) an increase in rail yard activity of at least 100% (measured by carload activity), or
 - (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. § 10901 (or § 10505) to construct a new line or re-institute service over a previously abandoned line, only the eight train a day provision in § (5)(i)(A) will apply.

The proposed abandonment will result in no such increases.

(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

- (A) an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or
- (B) an increase in rail yard activity of at least 20% (measured by carload activity), or
- (C) an average increase in truck traffic of more than 10% 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. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505), or a case involving the

reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

No non-attainment area is affected. See attached letter from MPCA.

(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 proposed abandonment does not involve the transportation of ozone depleting materials.

§ 1105.7(e)(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 proposed abandonment will have no effect on noise levels.

§ 1105.7(e)(7): Safety.

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

The removal of nine at-grade crossings will have a positive effect on public safety.

(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.

Not applicable.

(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 hazardous spill sites along the right-of-way.

§ 1105.7(e)(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.

The proposed abandonment will have no effect on endangered or threatened species or areas designated as a critical habitat. See attached letter.

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

The proposed abandonment will have no effect on wildlife sanctuaries or refugees, national or state parks or forests.

§ 1105.7(e)(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.

The proposed abandonment is consistent with applicable federal, state and local water quality standards. See attached letter from MPCA.

(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 permits are required under Section 404 of the Clean Water Act for the proposed abandonment. No designated wetlands or 100-year floodplains will be effected.

(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.)

No permits are required for the proposed abandonment under Section 402 of the Clean Water Act.

§ 1105.7(e)(10): Proposed Mitigation.

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Contractor would be required to minimize disturbance of right-of-way soils when removing rail, ties and other material. All track structure materials would be removed

from the site, and contractor would compact any disturbed soil upon completion of material removal. Such action would minimize potential for suspended solids in stormwater runoff. After abandonment, the need for vegetation control along the right-of-way would no longer exist, thus causing better establishment of shrubs and root systems and thus, reduced solids in water runoff.

§ 1105.7(e)(11): Additional Information for Rail Constructions.

The following additional information should be included for rail construction proposals (including connecting track construction):

(i) Describe the proposed route(s) by State, county, and subdivision, including a plan view, at a scale not to exceed 1:24,000 (7½ minute U.S.G.S. quadrangle map), clearly showing the relationship to the existing transportation network (including the location of all highway and road crossings) and the right-of-way according to ownership and land use requirements.

Not applicable.

(ii) Describe any alternative routes considered, and a no-build alternative (or why this would not be applicable), and explain why they were not selected.

Not Applicable.

(iii) Describe the construction plans, including the effect on the human environment, labor force requirements, the location of borrow pits, if any, and earthwork estimates.

Not applicable.

(iv) Describe in detail the rail operations to be conducted upon the line, including estimates of freight (carloads and tonnage) to be transported, the anticipated daily and annual number of train movements, number of cars per train, types of cars, motive power requirements, proposed speeds, labor force, and proposed maintenance-of-way practices.

Not applicable.

(v) Describe the effects, including indirect or down-line impacts, of the new or diverted traffic over the line if the thresholds governing energy, noise and air impacts in §§ 1105.7(e)(4), (5), or (6) are met.

Not applicable.

(vi) Describe the effects, including impacts on essential public services (e.g., fire, police, ambulance, neighborhood schools), public roads, and adjoining properties, in communities to be traversed by the line.

Not applicable.

(vii) Discuss societal impacts, including expected change in employment during and after construction.

This is not a rail construction proposal; therefore, § 1105.7(e)(11) is not applicable.

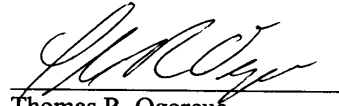
§ 1105.7(f): Additional Information.

The Board may require applicants to submit additional information regarding the environmental or energy effects of the proposed action.

§ 1105.7(g): Waiver.

The Board may waive or modify, in whole or in part, the provisions of this section where a railroad applicant shows that the information requested is not necessary for the Board to evaluate the environmental impacts of the proposed action.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. Ogoreuc', written over a horizontal line.

Thomas R. Ogoreuc
135 Jamison Lane
Monroeville, PA 15146
(412) 829-6893

Counsel for
DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY

CITY OF VIRGINIA

327 FIRST STREET SOUTH • VIRGINIA, MINNESOTA 55792-2623

Office of the City Department Director

April 4, 2001

Mr. Al Vogel, Director
Office of Freight, Railroad & Waterways
925 Kelly Annex (MS 470)
395 John Ireland Blvd.
St. Paul, Minnesota 55155

DM & IR ENGINEERING	
APR 10 2001	
NOTED <i>DPOM</i>	REFERRED <i>LG</i>

Dear Mr. Vogel:

At a recent Council Meeting, the City of Virginia agreed to the removal of DM&IR railroad trackage within the City limits of Virginia. This would include the Sliver Spur and the main spur serving the Virginia Department of Public Utilities. Enclosed please find a copy of the action approving this removal. It has taken the City a long time to come to this very difficult decision – a decision that rested fully on balancing economic development with the ability to maintain railroad access to the Utilities' Power Plant.

I would suggest a meeting, at your convenience, of possibly the same group that met on August 30, 2000 at the City Hall in Virginia. The issues related to this trackage removal are numerous and a meeting would prove helpful to all parties involved in this venture.

Please contact me at your earliest convenience to confirm that a meeting can be scheduled with regard to the removal of the trackage.

Sincerely,



Terry Leoni

TL:sl
Enclosure

p.c. Mr. Dick Adams, DM&IR
Mr. Thomas Butorac, Virginia City Attorney
Mr. Craig Hartman, EVTAC
Mr. Dennis Hendricks, USX
Mr. Bill Hennis, Virginia City Engineer's Office
Mayor Carolyn Gentilini, Mayor of Virginia
Mr. Dave Moore, DM&IR
Mr. Gus Peterson, MN DOT
Virginia City Council
Virginia Public Utilities Commission

APR 16 01

☒	RNG	
☐	DMS	
☐	LG	
☐	CTC	
☐	TD	
☐	PK	
☐	CLAIMS	

Equal Opportunity Employer

Moved by Thornton and supported to send up to six employees, as designated by the Safety Committee, to the Safety and Loss Control Workshop to be held in Grand Rapids on April 10, 2001. Motion carried.

Moved by Thornton and supported to adopt Resolution No. 01072, declaring the City of Virginia's commitment to the join in the "Minnesota Cities: Building Quality Communities" statewide educational effort in cooperation with our fellow members of the League of Minnesota Cities, and to designate Larry Cuffe, City Councillor, as the City's key contact for this effort. Resolution adopted unanimously.

Moved by Baribeau and supported to approve the Duluth, Missabe and Iron Range Railway's request to move forward in removing railroad trackage in the City of Virginia. Motion carried.

Moved by Baribeau and supported to support Marlyn Swanson in her endeavor to obtain possible funding for spay/neuter assistance and request that the Mesabi Humane Society provide the necessary information. Motion carried.

Moved by Cuffe and supported to receive and file the communication from the City of Shorewood requesting support of legislation to restrict the sale of phosphorus lawn fertilizers. Motion carried.

Moved by Baribeau and supported to send a letter opposing the proposed elimination of the grant program under the Fire Act. Motion carried.

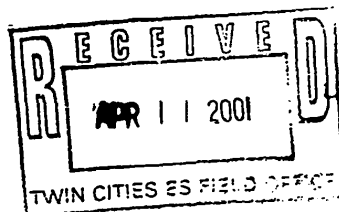
To: TCFO P665

DULUTH MISSABE AND IRON RANGE RAILWAY COMPANY

500 MISSABE BUILDING • DULUTH, MINNESOTA 55802

April 4, 2001

U. S. Fish and Wildlife Service
Federal Building, Fort Snelling
1 Federal Drive
Minneapolis, Minnesota 55111-4056



RECEIVED
APR 11 2001
U.S. FISH AND WILDLIFE SERVICE
Ecological Services

Dear Sirs:

The Duluth, Missabe and Iron Range Railway Company owns three short sections of track in the cities of Hibbing and Virginia, Minnesota, which it plans to abandon and dismantle. In all cases, this action is necessary because of diminished need, or no need, for rail service in the area. The tracks are:

Hull-Rust Shortline in Hibbing - 1.6 miles of track

Sliver Branch in Virginia - 2.3 miles of track

Virginia Branch in Virginia - 2.0 miles of track

The DM&IR is required by the Surface Transportation Board to file environmental and historical reports as part of the approval procedure for these abandonments. There are questions in the reports which the DM&IR must answer, based on consultation with governmental agencies. The question that I ask your advice on, for all three locations, is the following:

Are these track removals likely to adversely affect endangered or threatened species or areas designated as critical habitat? If so, what might be the impact?

May I have your response to the above at your earliest convenience. Enclosed for your use are maps indicating the locations of the tracks involved in this action.

Your:

UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
TWIN CITIES FIELD OFFICE (ES)

Richa
Admin

REA:amm
Enclosure

Because of the location and type of activity proposed, this project is not likely to adversely affect any federally listed or proposed threatened or endangered species or their critical habitat. This precludes the need for further action on this project as required under Section 7 of the Endangered Species Act of 1973, as amended. However, if the project is modified or new information becomes available which indicates that listed species may be affected, consultation with this office should be reinitiated.

NAME: Aimee M. Roberson DATE: 4/27/01
R. Nicholas Rowse
Aimee M. Roberson

TITLE: Fish and Wildlife Biologist

TELEPHONE: (612) 725-3548 ext 240 202



DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS
ARMY CORPS OF ENGINEERS CENTRE
190 FIFTH STREET EAST
ST. PAUL, MN 55101-1638

REPLY TO
ATTENTION OF

April 19, 2001

Construction-Operations
Regulatory (01-03427-TWP)

Richard E. Adams
DM&IR Railway Company
500 Missabe Building
Duluth, Minnesota 55802



Dear Mr. Adams:

We have reviewed information about your project to abandon and dismantle three sections of track, including 1.6 miles of track at Hull-Rust Shortline in Hibbing, 2.3 miles of track at Sliver Branch, and 2.0 miles of track at Virginia Branch in Virginia. The project site is in St. Louis County, Minnesota.

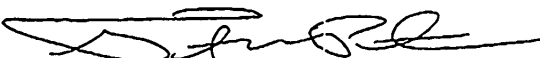
The work proposed at the location stated is not within the regulatory jurisdiction of the Corps of Engineers. No work will be done in a navigable water of the United States, and no dredged or fill material will be discharged in any water of the United States, including wetlands. Therefore, a Department of the Army permit is not required to do this work.

This letter is valid only for the project referenced above. If any change in design, location, or purpose is contemplated, contact this office to avoid doing work that may be in violation of Federal law. PLEASE NOTE THAT THIS CONFIRMATION LETTER DOES NOT ELIMINATE THE NEED FOR STATE, LOCAL, OR OTHER AUTHORIZATIONS, SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES OR COUNTY.

The decision regarding this action is based on information found in the administrative record which documents the District's decision-making process, the basis for the decision, and the final decision.

If you have any questions, contact Tim Peterson in our Two Harbors office at (218) 834-6630. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,


for Robert J. Whiting
Chief, Regulatory Branch

U.S ARMY CORPS OF ENGINEERS - ST. PAUL DISTRICT
REGULATORY BRANCH

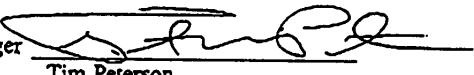
BASIS FOR DETERMINATION OF SECTION 404 JURISDICTION

Applicant: DM&IR Railway Company

File Number: 200103427

- ☐ A. Property referenced in the attached correspondence contains an area of water/wetland areas considered to be a water of the United States because the area:
- ☐ 1. is currently used, has been used in the past, or may be susceptible to use in interstate or foreign commerce, i.e., navigable waters of the United States. [328.3(a)(1)]
 - ☐ 2. is interstate waters. [328.3(a)(2)]
 - ☐ 3. is an area the use, degradation, or destruction of which could affect interstate or foreign commerce. [328.3(a)(3)]
 - ☐ a. is or could be used by interstate or foreign travelers for recreation or other purposes.
 - ☐ b. has fish or shellfish that are or could be taken and sold in interstate or foreign commerce.
 - ☐ c. is or could be used for industrial purposes by industries in interstate commerce.
 - ☐ 4. is an impoundment of waters/areas otherwise defined as waters of the United States. [328.3(a)(4)]
 - ☐ 5. is connected to or adjacent to a tributary of any waters/areas identified under paragraphs (1) through (4) of 33 CFR 328.3(a). [328.3(a)(5)]
 - ☐ 6. contains wetlands or waters adjacent to waters/areas defined as waters of the U.S in paragraphs (1) through (5) in 33 CFR 328.3 (a). [328.3(a)(7)].
- ☒ B. The property referenced in the attached contains no water/wetland areas that meet any of the criteria described above and therefore is not subject to Corps of Engineers jurisdiction under Section 404 of the Clean Water Act.

Project Manager


Tim Peterson

Date 4/20/01

Section Chief

Juliett Denton

Date _____

Wetlands are identified and delineated using the methods and criteria established in the Corps of Engineers Wetland Delineation Manual (87 Manual). Generally, wetlands are determined by the occurrence of hydrophytic vegetation, hydric soils and wetland hydrology.

Edition of March 29, 2001. Previous editions obsolete.



Planning...Success

ARROWHEAD REGIONAL DEVELOPMENT COMMISSION

April 25, 2001

221 West First Street
Duluth, Minnesota 55802
218-722-5545 / 800-232-0707
FAX 218-529-7592
www.ardc.org

Richard Adams
500 Missabe Building
Duluth, MN 55802

Dear Richard Adams,

Thank you for contacting the Arrowhead Regional Development Commission regarding the removal of three railroad lines in Northeast Minnesota. As the Regional Planning Agency, we appreciate the opportunity to respond. However, to get an official response regarding specific language included in land use plans you will need to contact the individual cities that are involved. The addresses and contact names are listed below:

Joe Lopak
City of Hibbing
401 East 21st Street
Hibbing, MN 55746

Terry Leoni
City of Virginia
327 First Street South
Virginia, MN 55792

ARDC does feel, from a regional perspective, that a couple of items could be addressed regarding the removal of these tracks.

1. Industrial Access

With the recent economic difficulties on the Iron Range, it is important that the industrial areas of Hibbing and Virginia remain as attractive as possible. Part of that attractiveness may be the opportunity to ship via rail. Assurances should be made that the removal of track will not hurt economic development efforts by the cities of Hibbing and Virginia.

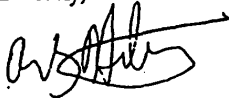
2. Transportation Corridors

As development occurs in Northeast Minnesota, opportunities for the development of transportation corridors get fewer. With the removal of railroads around the nation, some opportunity for corridor development is occurring. Often times the development is in the form of trails, but other uses include utility lines. Use of the railroad corridor in the future regarding transportation and utilities could be considered. One item of particular interest is the Mesabi Trail system. Proposed to cross the entire Iron Range, this trail has connections to both Hibbing and Virginia. When conducting the *Northeast Minnesota Bikeways Plan*, ARDC learned many citizens are concerned that they do not have safe access to the trail system from their homes when walking or on bicycle. It may be possible that the rail corridors being considered for removal could provide safe access to the trail. An address for the Mesabi Trail Administrator is on the following page:

Bob Manzoline
St. Louis and Lake Counties Regional Rail Authority
Northland Office Bldg.
307 First St. South
Virginia, MN 55792

Again, thank you for giving ARDC the opportunity to respond in this matter. We look forward to working with you on projects in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andy Hubley', with a stylized flourish at the end.

Andy Hubley



Minnesota Pollution Control Agency

May 2, 2001

Mr. Richard E. Adams
Administrative Manager
Duluth Missabe and Iron Range Railway Company
500 Missabe Building
Duluth Minnesota 55802

RE: Proposal to Abandon and Dismantle Sections of Track in the Hibbing and Virginia Areas

Dear Mr. Adams:

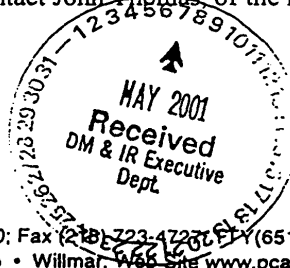
Thank you for contacting the Minnesota Pollution Control Agency (MPCA) regarding your proposal to abandon and dismantle three sections of railroad tracks in the Hibbing and Virginia areas. MPCA staff have reviewed the questions from your April 4, 2001, letter and have provided the following answers.

1. Is the Railroad required to obtain permits under Section 402 of the Clean Water Act to remove these tracks?

Section 402 of the Clean Water Act (CWA) pertains to National Pollutant Discharge Elimination System (NPDES) permits, which are required for the discharge of pollutants to state waters. One activity covered under NPDES permits is construction activities. Projects that disturb (i.e., clearing, grading, filling and excavating) five or more acres of land area are required to apply to the MPCA for coverage under a General NPDES Storm Water Permit for Construction Activity.

This permit specifically requires implementation of best management practice (BMP) measures to control erosion and sedimentation at the project site. BMPs are erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing and minimizing degradation of surface water.

The need for this permit is largely dependent upon the extent of land disturbing activity that will occur during the project. Please refer to the enclosed MPCA fact sheet *Commonly Asked Questions and Answers about the Storm Water Permit Program for Construction Activities*. For more information on this permit, please contact John Thomas, of the MPCA, at (218) 723-4928.



Mr. Richard Adams
Duluth Missabe and Iron Range Railway Company
May 2, 2001
Page 2

2. Is the removal of the tracks consistent with Federal, State and Local water quality standards?

Based on the information provided and the limited scope of the work proposed, MPCA staff do not anticipate significant impacts to water quality. However, any land disturbing activity that may coincide with track removal may have some potential to negatively affect water quality. Special attention should be given to minimize disturbance along those portions of line that are adjacent to lakes, streams and wetlands.

Appropriate management of the expended ties also needs to be considered. Any stockpiling of the ties should be temporary and be done only in upland areas located away from waters of the state. Please refer to the enclosed MPCA fact sheet *Treated Wood: Use Disposal and Alternatives for Businesses*.

3. Are any of these tracks in a non-attainment area or designated coastal zone?

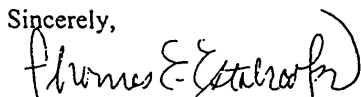
The area of the three branches of track is located outside of the designated coastal zone, as defined by Minnesota's Lake Superior Coastal Program. The boundary for the coastal zone is generally limited to those townships adjacent to Lake Superior.

Impaired waters (non-attainment areas) are listed on the CWA, Section 303(d) list for Minnesota. The project area is located within the St. Louis River watershed. MPCA staff did not identify any impaired waters in proximity to the Hibbing or Virginia area. Therefore, your project is not located within a non-attainment area.

Please note that the information contained in this letter does not exempt the Duluth Missabe and Iron Range Railway Company from the responsibility of complying with all applicable local, state and federal requirements, nor does it grant any right to violate personal or property rights.

Thank you again for contacting MPCA on this matter. If you have further questions on this matter, please contact me at (218) 725-7763.

Sincerely,



Thomas E. Estabrooks
Pollution Control Specialist, Intermediate
North District, Duluth Office

TEE:kmt

Enclosures



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

REPLY TO THE ATTENTION OF:

February 28, 2002

VIA FIRST CLASS MAIL
AND TELEFAX

Thomas R. Ogoreuc, Esq.
135 Jamison Lane
P.O. Box 68
Monroeville, PA 15146
fax 412-829-6607

Re: Duluth, Missabe and Iron Range Railway Company Proposed Rail Line Abandonment of
the Sliver Branch in Virginia, St. Louis County, Minnesota
Docket No. AB 101 (Sub No. 17x)

Dear Mr. Ogoreuc:

This letter responds to your letter of February 7, 2002, concerning the above matter.
Based on our review of the Environmental Report and Historic Report attached to your letter, the
Agency has no comments on the proposed action.

If you have any questions, I may be reached at 312-886-6721.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard M. Murawski".

Richard M. Murawski
Assistant Regional Counsel

cc: Paul Zanter (SM-5J)
Catherine Fox (C-14J)

EXHIBIT

E

HISTORIC REPORT
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
PROPOSED RAIL LINE ABANDONMENT

* * * * *

Abandonment of Sliver Branch Line

From MP S-0.0 to MP S-2.0

**HISTORIC REPORT ON ABANDONMENT OF DULUTH, MISSABE AND IRON
RANGE RAILWAY COMPANY'S SLIVER BRANCH LINE FROM MP S-0.0 TO
MP S-2.0**

§ 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.

Abandon DM&IR's Sliver Branch Line from MP S-0.0 to MP S-2.0. A map delineating the line proposed for abandonment is attached as Exhibit A. Track materials only will be removed from the subject right-of-way following abandonment.

§ 1105.8(d)(1): Topographic map.

A U.S.G.S. topographic 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.

Attached is a portion of U.S.G.S. Quadrangle Maps, Virginia, Minnesota, illustrating the location of the proposed abandonment (Exhibit A). No buildings are involved in the abandonment.

§ 1105.8(d)(2): Description or 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 right-of-way consists of two miles of switching track in Virginia, MN and traverses

through a residential/light industrial neighborhood. Surrounding land is flat. The right-of-way extends 50' on each side of the tracks.

§ 1105.8(d)(3): Photographs.

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

No structures are involved.

§ 1105.8(d)(4): Construction dates.

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.

No structures are involved.

§ 1105.8(d)(5): Narrative history.

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.

Approximately 40 years ago, the Virginia Branch reached iron mine spurs northwest of Virginia. Fair volumes of ore moved over the line, but mine production ceased 40 years ago. Since then, a few oil and gas customers were served, but only Ferrellgas, Inc. has survived. There is no other notable history connected with the Virginia Branch.

§ 1105.8(d)(6): Summary of documents.

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.

Not applicable. No such structures exist.

§1105.8(d)(7): Opinion of historical significance.

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 opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities).

No buildings are involved in the proposed abandonment. To the best of the DM&IR's knowledge, there is nothing of historical value located along the line.

§ 1105.8(d)(8): Ground conditions.

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 the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

The DM&IR has no knowledge of prior disturbance in this area, nor of unusual ground conditions.

§ 1105.8(d)(9): Additional Information.

Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified non-railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (i.e., prehistoric or native American).

§ 1105.8(e): Waiver.

Any of these requirements may be waived or modified when the information is not necessary to determine the presence of historic properties and the effect of the proposed action on them.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read 'Thomas R. Ogoreuc', written over a horizontal line.

Thomas R. Ogoreuc
135 Jamison Lane
Monroeville, PA 15146
(412) 829-6893

Counsel for
DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY



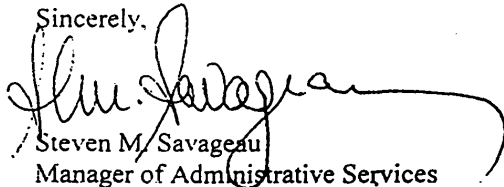
April 9, 2001

Richard E. Adams
Administrative Manager
DM&IR Railway Company
500 Missabe Building
Duluth, MN 55802

Dear Mr. Adams,

I received your request to review DM&IR Railway Company's plans to abandon sections of track near Hibbing and Virginia. I am forwarding your request to Patricia Maus, Manager of the Northeast Minnesota Historical Center and our Curator of Manuscripts, to do the review. You may contact Pat directly at (218)726-8526 or pmaus@d.umn.edu if you have any questions of her. Otherwise, feel free to contact me at (218)733-7586 or history@chartermi.net.

Sincerely,



Steven M. Savageau
Manager of Administrative Services

cc: Pat Maus



MINNESOTA HISTORICAL SOCIETY

May 14, 2001

Mr. Richard E. Adams
Missabe and Iron Range Railway Co.
500 Missabe Building
Duluth, MN 55802

Re: Missabe and Iron Range Railway Company
Hull-Rust Shortline track abandonment, Hibbing, St. Louis County
Silver Branch track abandonment, Virginia, St. Louis County
Virginia Branch track abandonment, Virginia, St. Louis County
SHPO Numbers: 2001-2243, 2001-2244, & 2001-2245

Dear Mr. Adams:

Thank you for the opportunity to review and comment on the above projects. They have been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

Your proposal indicates the abandonment of 3 rail lines. We need the following information:

1. Photographs and construction dates of any buildings or structures (including bridges) along the corridor (within or outside the right-of-way), which were built by the railroad or used by the railroad.
2. A brief history (including construction dates and railroad company historic names) of each line.

Contact us at 651-296-5462 with questions or concerns.

Sincerely,

 Dennis A. Gimmestad
Government Programs & Compliance Officer

THOMAS R OGOREUC
Attorney at Law

135 Jamison Lane
P.O. Box 68
Monroeville, PA 15146

Tel: 412-829-6893
Fax: 412-829-6607
E-Mail: trogoreuc@hotmail.com

April 11, 2002

Mr. Dennis A. Gimmestad
Government Programs and Compliance Officer
Minnesota Historical Society
345 Kellogg Boulevard West
Saint Paul, MN 55102-1906

Re: Duluth Missabe and Iron Range Railway Company Abandonments
Virginia Branch – STB Docket No. AB-101 (Sub No. 15X)
Hull Rust Line – STB Docket No. AB-101 (Sub No. 16X)
Sliver Branch – STB Docket No. AB-101 (Sub No. 17X)

Dear Mr. Gimmestad:

This letter is in regards to the Duluth Missabe and Iron Range Railway Company's (DM&IR) abandonment of sections of the Virginia Branch, Hull Rust Line and Sliver Branch and their respective historical reviews. Your office has previously requested photos of buildings and structures and a brief history of the railroad and each line subject to abandonment.

The predecessor of the DM&IR was the Duluth Missabe and Northern Railway Company (DM&NR), incorporated on February 11, 1891. The DM&IR was formed in 1937 when the Spirit Lake Transfer Railway was consolidated with the DM&NR. Ownership of the DM&IR was under the United States Steel Corporation until 1988 when the DM&IR became a subsidiary of Transtar, Inc. Since March 2001, the DM&IR has been a wholly owned subsidiary of Great Lakes Transportation, LLC.

The DM&IR operates in the Iron Range of northwestern Minnesota. The main line runs from the shipping port in Duluth through Forbes, Eveleth, Mountain Iron, Virginia, Biwabik, Aurora, Colby, Hoyt Lakes, Brimson and Wales to a second shipping port in Two Harbors. The DM&IR serves mainly the taconite pellet producing plants on the Iron Range, hauling inbound bulk commodities such as limestone, bentonite clay and grinding materials and outbound taconite pellets.

The Virginia Branch was constructed circa 1893 and consisted of nine miles of right-of-way that served the Lincoln, Missabe Mountain, Minnewas and Rouchleau Mines in Virginia, MN. Along the Virginia Branch, spur tracks were constructed to serve industries such as construction, manufacturing, petroleum storage/distribution and the City of Virginia's coal-fired power plant. The Lincoln, Missabe Mountain, Minnewas and Rouchleau Mines closed by the

1970's. Since the 1960s, the Virginia Branch has serviced EVTAC's operations. Intermittently, the DM&IR has serviced the Auburn Mine which is scheduled for closure by October 2002. The section of the Virginia Branch subject to abandonment has served no customers for over two years. There are no bridges or buildings along the section scheduled for abandonment.

The Hull Rust Line was constructed circa 1910 and consisted of 17 miles of right-of-way that served the Hull Rust Mine in Hibbing, MN. Along the Hull Rust, spur tracks were constructed to serve industries such as logging, construction, manufacturing and petroleum storage/distribution. The Hull Rust's connecting point to the DM&IR's track system was the Alborn Branch. With the change from natural ore to taconite pellets in the 1960's, the Hull Rust Mine's production virtually ceased, causing the abandonment of 15.5 miles of the Hull Rust's tracks by 1970. The remaining 1.5 miles was retained to serve the construction, manufacturing and petroleum storage/distribution companies along the Line. Today, the Hull Rust serves a single customer, a petroleum storage/distribution company, which is cooperating with the abandonment of the Hull Rust. There is one bridge on the Hull Rust, Bridge R16A. Attached is a photo of the bridge. There are no buildings on the Line.

The Sliver Branch was constructed circa 1910 and consisted of four miles of right-of-way that served the Prindle and Sliver Mines in Virginia, MN. Along the Sliver Branch, spur tracks were constructed to serve industries such as manufacturing and petroleum storage/distribution. The Sliver's connecting point to the DM&IR's track system was the Virginia Branch. The Prindle Mine ceased production by the 1960's, while the Sliver Mine continued production into the 1970's. Today, the Sliver Branch serves a single customer, a propane gas storage/distribution company, which is cooperating with abandonment. There are no buildings or bridges on the Sliver Branch.

If you have additional questions or need further information, please call me at the above number.

Very truly yours,



Thomas R. Ogoreuc

Counsel for

Duluth, Missabe and Iron Range Railway Company

Enclosure

Cc: T. L. Frase



Affidavit of Publication

STATE OF MINNESOTA)

)ss

COUNTY OF ST. LOUIS)

Eileen Rioux, being duly sworn, on oath says that he/she is the publisher or authorized agent and employee of the publisher of the newspaper known as Mesabi Daily News, and has full knowledge of the facts which are stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed **Duluth, Missabe and Iron Range Railway Company Legal Notice** which is attached was cut from the columns of said newspaper, and was printed and published one time; it was published on **Thursday**, the **14th** day of **March, 2002**; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice.

*abcdefghijklmnopqrstuvwxyz

BY:

Eileen Rioux

Subscribed and sworn to before me on
this **14th** day of **March, 2002**.
Notary Public

Victoria L. Juntunen



*Alphabet should be in the same size and kind of type as the notice.

RATE INFORMATION

LEGAL NOTICE

(1) Lowest classified rate paid by commercial users for comparable space

(2) Maximum rate allowed by law for the above matter

(3) Rate actually charged for the above matter

Duluth, Missabe and Iron Range Railway Company ("DM&IR") gives notice that on or about March 22, 2002, it intends to file with the Surface Transportation Board, Washington, DC 20423, a petition for exemption under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 10903, et seq., permitting the abandonment and discontinuance of service over trackage known as the Silver Branch, a 2.0 mile line of railroad extending from MP S-0.0 to MP S-2.0 which traverses through United States Postal Service ZIP Code 55792 in St. Louis County, Minnesota. The proceeding has been docketed as No. AB 101 (Sub-No. 17X). 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, Washington, DC 20423 or by calling at 202-927-6211.

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, NW, Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Service at 202-565-1594. Copies of any comments or requests for conditions should be served on the applicant's representative: Thomas R. Ogoreuc, Esq., 135 Jamison Lane, Monroeville, PA 15146.
MDN: 3-14-2002

\$ \$11.55
(Line, word, or inch rate)

\$ \$11.55
(Line, word, or inch rate)

\$ \$8.35
(Line, word, or inch rate)

