

EDWARD T. LYONS, JR.
ATTORNEY AT LAW



ELYONS@JONESKELLER.COM

May 7, 2004

Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings

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Part of
Public Record

210838

Re: Lake Superior & Ishpeming Railroad Company-Abandonment and Discontinuance
of Service-In Marquette County, MI: Docket No. AB-68 (Sub-No. 4X)

Dear Secretary Williams:

Pursuant to 49 U.S.C. § 10502, The Lake Superior & Ishpeming Railroad Company submits the original and ten (10) copies of a Petition for Exemption, with Verification, to abandon or discontinue service on the above referenced rail line. The Certificate of Service and Publication pursuant to 49 C.F.R. § 1152.60(d) and 49 C.F.R. § 1105.12 is attached to the petition, as well as the Environmental/Historic Report.

Also enclosed is a draft Federal Register Notice pursuant to 49 C.F.R. § 1152.60(c). One compact disc containing three (3) copies of the petition with attachments and the notice are enclosed.

Please file the Petition for Exemption in Docket No. AB-68 (Sub-No. 4X). Enclosed is the Petitioner's check in the amount of \$4,700 for the applicable filing fee.

FEE RECEIVED

MAY 11 2004

TRANSPORTATION BOARD

Encs.

cc: Peter Ray
Ken Simmons, Esq.
Bob Clark

MTMCTEA

Attn: Railroads for National Defense

720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

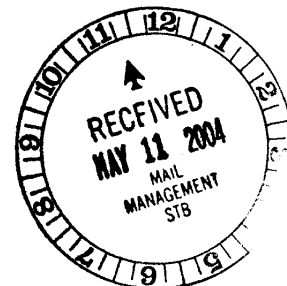
Very truly yours,

Edward T. Lyons, Jr.

FILED

MAY 11 2004

**SURFACE
TRANSPORTATION BOARD**



U.S. Department of the Interior
National Park Service
Recreation Resources Assistance Division
PO Box 37127
Washington, D.C. 20013-7127

Michigan Public Service Commission
PO Box 30221
Lansing, MI 48909

Chief of the Forest Service
USDA Forest Service
1400 Independence Ave., SW
Washington, D.C. 20250-0003



STB No. AB—68 (Sub-No. 4X)

Notice of Petition for Exemption to Abandon or to Discontinue Service

On May 7, 2004, the Lake Superior & Ishpeming Railroad Company 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 Republic Subdivision, extending from railroad milepost 69.52 near LS&I Junction to railroad milepost 94.5 near Republic Mine, which traverses through United States Postal Service ZIP Codes 49866, 49849 and 49879, a distance of 25 miles, in Marquette County, Michigan. The line for which the abandonment exemption request was filed includes the stations of Ishpeming Yard (MP 73.10), Landing Jct. (MP 73.60), Viking Spur (MP 80.00), Humboldt Jct. (MP 85.65), Humboldt (MP 87.47) and Republic Mine (MP 94.33).

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 the conditions imposed in *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) (or environmental impact statement (EIS), if necessary) 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 (or EIS) 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.

BEFORE THE
SURFACE TRANSPORTATION BOARD

210838

THE LAKE SUPERIOR AND)
ISHPEMING RAILROAD COMPANY -)
ABANDONMENT EXEMPTION)
BETWEEN NEGAUNEE AND)
REPUBLIC, IN MARQUETTE)
COUNTY, MICHIGAN)

DOCKET NO.
AB-68 (Sub. No. 4X)

PETITION FOR EXEMPTION

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TRANSPORTATION BOARD

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Part of
Public Record

THE LAKE SUPERIOR & ISHPEMING
RAILROAD COMPANY
P. O. Box 200
Ishpeming, MI 49849

Petitioner

Edward T. Lyons
Jones & Keller, P.C.
1625 Broadway, 16th Floor
Denver, CO 80202

Attorney for Petitioner

DATE FILED: May 7, 2004

FILED
MAY 11 2004
SURFACE
TRANSPORTATION BOARD

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BEFORE THE SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

DOCKET NO. AB-68 (Sub. No. 4X)

LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY-ABANDONMENT AND
DISCONTINUANCE OF SERVICE EXEMPTION-IN MARQUETTE COUNTY, MI.

PETITION FOR EXEMPTION

I. INTRODUCTION

The Lake Superior & Ishpeming Railroad Company ("LS&I") hereby petitions the Surface Transportation Board (the "Board") for exemption under 49 U.S.C. § 10502 from the requirements of 49 U.S.C. § 10903 relating to LS&I's abandonment and discontinuance of service on a line of railroad known as the Republic Subdivision, extending from railroad milepost 69.52 (LS& I Jct.) near Negaunee, Michigan to milepost 94.5 (Republic Mine) near Republic, Michigan, a distance of 24.98 miles in Marquette County, Michigan.

The line for which the abandonment exemption request is filed includes the stations of Ishpeming (MP 72.5), and Republic (MP 94.5). A map of the subject line is attached as Exhibit 1 to this Petition.

Based on evidence in our possession, the line does not contain federally granted rights-of-way. Any documentation in the LS&I's possession will be made available promptly to those requesting it.

II. STATEMENT OF THE CASE

A. Background

LS&I is a Class II rail carrier which for the twelve-months ended December 31, 2003 had total revenues of approximately \$28.5 million. The address of the railroad is P.O. Box 2000 Ishpeming, Michigan 49849. LS&I is a wholly-owned subsidiary of Cleveland-Cliffs, Inc.

("Cleveland-Cliffs"), a leading supplier of taconite iron ore pellets to the steel industry. As is here pertinent, Cleveland-Cliffs, or one of its subsidiaries, owns and operates two taconite iron ore mines in the Upper Peninsula of Michigan, known as the Empire and Tilden Mines. LS&I's primary business is the transportation of taconite pellets from the Empire and Tilden Mines to a company-owned ore dock at Marquette on Lake Superior, from which the taconite is shipped on lake vessels to steel mills in the United States and Canada.

LS&I was organized in 1892. In 1896, LS&I completed the construction of an initial line of railroad between Ishpeming, Michigan and an iron ore loading dock constructed by the railroad in Presque Isle Harbor on Lake Superior. The railroad for a time extended its line to serve additional iron ore mines, as well as the timber industry, and a new iron ore pellet plant at Eagle Mills. Eventually, however, as a result of the demise of logging operations and the closing of all but two of the mines, the process of expansion was reversed and LS&I has since then evolved into what has become essentially a private railroad for Cleveland-Cliffs' Empire and Tilden Mines.

The Empire and Tilden Mines are located on a separate branch of the LS&I known as the Ore Subdivision, which extends approximately 20.7 miles from the Tilden Mine to the ore dock at Marquette. This part of the line will not be affected by the proposed abandonment of the Republic Subdivision. The two branches are in fact no longer directly connected by LS&I owned tracks as they once were. The connecting track was abandoned several years ago and since that time any operation by LS&I between the two branches is conducted over separate connecting tracks owned by the Canadian National Railway (the "CN"), between Diamond Jct. and LS&I Jct., under a trackage rights agreement which requires LS&I to pay for using the track.

The Republic Subdivision, which will be abandoned, consists of three distinct segments of track. The first segment, which extends from LS&I Jct. (MP 69.52) west approximately 4.1

miles to Landing Jct. (MP 73.6), was constructed in 1910. It was originally built to serve the Mather "B" Mine, which closed in 1979. In 1963 the track was relocated to allow mining operations on the old right-of-way. This section of the line was originally jointly owned in equal one-third shares by LS&I, the Chicago & North Western Railway Co., and the Soo Line Railroad Co. As a result of various acquisitions and mergers, CN has succeeded to the interests of the North Western and the Soo, and the joint track is now owned one-third by LS&I and two-thirds by CN. The 1963 agreement among LS&I, North Western, and the Soo, which continues to govern the ownership, use and abandonment of the joint track as between LS&I and CN, expressly contemplates that if LS&I abandons its use of the track and CN desires to continue to use the track, CN must purchase LS&I's one-third interest in the track for an amount equal to the net recoverable salvage value of that interest.¹ LS&I notified CN of its intent to abandon its use of the joint track by letter dated January 20, 2004, and on March 22, 2004 it granted CN's request for a 45-day extension of time, to and including May 6, 2004, for CN to respond.² As of the date of the present petition, CN has not formally notified LS&I whether it intends to continue operations on the joint track and, if so, purchase LS&I's one-third interest in the track.³

If CN does acquire LS&I's interest in the joint track, this section of the line would not be dismantled and salvaged, and the exemption sought by LS&I with respect to this part of the line could properly be construed as one for discontinuance of service, rather than abandonment. Due to the present uncertainty concerning CN's intention, LS&I is accordingly seeking such relief as

¹ See paragraph 47 of the 1963 agreement, which is attached hereto as Exhibit 2.

² See letters from LS&I to CN attached hereto as Exhibits 3 and 4.

³ As will be discussed below, however, the only shipper that is presently receiving service from LS&I on this part of the line has advised LS&I that CN has indicated that it does intend to continue service on the line.

may be appropriate based on the final record in this proceeding -- either by way of exemption for abandonment of the joint track or discontinuance of service on this section of the line.

The only traffic that has been handled by LS&I on this first section of the Republic Subdivision during the past three years has consisted of seasonal shipments of approximately 50 tank cars of propane per year consigned to a facility of Ferrellgas at Negaunee. LS&I provides switching service for this traffic between Eagle Mills, where the cars are received from CN, and the consignee's facility in Negaunee. This operation by LS&I actually involves the use of only a few hundred feet of track on the Republic Subdivision west of the switch at LS&I Jct., which is the beginning point of the abandonment. In handling the traffic, a locomotive with the cars consigned to Ferrellgas proceeds westbound on this part of the line only far enough to clear the switch at LS&I Jct., before reversing direction and backing east from the switch over an approximate 1400-ft. spur track that serves Ferrellgas. If the abandonment exemption is granted, LS&I has offered to quit-claim the spur track to Ferrellgas or CN, so that CN can serve Ferrellgas directly.⁴ Ferrellgas states that it is willing to accept the spur, that CN has confirmed it will serve Ferrellgas via the spur, and that, if the track is sound and LS&I will continue to maintain the road crossings associated with the spur, it will support the abandonment.⁵

The second segment of the Republic Subdivision, which extends from Landing Jct. (MP 73.6) west approximately 12 miles to Humboldt Jct. (MP 85.6), was constructed in 1910 to serve iron ore mines in the North Lake Mining District. The mines all ceased operation in the period between 1950 and 1960. This segment of the line is wholly owned by LS&I, but CN is operating

⁴ See letter from LS&I to Ferrellgas dated March 4, 2004, attached hereto as Exhibit 5.

⁵ See letter from Ferrellgas to LS&I, dated April 13, 2004, attached hereto as Exhibit 6. The spur is in good condition. LS&I will, if necessary, continue to maintain the road crossings on the spur, but since LS&I will have no rail operation in the immediate area it will attempt to reach agreement for CN to assume responsibility for maintenance of the crossings.

over it under a 1990 trackage rights agreement.⁶ LS&I itself has handled no traffic on this part of the Republic Subdivision for more than five years, even though it is obliged under the trackage agreement with CN to continue maintaining the track. The trackage rights agreement, paragraph 24, expressly reserves to LS&I the right to abandon this part of the line and gives CN the option to purchase it for the fair market value of the land and salvage value of the track components less estimated cost of removal. On January 20, 2004, LS&I notified CN in writing that it intends to abandon this part of the line.⁷ Despite follow-up telephone inquiries by LS&I, there has been no response from CN as of the date of the present petition.

The final segment of the Republic Subdivision involved in the abandonment, which is wholly owned by LS&I, extends from Humboldt Jct. (MP 85.6) south approximately 8.9 miles to the end of track at Republic Mine (MP 94.5). This track was constructed to serve the Humboldt and Republic Mines, both of which ceased operation in 1981. This part of the Republic Subdivision has had no rail traffic on it for more than five years and maintenance has been deferred. Substantial track maintenance and rehabilitation would be required before operations could be conducted on this portion of the line.

B. Reasons for the Abandonment

An exemption is sought for abandonment of the line because (1) operation of the line is not profitable; (2) a portion of the line requires substantial track maintenance and rehabilitation; and (3) the only rail customer on the line has feasible transportation alternatives.

The only revenue traffic that LS&I has handled on the line during the past three years has consisted of seasonal movements of inbound tank cars of propane gas that LS&I receives from CN at Eagle Mills and delivers to Ferrellgas at Negaunee, using in the process of this limited

⁶ A copy of the Trackage Agreement, dated April 13, 1990, is attached hereto as Exhibit 7.

⁷ A copy of the January 20, 2004 letter from LS&I to CN is attached hereto as Exhibit 8.

switching operation only a few hundred feet of the almost 25 miles of track that is proposed for abandonment. The volume of the traffic is light. There were only 44 cars delivered in 2001, 50 cars in 2002, and 53 cars in 2003. The operation is not a profitable one for LS&I. The revenue produced by the traffic is substantially exceeded by the switching and other out-of-pocket costs incurred by LS&I in handling the traffic and the expense of maintaining the line. During 2003, for example, LS&I derived total revenues of \$26,500 from the 53 cars that were delivered to Ferrellgas. In handling this traffic, LS&I incurred direct switching costs of \$11,713, paid track usage fees to CN of \$2,908, and had maintenance of way expense of \$34,846, which resulted in a net operating loss of \$22,967. The average loss for the past three years was \$33,848. Even after taking into account the non-operating revenue that LS&I receives from CN for the use of the tracks between Landing Jct. and Humboldt Jct., which in 2003 totaled \$19,199, the cash outflows on the line still exceed cash inflows by a substantial margin. The average deficit over the past three years has been \$18,325 per year.⁸ All information available to LS&I at the present time indicates that operation of the line will continue to be unprofitable in the future.

In addition, portions of the line would require substantial additional maintenance and rehabilitation in order to remain operational. This is particularly true of the section from Humboldt Jct. south to Republic Mine on which maintenance has been deferred for want of traffic. LS&I estimates that the cost of replacing worn rail and approximately 500 ties/mile on that section, together with repairing washouts and the cost of brushing and signal protection, would be approximately \$280,000. Such an investment would not be economically justified and

⁸ See table summarizing three-year results of operation attached hereto as Exhibit 9. The amount of the loss would be even greater if the full amount of "avoidable cost", including an appropriate return on investment, were properly allocated to this operation as provided for by 49 U.S.C. § 10904, and the regulations at 49 CFR §§ 1152.32-1152.34

abandonment of this line will enable LS&I to deploy its assets more productively on the remainder of its line of railroad.

Keeping the line open without business to support it also exposes LS&I to unnecessary potential liability that it prefers to avoid. LS&I is currently responsible for maintaining signal protection at six road crossings at grade on the Republic Subdivision, even though it has no trains of its own operating over the line. The obligation to maintain these crossings without an economically viable operation on the line constitutes an unacceptable risk of liability for LS&I.

The abandonment of the line will not leave shippers without suitable transportation alternatives. The only customer now receiving service from LS&I on the line, Ferrellgas, should have access to continued rail service after the abandonment. As noted above, in serving this consignee at the present time, LS&I receives loaded rail cars from CN at Eagle Mills, moves these cars a distance of approximately .7 of a mile to Diamond Jct. over track of its own, then operates for about 3.6 miles over track owned by CN between Diamond Jct. and LS&I Jct., and then makes only nominal use of track on the Republic Subdivision in order to switch onto the spur track that connects with the consignee's private track in Negaunee. LS&I has offered to transfer ownership of the connecting spur to Ferrellgas or CN, which will give Ferrellgas the same capability of obtaining rail service from CN as it now has from LS&I, and allow CN to deliver directly the cars it now interchanges with LS&I at Eagle Mills. As has been discussed above, Ferrellgas has advised LS&I that the arrangement is acceptable and that CN has confirmed it will serve Ferrellgas via the spur.⁹ As a result, subject to stated conditions to insure the soundness of the track and continued maintenance of road crossings, Ferrellgas has stated it will support the abandonment.

⁹ LS&I understands that CN is presently serving another branch of Ferrellgas at L'Anse, which is approximately 30 miles west of Humboldt Jct., using the same jointly owned mainline track that would be used by CN in serving the Negaunee branch of Ferrellgas after the abandonment.

Even if for some reason Ferrellgas does not receive substitute rail service from CN or elects not to use that service, Ferrellgas has confirmed that it would have alternate truck service available. The area surrounding the line has an adequate network of roadways and federal and state highways capable of handling truck traffic for the limited traffic that is involved.

C. Labor Protection

The abandonment will not result in any dismissal or displacement of employees, nor rearrangement of forces, on the part of LS&I.

III. ENVIRONMENTAL AND HISTORIC REPORTING REQUIREMENTS

In accordance with the requirements of 49 C.F.R. §§ 1105.7, 1105.8 and 1121.3(b), an Environmental/Historic report is being filed concurrently with this Petition. A copy of the report was previously served on the required federal and state offices and agencies and is attached as Exhibit 10 to this Petition. An addendum to the Environmental/Historic report reflecting subsequent communications relating to the report is attached hereto as Exhibit 11.

IV. DISCUSSION AND ANALYSIS

Under 49 U.S.C. § 10903, a rail line may not be abandoned or service discontinued without the Board's prior approval. Under 49 U.S.C. § 10502, however, the Board must exempt the transaction or service from regulation when it finds that: (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101; and (2) either (a) the transportation or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power. The abandonment proposed by LS&I here clearly satisfies the statutory standards requiring exemption under 10502.

Detailed scrutiny under 49 U.S.C. § 10903 is not necessary to carry out the rail transportation policy declared by the Congress. By minimizing the administrative expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. § 10101(7)].

An exemption will also foster sound economic conditions and encourage efficient management by relieving LS&I of the expense of maintaining a line that generates only a meager amount of traffic and is unprofitable, and by allowing LS&I to apply its assets more productively elsewhere on its system [49 U.S.C. § 10101(5) and (9)]. Other aspects of the rail transportation policy will not be adversely affected. Similar circumstances have justified abandonments in many cases. *See, e.g.,* STB Docket No. AB-850X, *St. Croix Valley Railroad Company -- Abandonment and Discontinuance of Service Exemption -- In Pine and Kanabec Counties, MN*, decided June 27, 2003; STB Docket No. AB-468 (Sub-No. 5X), *Paducah & Louisville Railway, Inc. -- Abandonment Exemption -- In McCracken County, KY*, decided June 18, 2003; STB Docket No. AB-55 (Sub-No. 638X), *CSX Transportation, Inc. -- Abandonment Exemption -- In Knox County, OH*, decided October 29, 2003; STB Docket No. AB-33 (Sub-No. 203X) *Union Pacific Railroad Company -- Abandonment Exemption -- In Harris County, TX*, decided January 9, 2004; and STB Docket No. AB-55 (Sub-No. 642X), *CSX Transportation, Inc. -- Abandonment Exemption -- In Vermilion County, IL*, decided January 15, 2004.

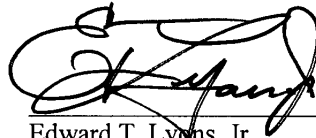
Regulation of the proposed transaction is not necessary to protect shippers from the abuse of market power. The only customer now receiving rail service from LS&I on the line, Ferrellgas, will have the opportunity to continue using rail service by virtue of LS&I's offer to transfer a spur track in the Negaunee area to Ferrellgas, or to CN, so that this consignee will enjoy a direct connection with CN's mainline and be able to receive uninterrupted rail service. A similar proposal by an abandoning carrier to transfer a spur track to a shipper, so that it could receive service from another railroad, was viewed with favor by the Board in STB Docket No. AB-6 (Sub-No. 405X), *The Burlington Northern and Santa Fe Railway Company -- Abandonment Exemption -- In Jefferson, Gage, and Pawnee Counties, NE*, served March 1, 2004. In addition, the area surrounding the line has an adequate network of roadways and

federal and state highways capable of handling truck traffic for the limited traffic that is involved. Because there is thus no need to protect shippers from an abuse of market power, the Board need not determine whether the proposed transaction is of limited scope. *Paducah & Louisville Railway, Inc. -- Abandonment Exemption -- In McCracken County, KY, supra; St. Croix Valley Railroad Company -- Abandonment and Discontinuance of Service Exemption -- In Pine and Kanabec Counties, MN, supra.*

V. CONCLUSION

PREMISES CONSIDERED, and because the evidence in this proceeding warrants the finding required by 49 U.S.C. § 10502(a), the Board should grant the proposed abandonment exemption.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "E. Lyons", written over a horizontal line.

Edward T. Lyons, Jr.
JONES & Keller, P.C.
1625 Broadway Suite 1600
Denver, Colorado 80202
Telephone: (303) 573-1600

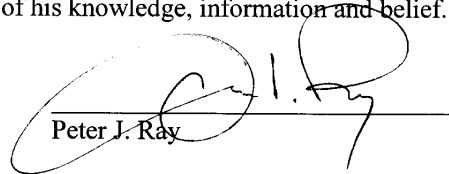
ATTORNEY FOR PETITIONER

(VERIFICATION FOLLOWS)

VERIFICATION

STATE OF MICHIGAN)
) SS
COUNTY OF MARQUETTE)

PETER J. RAY, being duly sworn upon his oath, states that he is the President of the Lake Superior & Ishpeming Railroad Company, in which capacity he is authorized to make this verified statement on its behalf; and that he has read the factual matters set forth in the "Statement of the Case" contained in the foregoing Petition for Exemption, knows the contents thereof, and that the same are true as stated, to the best of his knowledge, information and belief.

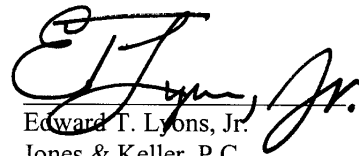

Peter J. Ray

Subscribed and sworn before me a Notary Public in and for the State and County of
foresaid this 30th day of April, 2004.


Notary Public
Commission Expiration: 01-12-2005

CERTIFICATION

I hereby certify that on the 7th day of May, 2004 a copy of the foregoing Petition was served upon the National Park Service, Recreation Resources Assistance Division; the Department of Defense, Military Traffic Management Command; the Michigan Public Service Commission; and the Chief of the Forest Service, U.S. Department of Agriculture by first class mail, postage prepaid. I further certify that (1) the environmental and historic reports were served upon the agencies identified in 49 C.F.R. § 1105.7(b) on March 16, 2004; (2) service of notice upon the State Clearinghouse was accomplished by mailing a copy thereof on January 26, 2004; and (3) the publication requirements of 49 C.F.R. § 1105.12 have been complied with, to wit: publication of notice was accomplished on April 2, 2004, in the Mining Journal, affidavit of publication is attached.



Edward T. Lyons, Jr.
Jones & Keller, P.C.
1625 Broadway, Suite 1600
Denver, CO 80202
Telephone: (303) 573-1600
Fax: (303) 573-8133

Date: May 7, 2004

The Mining Journal

Upper Michigan's Largest Daily Newspaper

249 W. Washington St., P.O. Box 430, Marquette, Michigan 49855. Phone (906)228-2500. Fax (906)228-3273

AFFIDAVIT OF PUBLICATION STATE OF MICHIGAN

For the County of **MARQUETTE**

In the matter of: Notice of Intent to Abandon Rail Service

Cost: \$61.50

State of **MICHIGAN**, County of Marquette ss.

JAMES A. REEVS

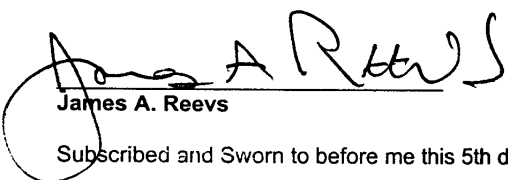
being duly sworn, says that he is

PUBLISHER

of **THE MINING JOURNAL**

a newspaper published and circulated in said county and otherwise qualified according to Supreme Court Rule; that annexed hereto is a printed copy of a notice which was published in said newspaper on the following date, or dates, to-wit

April 2, 2004


James A. Reeves

Subscribed and Sworn to before me this 5th day of April, 2004.


AMY L. BOND

Notary Public

MARQUETTE County, Michigan

My commission expires: July 3, 2007

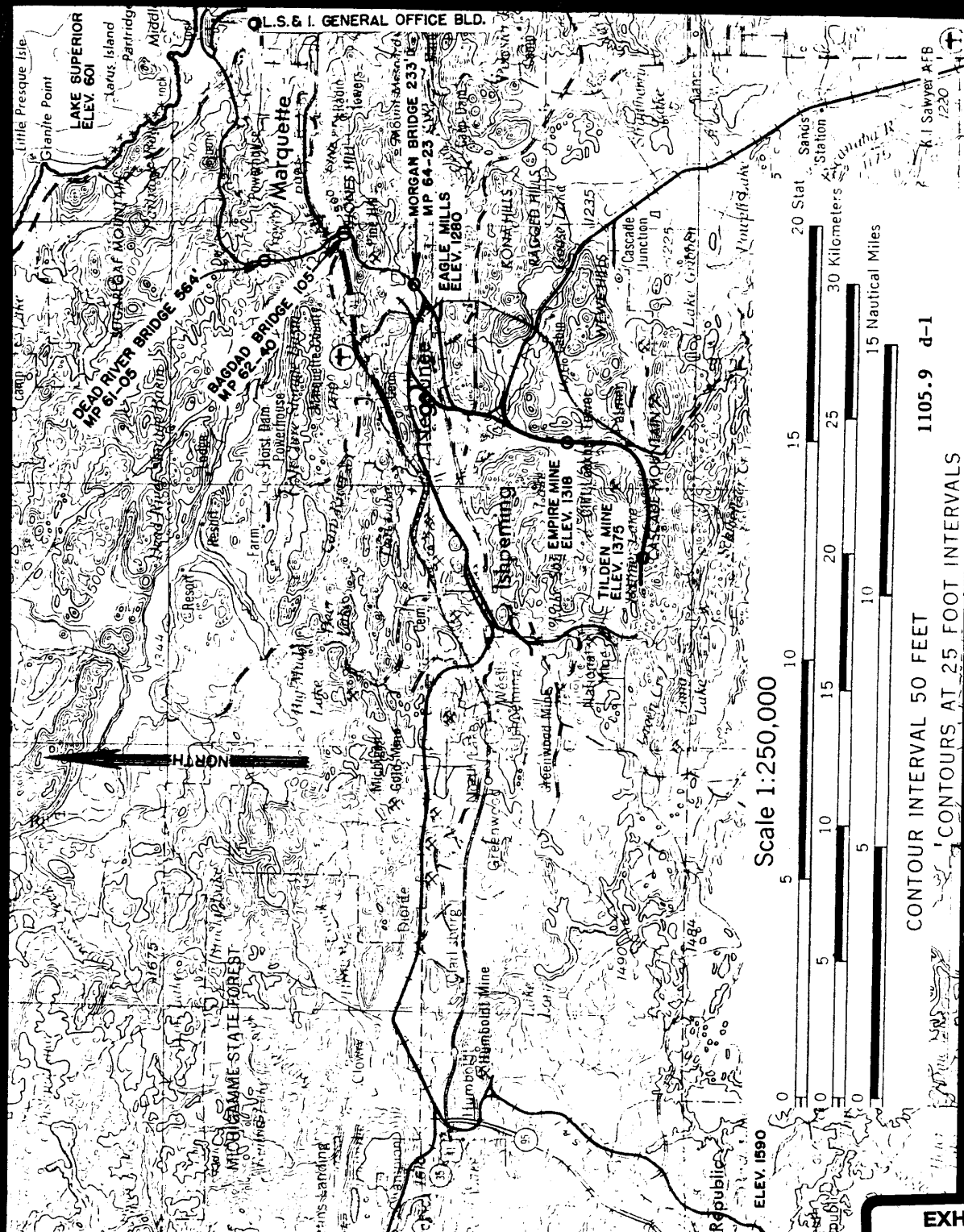
AFFIDAVIT OF PUBLICATION

NOTICE OF INTENT TO ABANDON RAIL SERVICE

The Lake Superior & Ishpeming Railroad Company gives notice that on or about April 8, 2004, it intends to file with the Surface Transportation Board, Washington, D.C. 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 of a 25 mile line of railroad between railroad milepost 69.52, near Negaunee, Michigan, (LS&I Junction) which traverses through United States Postal Service ZIP Codes 49866 and 49849, and railroad milepost 94.5, near Republic, Michigan, (Republic Mine) which traverses through United States Postal Service ZIP Code 49879 in Marquette County, Michigan. The proceeding has been docketed as No. AB 68 (Sub-No. 4X).

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, D.C. 20423 or by calling SEA 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, N.W., 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 Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative, Edward T. Lyons, Jr., Jones & Keller, P.C., 1625 Broadway, 18th Floor, Denver, Colorado, 80202.



THIS AGREEMENT, made and entered into as of the 27th
day of February, 1963, by and between CHICAGO AND
NORTH WESTERN RAILWAY COMPANY, a Wisconsin corporation (hereinafter
sometimes referred to as "North Western Company"), SOO LINE RAILROAD
COMPANY, a Minnesota corporation (hereinafter sometimes referred to as
"Soo Line Company") and LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY,
a Michigan corporation (hereinafter sometimes referred to as
"Ishpeming Company"), all of said companies being hereinafter some-
times jointly referred to as "Railroad Companies";

WITNESSETH:

WHEREAS, the lines of railroad of the Railroad Companies
traverse portions of Sections Five (5) and six (6), Township Forty-
seven (47) North, Range Twenty-six (26) west of the Fourth Principal
Meridian, and Sections One (1) and Two (2), Three (3), Nine (9),
Ten (10) and Eleven (11), Township Forty-seven (47) North, Range
Twenty-seven (27) West, all in the Cities of Negaunee and Ishpeming,
County of Marquette, Michigan; and

WHEREAS, the Cleveland-Cliffs Iron Company, an Ohio
corporation (hereinafter sometimes referred to as "Cliffs"), is
engaged in underground iron ore mining operations at the Mather
Mine in said Sections One (1) and Two (2) respectively; and

WHEREAS, it is necessary that a portion of said lines of
the Railroad Companies be relocated in order to avoid the danger
thereto from potential subsidence from said mining operations; and

WHEREAS, the continued mining of such iron ore is of
great importance to the economy of the Cities of Negaunee and
Ishpeming, Michigan, and the surrounding territory since mining
operations in said mines constitutes the principal employment
in that vicinity; and it is also of great importance to the
national economy that said mines continue to operate for
that said mines produce a substantial amount of this impo

material which is essential to the continued operation of this country's steel mills; and

WHEREAS, in order to continue the mining of such iron ore and to place the lines of the Railroad Companies in locations free from any existing or future danger of subsidence, the Railroad Companies entered into an agreement with Cliffs, of an even date herewith subject to all requisite approval of the Interstate Commerce Commission, which agreement, among other things, provides that Cliffs, at a cost of approximately \$5,200,000.00 will relocate the lines of the Railroad Companies shown by green color on map marked Exhibit "A", attached hereto and by this reference made a part hereof, to the locations and routes indicated on said Exhibit "A" by a solid yellow line between points C and D, by a solid red line between points B and D, by red and yellow dashed lines between points A and B, and points, D, E, F and G, by red, yellow and blue dashed lines between points G, H and T, and by red and blue dashed lines between points H and J, and points T and U; and

WHEREAS, after the lines of the Railroad Companies have been so relocated, the parties hereto are willing to solely or jointly own, maintain, use and operate such railroad lines upon and subject to the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual and dependent covenants, agreements and conditions hereinafter set forth, the parties hereto do hereby agree as follows:

Exhibits and Definitions:

1. Map marked Exhibit "A", attached hereto and by this reference made a part hereof, shows the location of the railroad lines that are to be relocated by Cliffs and the new location of such lines after such relocation has been accomplished. This map

shows the same area and lines of the Railroad Companies as the map marked Exhibit "A" that is attached to said agreement of even date herewith made and entered into between the Railroad Companies and Cliffs.

2. The map marked Exhibit "B", attached hereto and by this reference made a part hereof, shows in detail the location of that portion of the relocated lines extending between points E and F on said Exhibit "A".

3. The map marked Exhibit "C", attached hereto and by this reference made a part hereof, shows in detail the Euclid Yard.

4. Plan marked Exhibit "D", attached hereto and by this reference made a part hereof, shows the traffic control system and the limits thereof to be jointly owned and used by the Railroad Companies.

5. The statement, marked Exhibit "E" attached hereto and by this reference made a part hereof, shows the units which it is expected will be initially assigned to each of the parties hereto in the grade crossing protection and the traffic control system to be jointly owned and used by the Railroad Companies, based on the currently available plans, including the traffic control system controlling movements over tracks covered by the agreement of March 8, 1951, between the parties hereto covering joint use of trackage in the same general area covered by this agreement, based on unit values shown on Association of American Railroads, Signal Section, TABLE OF SIGNAL AND INTERLOCKING UNITS set forth in Exhibit "E". The units shown on Exhibit "E" to be adjusted to reflect the units called for on the final plans. Any future adjustments or amendments to the unit statement of Exhibit "E" made necessary by changes in the traffic control system or grade crossing protection shall be made in accordance with the unit values set forth in said Exhibit "E".

Exhibit "E" supersedes Exhibits "H" and "I" attached to said agreement of March 8, 1951 effective with the placing in service of the tracks covered by this agreement.

6. The trackage shown by solid red lines on said Exhibits "A", "B" and "C" shall be solely owned and used by the North Western Company.

7. The trackage shown by solid yellow lines on said Exhibits "A", "B" and "C" shall be solely owned and used by the Soo Line Company.

8. The trackage shown by solid blue lines on said Exhibits "A" and "C" shall be solely owned and used by the Ishpeming Company.

9. The trackage shown by red and yellow dashed lines on said Exhibits "A", "B" and "C" shall be jointly and equally owned and used by the North Western Company and the Soo Line Company.

10. The trackage shown by red and blue dashed lines on said Exhibits "A" and "C" shall be jointly and equally owned by the North Western Company and the Ishpeming Company.

11. The trackage shown by red, yellow and blue dashed lines on said Exhibits "A" and "C" shall be jointly and equally owned by the North Western Company, the Soo Line Company and the Ishpeming Company.

12. The ownership of the trackage and structures in Euclid Yard shall be as set forth on Exhibit "C".

13. The tracks to be jointly used as covered by paragraphs 9 to 12, inclusive, are sometimes collectively hereinafter referred to as the "joint tracks."

Maintenance of Tracks and Facilities:

14. Except as otherwise provided herein, each party shall, at its sole cost and expense, maintain the tracks and other railroad facilities solely owned by it. The word "track", "tracks" or "trackage" as used in this agreement shall be construed to include bridges, culverts, grade separations and other jointly owned railroad facilities except the traffic control system, pole

line, structures, driveways and grade crossing protection facilities.

15. The North Western Company shall maintain that portion of the joint track between the points A and B including turnout at B as shown on said Exhibit "A" and the Soo Line Company shall reimburse the North Western Company for its share of the cost and expense thereof on the basis of its proportionate use thereof in accordance with the provisions of paragraphs 31 to 36, inclusive, hereof. It is agreed that said agreement dated as of March 8, 1951, is hereby amended to the extent that it is inconsistent with this paragraph.

16. The Soo Line Company shall maintain that portion of the joint track between the points D and G including the passing track and industry track turnouts near Baldwin Avenue and turnouts at points D, E and F as shown on said Exhibits "A" and "B" and the North Western Company shall reimburse the Soo Line Company for its share of the cost and expense thereof on the basis of its proportionate use thereof in accordance with the provisions of paragraphs 31 to 36, inclusive, hereof.

17. The Soo Line Company shall maintain that portion of the joint track between points G and O including the Euclid Yard passing track and the turnouts at "G", "H", "Y", "O" and "O-1" as shown on said Exhibits "A" and "C" and the North Western Company and the Ishpeming Company shall reimburse the Soo Line Company for their share of the cost and expense thereof on the basis of their proportionate use thereof in accordance with the provisions of paragraphs 31 to 36, inclusive, hereof. The Soo Line Company shall maintain the Mather Mine turnout at point G-1 and the Cliffs Shaft turnout at point "O-2", as shown on said Exhibit "A" at the sole expense of the Ishpeming Company.

18. The North Western Company shall maintain that portion of the joint track between points O and T, including the turnouts at points P, V, and T, as shown on said Exhibit "A" and the Soo Line Company and the Ishpeming Company shall reimburse the North Western Company for their share of the cost and expense thereof on the basis of their proportionate use thereof in accordance with the provisions of paragraphs 31 to 36, inclusive, hereof.

19. The North Western Company shall maintain the cross-over between points T and U, including the turnout at U as shown on said Exhibit "A" and the Ishpeming Company shall reimburse the North Western Company for their share of the cost and expense thereof on the basis of their proportionate use thereof in accordance with the provisions of paragraphs 31 to 36, inclusive, hereof.

20. The Ishpeming Company shall maintain that portion of the joint track between points H and J, as shown on said Exhibit "A" and the North Western Company shall reimburse the Ishpeming Company for its share of the cost and expense thereof on the basis of its proportionate use thereof in accordance with the provisions of paragraphs 31 to 36, inclusive, hereof.

21. The maintenance of the trackage and structures in Euclid Yard shall be as shown in the tables on Exhibit "C". Each party will reimburse the maintaining party as indicated on Exhibit "C" for its share of the maintenance.

22. The Soo Line Company shall maintain the jointly owned traffic control system and the grade crossing protection facilities and the North Western Company and the Ishpeming Company shall reimburse the Soo Line Company for their respective proportions of the cost and expense thereof as shown on said Exhibit E, subject, however, to adjustments or amendments as provided in paragraph 5 hereof.

23. The Soo Line Company shall maintain the jointly owned pole line exclusive of solely owned wires and wires of other parties, and the North Western Company and the Ishpeming Company shall reimburse the Soo Line Company for their respective proportions of the cost and expense thereof, as shown on Exhibit "F" attached hereto and made a part hereof.

The units shown on Exhibit "F" will be subject to adjustment or amendments reflecting changes in the wire mileage jointly or solely owned made from time to time in the future in accordance with the principles reflected in said Exhibit "F".

Each party hereto shall have the right at any time without payment of attachment rental therefor, to install, attach and maintain its solely owned signal and communication wires, cables and facilities and those of Western Union on any pole line covered by this agreement; provided, however, that such installation, attachment and maintenance shall not interfere with the use and operation of the jointly owned wires thereon, and that such installation, attachment and maintenance shall be made by the party hereto which desires such installation and attachment, at its sole cost and expense. The parties hereto shall mutually agree on the positions or locations of wires, cables and facilities on said pole line.

24. The party hereto which is responsible for performing the work of maintenance of a track or a part thereof hereunder shall also perform the work of installing and maintaining grade crossing surfaces and signs (which signs are not included within the meaning of the term "grade crossing protection facilities" as used in this agreement), and insulated track material. The party hereto which is responsible for maintaining the signals hereunder shall perform the work of bonding the track involved. The party or parties using

the section of track involving grade crossing surfaces and signs, insulated track material or bonding of track shall reimburse the maintaining party for its respective proportion of the cost and expense thereof.

25. Each party shall assume the cost and expense of the operation of its on-track snow plows and flangers over the joint tracks, or any portion thereof.

Operation of Tracks and Facilities:

26. The parties hereto shall jointly make all rules and regulations for the operation of the joint tracks. The movements of locomotives, cars and trains, including track motor cars and on-track work equipment of any of the parties hereto on any of the tracks controlled by the traffic control system, shall be under the control of the train dispatchers or telegraphers of the Soo Line Company, who shall operate the traffic control system. The Soo Line Company shall operate traffic control system for all of the parties hereto and the cost including the cost of the operators of the centralized traffic control system and expense thereof shall be borne and paid by each of the parties hereto on the basis of the percentages set forth in Exhibit "E", subject, however, to adjustments or amendments as provided in paragraph 5 hereof. In the foregoing "cost and expense" there may also be included all items chargeable to transportation accounts under the Interstate Commerce Commission Accounting Classifications. It is agreed that said agreement dated March 8, 1951 is hereby amended to the extent that it is inconsistent with this paragraph

27. Passenger trains shall have preference over freight trains and engines. Trains and engines engaged in through movement shall have preference over engines engaged in switching movements.

Trains and engines of the same class of any party hereto shall receive equal treatment.

28. If the use of the joint tracks or any part thereof is at any time interrupted or traffic thereon is delayed, the party hereto which is responsible for the maintenance of the track, traffic control system or other facility involved shall proceed promptly with reasonable skill and diligence to restore the same for the safe passage and movement of trains.

29. If any equipment of any of the parties hereto is derailed or damaged while on any portion of the joint tracks, or for any reason causes damage to or obstructs the flow of traffic, the party whose equipment is so derailed, damaged or involved shall promptly pick up and remove or shall arrange for the prompt pickup and removal of their equipment, and, except as provided in paragraphs 51, 52 and 53 hereof, said party shall assume the cost and expense thereof and of the necessary repairs, if any, to the portion of the track, facility, or property involved. Persons and equipment engaged in the work of picking up and removing or picking up or removing said equipment, or while enroute thereto or therefrom and until released (unless assigned to other duties), shall be deemed the employees and the equipment of the party which, under this paragraph, has the duty of performing such work.

30. None of the parties hereto shall be obligated under this agreement to inspect or make repairs to any other party's equipment operated over the joint tracks.

Determination of Proportions
of Use and Billing:

31. Each party's proportionate use of any track jointly used under this agreement (except Euclid Yard Track) shall be determined on basis that the number of miles run by locomotives and cars of each party bears to the total number of miles run by locomotives and cars of all parties using track jointly. (Each diesel unit to be considered as one car and each steam locomotive and tender to be considered as two cars.) Work trains and other work equipment used by any party hereto in connection with the maintenance or operation of any of the joint tracks shall not be counted.

32. A study has been made by representative of the three companies of the manner in which the joint tracks should be zoned to provide an equitable basis for apportioning maintenance expense and of the proportionate amount of car miles which each of the three companies would have operated in each zone had the relocation been in service during the year 1961. The manner in which the car miles handled by each company was determined, and the percentage of traffic handled by each company in the various zones is recorded in Exhibit "G" attached hereto and made a part hereof. The zones provided for in that study and the percentages developed are to be used as the basis for dividing monthly maintenance costs during the first calendar year after the new joint trackage has been placed in operation.

33. At the end of the first calendar year of operation on the relocated track, an analysis is to be made of the proportionate amount of car miles handled by each party in the various zones following the same procedure as the previous study as shown in

Exhibit "G", and an adjustment made in the amounts previously billed so that each company will be assessed for maintenance expense in proportion to car miles operated in each zone on a calendar year basis. The maintenance percentages as determined for the year's operation are also to be used as a basis for dividing the monthly maintenance expense incurred in the following year.

34. At the end of the second and each succeeding year of joint operation, the same arrangement for adjusting the maintenance expense shall be followed as provided for in Paragraph 33. The zones and the procedure for determining the car miles operated by each party provided for in Exhibit "G" are subject to revision at any time after the first year of operations if the traffic pattern should change or if any of the parties are of the opinion that the established procedure or zones do not provide for a division of maintenance expense on an equitable use basis.

35. The cost of maintaining the joint yard tracks in the Euclid Yard shall be apportioned between the parties in accordance with their percentage of ownership in each track and turnout as shown on said Exhibit "C". Maintenance of the passing track at Euclid Yard and near Baldwin Avenue including the industry track turnouts are to be apportioned on the same basis as the main line track in the adjacent zone.

36. All bills are to be prepared in accordance with the rules and regulations of the General Manager's Association of Chicago then currently in effect. The locomotive and car count records and billing records of each party shall be available at all reasonable times for the inspection by the other parties hereto.

The method and manner of keeping accounts in connection with the construction, installation, operation, maintenance,

repair and renewal of the joint tracks, traffic control system and other facilities as well as the construction, installation and maintenance of additions, betterments and extensions thereto shall at all times be in accordance with the then current applicable Accounting Classifications prescribed by the Interstate Commerce Commission.

Improvements or Additions
and Betterments:

37. The party hereto which is responsible for the maintenance of the tracks, the traffic control system, or other facilities shall carry out and perform the respective work of improvements, renewals, additions and betterments thereto. The acquisition, construction or installation of units and minor items of property, including additions and betterments (all as defined in the Interstate Commerce Commission's Accounting Classification governing investment in road and equipment) the cost of which is less than \$500. shall be considered as operating expenses and charged to the cost of maintenance of the track or facility involved. Unrelated items shall not be combined for the purpose of excluding the cost thereof from said minimum. Additions and betterments which involve charges to capital account in excess of \$500. will be carried out only upon the agreement of all of the parties having an ownership in the track, traffic control system or other facility.

38. The cost and expense of the construction of grade separations, grade crossing protection facilities, or other improvements hereafter constructed, including those required at any time by any public authority having jurisdiction thereover, and the cost and expense of any additions and betterments thereto (including cost and expense of changes in or additions and betterments

to the traffic control system) shall be borne and paid by each of the parties hereto as follows: (1) The portion of such cost and expense chargeable to investment accounts under the Interstate Commerce Commission Accounting Classifications shall be shared by each of the parties hereto on the basis of its respective ownership interest in the track or tracks involved except with respect to the items covered in paragraph 37 hereof: (2) the portion of such cost and expense chargeable to operating expenses under the Interstate Commerce Commission Accounting Classifications shall be shared by each of the parties hereto in accordance with the provisions of paragraphs 14 to 21, inclusive, hereof, except with respect to grade crossing protection facilities, the traffic control system and pole line which shall be shared by each of the parties hereto in accordance with the provisions of paragraphs 22 and 23 hereof.

39. Additions and betterments to a track or other facility solely or jointly owned hereunder, except the traffic control system, the grade crossing protection facilities, and the pole line shall be maintained and the cost and expense thereof borne and paid in accordance with the provisions of paragraphs 14 to 21 inclusive and 24 hereof. Additions and betterments to the traffic control system, the grade crossing protection facilities and the pole line shall be maintained and the cost and expense thereof borne and paid by the parties hereto in accordance with the provisions of paragraphs 22 and 23 hereof.

Ownership of Tracks and
Facilities Jointly Used:

40. The parties hereto shall jointly own the respective portions or segments of the joint tracks, traffic control system or other facilities jointly used hereunder on the basis set forth in paragraphs 5 to 12, inclusive.

41. The parties hereto shall also jointly own all additions and betterments to the joint track, traffic control system or other facility jointly used hereunder on the basis of their ownership interest therein.

42. No party hereto shall acquire any additional ownership in any track or other facility or any part thereof by virtue of bearing and paying a larger proportion of the cost and expense of the maintenance and repair of such track or other facility or part thereof than either or both of the other parties hereto. No party hereto shall owe or be obligated to pay any rent to any of the other parties hereto for the use of any jointly owned right of way track or facilities in which it has an ownership interest or any jointly owned addition, betterment or improvement thereof.

Taxes:

43. Each of the parties hereto will report its undivided interest in any jointly owned facility provided for herein to the proper assessing body or officer for taxation to which it is subject, and each of said parties shall pay direct all taxes and assessments which shall be levied against its undivided interest. If any tax or assessment is levied as a whole upon a jointly owned facility or any part thereof in the name of any party hereto and such party pays the whole of said taxes or assessment as is levied against it, the other party or parties shall promptly reimburse the paying party for its share of such taxes in the same proportion in which such party bears an ownership interest in or to the property covered by such tax or assessment, except that any assessment properly chargeable to maintenance under Interstate Commerce Commission Accounting Classifications shall be apportioned on the same basis as the ordinary expense of maintenance applicable to the property involved subject to the provisions of paragraph 37 hereof.

Extensions from a
Joint Track:

44. Any party hereto shall have the right to construct track extensions from a joint track if it has an ownership interest therein, at any time and from time to time as such party shall desire. The turnout for any such extension shall be constructed and maintained by the party hereto which maintains the joint track involved under the provisions of paragraphs 15 to 20, inclusive, hereof, at the cost and expense of the party or parties desiring the extension; however in the case of track extension from a joint track for the joint benefit of all parties having an ownership therein the cost of maintenance shall be in accordance with the provisions of paragraphs 31 to 36, inclusive, hereof. The construction and maintenance of the extension beyond the turnout shall be performed by or arranged for by the party or parties desiring the extension without cost or expense to the other party or parties hereto. If signal facilities are required in connection with such extension, such signal facilities shall be constructed by the Soo Line Company at the sole cost and expense of the party or parties desiring such extension, and such signal facilities shall become a part of the traffic control system and be maintained, renewed and operated by the Soo Line Company, and the cost and expense thereof borne and paid in accordance with the provisions of paragraph 22 hereof.

45. Prior to constructing any such extension, the party desiring to construct such extension shall give the other party or parties hereto so involved not less than thirty (30) days' written notice in advance of the date on which construction will be started.

46. For the purpose of paragraphs 44 and 45 hereof, the word "extension" shall include side tracks, spur tracks, lead tracks

and other tracks for any purpose whatsoever leading from or connecting with any of the joint tracks.

Abandonment of Lines and
Disposal of Tracks, Right
or Way and Facilities:

47. In the event any party hereto shall desire to abandon its use of a joint track, and secures necessary authority therefor, it shall give written notice thereof to the other party or parties, at least sixty (60) days in advance of the date on which it shall abandon and cease to use the joint track, and the party or parties receiving such notice agrees, if it or they desire to continue the use of such track, to purchase or to share equally in the purchase of the interest in the joint track and the traffic control system to be abandoned by paying to the abandoning party an amount equal to the net value of the recoverable salvage of such party's interest in the abandoned joint track and that part of the traffic control system no longer required for its continued operation by the remaining party or parties, and the abandoning party shall convey and quitclaim to the other party or parties, as the case may be, all of its right, title and interest in and to the right of way under the abandoned track and all tracks and facilities thereon, including the traffic control system, and shall warrant that the same are free and clear of liens against the abandoning party. In the event any party hereto shall abandon all of its interest in all of the facilities jointly used under this agreement pursuant to all necessary authority therefore, it shall be released of all of its obligations and shall lose all of its rights under this agreement as of the effective date of such abandonment. The cost and expense of converting or changing the facilities jointly used under this agreement for the continued use thereof by the remaining party or parties shall be charged against the net value of recoverable salvage accruing to such abandoning party.

48. In the event all of the parties hereto shall desire to abandon the use of a joint track, then in such an event the parties hereto shall join in any necessary application for authority to carry out such abandonment and upon receiving such authority, the joint track and all facilities in connection therewith shall be dismantled and the net salvage value of each part thereof shall be divided between the parties on the basis of their ownership interests therein.

49. In the event the parties hereto shall jointly dispose of any facility, the net salvage value thereof shall be divided between the parties hereto on the basis of their respective ownerships therein.

Degree of Care Required
of Maintaining or Operating
Company:

50. The party which is obligated hereunder with the duty of performing the work of constructing, installing, maintaining, repairing or renewing a track, the traffic control system or other facility which is also used by one or more of the other parties hereto, or operating the traffic control system, shall be bound to use only reasonable and customary care, skill and diligence in so constructing, installing, maintaining, repairing or renewing such facility, or operating such traffic control system, and the other party or parties hereto shall not by reason of any defect in any part of a facility jointly used hereunder or by reason of any failure or neglect of the party obligated to perform said work to repair any such defect, or by reason of any failure or neglect on the part of the party operating the traffic control system, have or make against the party obligated to perform said work or to operate said system, any claim or demand for loss, damage or injury arising from such defect, neglect or failure. No party hereto shall make any claim or demand against any other

party hereto for loss or damage of any kind caused by or resulting from interruptions or delays to the movements of its trains or traffic, no matter how occurring, and any party so delayed shall indemnify and save harmless the other parties hereto from and against all claims and demands which may be made by the passengers, patrons or employees of the delayed party as a result of such interruptions or delays.

Liability and Indemnity:

51. It is understood and agreed that the amounts heretofore provided to be paid by any party hereto to another party hereto do not in any case include any cost or expense which a party hereto may incur by reason of loss or destruction of or damage to property, or injury to or death of persons, arising out of or in connection with the use or operation of locomotives, cars or trains over any of the joint tracks or the construction, maintenance and operation of tracks, facilities or other property jointly owned hereunder, including the traffic control system, (said tracks, facilities and other property including the traffic control system being sometimes referred to in paragraphs 52 to 56, inclusive, hereof as "joint facilities") or any part thereof, and that such items of cost and expense shall be borne and paid by the parties hereto under the provisions of paragraphs 52 to 56, inclusive, hereof.

52. For the purpose only of establishing responsibility between the parties hereto for loss or destruction of, or damage to property and injury to or death of persons, it is understood by and between the parties hereto that all persons engaged in the construction, installation, operation, maintenance, repair or renewal of joint facilities or any part thereof, or additions, betterments or improvements thereto, or extensions thereof, including work train

employees engaged in work train service on the joint facilities, and including the Soo Line Company employees while engaged in controlling movements on any of the joint tracks and operating the traffic control system, shall while so engaged be deemed the joint employees of the parties hereto; provided, however, that the employees of any party hereto while operating or directing the operation of hand-operated switches along any track of the joint facilities and enginemen and trainmen of any party hereto engaged solely in its own service and supervisory officials and employees riding on trains shall not be deemed joint employees hereunder; provided, further, that employees then assigned to work on the joint facilities while riding on work trains shall be deemed joint employees.

53. Liability for injury to or death of any persons or loss or destruction of or damage to any property, including the joint tracks and turnouts therefrom, and the joint facilities, and the person and property of the joint employees (hereinafter sometimes referred to in paragraphs 53 to 56, inclusive, hereof as "loss or damage") in any manner resulting out of or in connection with the operation of locomotives, trains or cars of any party hereto, or out of the presence on or about the joint facilities of locomotives, trains, cars, property or employees of any party hereto, or out of the construction, installation, operation, maintenance, repair or renewal of joint facilities hereunder, shall be borne and paid by the parties hereto as follows:

(a) When the same shall be due to:

- (1) The acts or omissions, negligent or otherwise, of the sole employee or employees of one of the parties hereto; or to
- (2) The concurring acts or omissions, negligent or otherwise of a joint employee or employees and of a sole employee or employees of one of the parties hereto; or to
- (3) The defect in or failure of the exclusive equipment or appliances of one of the parties hereto,

it shall be borne by the party whose sole employee or employees, or whose exclusive equipment or appliances so caused the loss or damage.

(b) When the same shall be due to:

- (4) The concurring acts or omissions, negligent or otherwise, of the sole employees of more than one of the parties hereto; or to
- (5) The concurring acts or omissions, negligent or otherwise of a joint employee or employees and the sole employees of more than one of the parties hereto,

it shall be borne equally by the parties hereto whose sole employees are so involved except that each party whose sole employees are so involved shall bear all loss or damage to its own exclusive property, or property in its custody, or upon its cars and as to its sole employees, patrons and persons upon its locomotives, trains or cars.

(c) When the same shall be due to:

- (6) The acts or omissions, negligent or otherwise, of a joint employee or employees; or to
- (7) The failure of or defect in any part of the joint facilities; or to
- (8) Any acts whatsoever not hereinabove provided for,

it shall be borne by each party hereto as to its own property, or property in its custody, or upon its cars and as to its sole employees, patrons and persons upon its locomotives, trains or cars, but as to other persons (including joint employees and their property), the joint facilities and joint equipment, the liability shall be borne by the party whose locomotive, train or car is involved in the accident causing the loss or damage, and if the locomotives, trains or cars of more than one party were involved in such accident, then such liability shall be borne equally by the parties hereto whose locomotives, trains or cars were so involved. However, if no locomotive, train or car of any of the parties hereto is involved, then the liability shall be borne by the parties hereto on the basis of their respective ownership

interests in the particular portion or segment of the joint tracks or joint facilities involved or being maintained at the time of the accident with respect to the portion of the work being performed at the time of the accident that is charged to Additions and Betterments in the accounts of the parties hereto, but such liability shall be borne by the parties hereto on the basis in which the parties share the cost and expense of maintenance of the particular portion or segment of the joint tracks or joint facilities involved or being maintained at the time of the accident with respect to the portion of the work being performed at the time of the accident that is charged to maintenance or operation in the accounts of the parties hereto.

54. Third party claims for loss or damage to property arising out of the killing or injuring of livestock or the setting of fires on or along a joint track or a jointly owned extension thereof, when caused by a locomotive, train or car of one of the parties hereto shall be handled or settled by the party whose locomotive, train or car caused such loss or damage, but if it cannot be determined whose locomotive, train or car caused such loss or damage, the claim will be handled or settled on behalf of all parties hereto in the first instance by the party having the obligation to maintain that portion of the joint track on or along which such loss or damage occurred, and the other party or parties using such portion of the joint track shall reimburse the party which handles or settles such claim in the same proportion and on the same basis that it bears and pays a share of the cost and expense of the maintenance of such portion of the track involved.

55. Each party hereto covenants and agrees with the other parties hereto that it will pay for all loss, damage and expense, the risk of which it has herein assumed, the judgment of any court to the contrary notwithstanding, and will forever indemnify and save harmless

the other party or parties hereto, and the successors and assigns of each of them, from and against all liability and claims therefor or by reason thereof, and will pay, satisfy and discharge all judgments that may be rendered by reason thereof, and all costs, charges and expenses incident thereto. In the event two or more of the parties hereto shall be liable hereunder upon any claim, demand, suit or cause of action, and the same shall be compromised or settled by voluntary payment of money or valuable consideration by any party hereto, release from liability shall be taken for and in the name of all of the parties hereto having any liability therefor. None of the parties hereto, however, shall make any such compromise or settlement in excess of \$500. without authority of the other party or parties having liability therefor; but any settlement made by any party or parties hereto in consideration of such sum or a lesser sum shall be binding upon the other party or parties hereto also having liability therefor.

56. In case a lawsuit or lawsuits shall be commenced against any party hereto for or on account of any damage or injury for which another party or other parties hereto shall be solely or jointly liable under this agreement, the party or parties so sued shall give to the other party or parties so involved written notice the pendency of such suit, and thereupon such other party or parties will assume or join in the defense thereof, and if the party or parties so notified is or are liable therefor under this agreement, such party or parties will save harmless the party so sued from all such loss, cost and expense so determined by this agreement. None of the parties hereto shall be concluded by any judgment against another party hereto unless it shall have had reasonable opportunity to assume or join in the defense thereof. When such notice and opportunity shall have been given any party so notified shall to the extent of its liability,

as determined by this agreement, be concluded by such judgment.

Arbitration:

57. If at any time a question shall arise between any two of the parties hereto involving the construction of any part of this contract, or concerning the business or manner of transacting the business carried on under the provisions hereof, or concerning the observance or performance of any of the conditions herein contained, upon which question the parties hereto cannot agree, such question shall be submitted to the arbitrament of three disinterested persons to be chosen, one by each of the parties to the controversy, and the other by the two so chosen. The party desiring such arbitration shall select its arbitrator and give written notice thereof to the other party, and shall in such notice state precisely the matter or matters which it proposes to bring before the arbitrators; and only the matters so stated shall be considered or decided by them. If either party shall fail to name an arbitrator within twenty (20) days after notice as aforesaid has been given by the other party to it, the arbitrator named by the party giving such notice may and shall name and appoint an arbitrator for and on behalf of the party in default, and the arbitrator so named and appointed shall have the same power and authority as if he had been chosen by such party. If the two arbitrators chosen as in this paragraph provided shall fail to select a third arbitrator within twenty (20) days after the selection of the second arbitrator as aforesaid, such third arbitrator may be appointed by the person holding the office of Judge of the United States District Court for Western District of Michigan, Northern Division, upon twenty (20) days' written notice by either party hereto to the other party hereto of its intention to make application to said Judge

for such appointment. The arbitrators shall, as soon as possible after their selection, meet to hear and decide the question submitted to them, and shall give to each party reasonable notice of the time and place of such hearing. After hearing both parties and taking such testimony or making such investigation as they may deem necessary, they shall make in writing their award upon the question or questions as submitted to them and shall serve a copy of such award upon such party hereto, and the award of such arbitrators, or a majority of them, shall be final and binding upon both parties, and each or either party shall immediately make such changes in the conduct of its business or such payments or restitution, as the case may be, as in any such award may be required of it. The books and papers of both parties, so far as they relate to matters submitted to arbitration, shall be open to the examination of the arbitrators, and each party shall bear and pay the fees, cost and expense of its arbitrator and the preparation and presentation of its case, and equally share all other expense of the arbitration. Until the arbitrators shall make their award upon any question submitted to them, the business, settlements and payments to be transacted and made under this agreement shall continue to be transacted and made in the manner and form existing prior to the rise of such question.

58. In the event a question arises involving the construction of any part of this contract in which all of the parties hereto are interested and cannot agree, the question shall be submitted to the arbitrament of five (5) disinterested persons, to be chosen, one by each party and the other two by the three so chosen. The party, or parties, desiring such arbitration shall select its arbitrator and give written notice to the other parties, stating in such notice the precise matter or matters to be arbitrated, which shall be the only matter arbitrated or decided by them. If any party shall fail to

name an arbitrator within twenty (20) days after notice aforesaid has been given by the other party or parties to it, the aforesaid Federal District Court Judge shall make the appointment and such arbitrator shall have the same power and authority as if he had been chosen by the party in default. If the three arbitrators chosen as in this paragraph provided fail to select the two neutral arbitrators within twenty (20) days after the selection of the third arbitrator, such two arbitrators may be appointed by the aforesaid Federal District Court Judge upon twenty (20) days' written notice by any party hereto to the other parties hereto of its intention to make application therefor. The action, procedure, decision and effect thereof of the arbitration board following its formation, including the sharing of cost and expense, shall be all as provided in the preceding paragraph hereof.

Covenant Against Labor Claims:

59. Except as otherwise provided herein when two or three parties share the cost and expense of maintaining or renewing a track or facility, each party hereto covenants to indemnify, save harmless and protect all of the other parties hereto from any and all claims and demands of any of its own labor organizations and employees arising in any manner out of or in connection with the joint maintenance, operation, ownership or use of any track or facility under this agreement.

Retirement Losses:

60. The retirement loss incurred upon retirement of depreciable or non-depreciable property solely or jointly owned, abandoned or not replaced which was installed as a part of original construction including the cost and expense of removal thereof and salvage recovered therefrom,

shall be assumed by a party or parties hereto, on basis of its or their respective ownership therein.

61. The retirement loss on additions and betterments constructed subsequent to original construction incurred upon retirement of depreciable or non-depreciable property solely or jointly owned due to replacement, including the cost and expense of removal and salvage recovered therefrom, shall be assumed by the party or parties hereto in accordance with the average percentage of use during the 5 year period prior to retirement and in accordance with the provisions of paragraphs 31 to 36, inclusive, hereof.

Service of Notices:

62. All notices to be given hereunder shall be deemed properly given if served in writing upon the president, any vice president or general manager of the parties hereto or if sent to any of such persons by United States registered mail.

Effective Date of
This Agreement:

63. Anything in this agreement to the contrary notwithstanding it shall not become effective until all requisite authority shall have been obtained from the Interstate Commerce Commission for the undertaking and carrying out of the provisions hereof and contemplated herein, and this agreement shall become effective immediately upon procurement of said authority.

Consent Necessary to
Assignment--binding on
Successors and Assigns:

64. This agreement shall attach to and run with the railroads of the respective parties and shall be binding upon and inure to the benefit of any railroad company hereinafter owning or operating such railroads. Any party may sell or assign by way of mortgage the rights

herein granted it in connection with and as a part of its railroad, and may further sell and assign, lease or in any way set over the rights herein granted to any company which may hereafter own or control such party's railroad by stock ownership or otherwise. The covenants and agreements herein contained shall be binding upon and inure to the benefit of the parties and their respective successors and assigns insofar as the right to assign is permitted by this section. Except as herein provided none of the parties hereto shall assign this agreement or permit any other railroad company to operate over or in any manner use any of said joint tracks, directly or indirectly, without the written consent of the other parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in triplicate as of the day and year first herein written.

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

By

E. H. Patrick

President

Attest:

J. C. Rose

Secretary

(Corporate Seal)

Executed in the presence of:
(As to the North Western Company)

R. J. Hill

R. W. Schacht

SOO LINE RAILROAD COMPANY

By J. D. Bond
EXECUTIVE VICE President

Attest: Thomas M. Sealey
Secretary

(Corporate Seal)

Executed in the presence of:
(As to the Soo Line Company)

Wm. Edmund
Carl A. Holand

LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY

By J. V. Kline
President

Attest: A. E. Leonard
Secretary

(Corporate Seal)

Executed in the presence of:
(As to the Ishpeming Company)

W. H. Morrison
H. C. Anderson

EXHIBIT E

NEGAUNEE-ISHPEMING, MICHIGAN

(Remote Control from Marquette, Michigan)

UNIT STATEMENT

Statement of Division of Traffic Control System
Units, Maintenance and Operation, as per A.A.R.
Signal Section Table of Signal and Interlocking
units.

1. Units in original J & L plant (statement dated October 25, 1950):

<u>Description of Unit</u>	<u>Total</u>	<u>C&NW</u>	<u>DSS&A</u>	<u>LS&I</u>
3 Signals	142	63 1/2	46 1/2	32
6b Power Switches	56	20	20	16
16a Track circuit	40	22 2/3	20 2/3	14 2/3
26a Approach locking	18			
	<u>256</u>	<u>106 1/6</u>	<u>87 1/6</u>	<u>62 2/3</u>

Distribution of cost of construction, maintenance and operation:

C&NW	$\frac{106 - 1/6}{256} = 41.47\%$
DSS&A	$\frac{87 - 1/6}{256} = 34.05\%$
LS&I	$\frac{62 - 2/3}{256} = 24.48\%$
	<u>100.00%</u>

2. Units in place in J&L plant after retirement and removal of LS&I Main Line:

<u>Description of Unit</u>	<u>Total</u>	<u>C&NW</u>	<u>DSS&A</u>	<u>LS&I</u>
3 Signals	126	53 1/2	40 1/2	32
6b Power Switches	56	20	20	16
16a Track circuits	34	13 1/3	12 1/3	8 1/3
26a Approach locking	18	7 1/3	6 1/3	4 1/3
	<u>234</u>	<u>94 1/6</u>	<u>79 1/6</u>	<u>60 2/3</u>

Distribution of cost of construction, maintenance and operation:

C&NW	$\frac{94 - 1/6}{234} = 40.24\%$
DSS&A	$\frac{79 - 1/6}{234} = 33.83\%$
LS&I	$\frac{60 - 2/3}{234} = 25.93\%$
	<u>100.00%</u>

Changes effective January 1, 1959

Office of Asst. Chief Engineer Signals & Communications
Soo Line Railroad Company
Minneapolis, Minnesota
June 8, 1962

3. Units in place in J&L plant after signal revisions to agree with new track.

Description of Unit	Total	C&NW	Soo	LS&I
3 Signals	124	52	38	32
6b Power Switches	56	20	20	16
16a Track circuits	34	13 1/3	12 1/3	8 1/3
26a Approach locking	18	7 1/3	6 1/3	4 1/3
	232	92 2/3	78 2/3	60 2/3

Distribution of cost of construction, maintenance and operation:

$$\text{C\&NW} \quad \frac{92-2/3}{232} = 39.94\%$$

$$\text{SOO} \quad \frac{78-2/3}{232} = 33.91\%$$

$$\text{LS\&I} \quad \frac{60-2/3}{232} = 26.15\%$$

$$\underline{100.00\%}$$

Changes effective June 7, 1961

4. Units in place after addition of Negaunee-Ishpeming relocation:

Description of unit	Total	C&NW	Soo	LS&I
2 Signal, inoperative	6	3	0	3
3 Signals, operative	382	144 2/3	143 2/3	93 2/3
3e Train order signal	8	4	4	0
4 Marker light, operative	4	4	0	0
6b Switch, power	144	49 1/3	53 1/3	41 1/3
16a Non-coded track circuit	136	46 2/3	48 2/3	40 2/3
17b Electric lock on I.T switch	6	3	1	2
20 Grade crossing signals	38	13 2/3	10 2/3	13 2/3
23 Switch circuit controllers (9)	9	1 1/2	5 1/2	2
24a Indicators, track occupancy or switch (panel)	152	54 2/3	56 2/3	40 2/3
26a Approach locking	66	24 2/3	27 2/3	13 2/3
26b Time locking	8	3 1/3	2 1/3	2 1/3
29 Switch heater	22	7 1/3	8 1/3	6 1/3
	981	359 5/6	361 5/6	259 1/3

Distribution of cost of maintenance and operation:

$$\text{C\&NW} \quad \frac{359-5/6}{981} = 36.68\%$$

$$\text{SOO} \quad \frac{361-5/6}{981} = 36.88\%$$

$$\text{LS\&I} \quad \frac{259-1/3}{981} = 26.44\%$$

$$\underline{100.00\%}$$

Changes effective _____

TABLE OF SIGNAL AND INTERLOCKING UNITS

1954

Official Approval

Nov. 1932, July 1924, July 1929, July 1930, Sept. 1934, Dec. 1935,
Aug. 1938, Mar. 1941, Mar. 1944, Feb. 1955.

Unit No.	Description	Relative unit value	Unit No.	Description	Relative unit value
1	Signal arm, or light, operative.....	1	17 (a)	Electric lever lock applied to a mechanical lever.....	1
2	Signal, complete with mast, blade or light, inoperative.....	2	(b)	Electric lock on hand-operated switch or railroad grade crossing gate.....	1
3 (a)	*Signal, three aspects, semaphore or light.....	6	(c)	Electric lock applied to units 12-a, 12-b and 14.....	1
(b)	*Signal, two aspects, semaphore or light.....	4	(d)	Mechanical time lock applied to a mechanical lever, hand-operated switch and to units 12-a, 12-b and 14.....	1
(c)	*Signal, one aspect, semaphore or light.....	2	18	Skate placing machine.....	4
(d)	*Signal, each additional aspect.....	2	19	Car retarder including operating mechanism per rail foot of braking length per rail.....	1
(e)	*Signal, mechanically operated, manual block, train order or railroad grade crossing signal, two or three aspects.....	4	20 (a)	Highway grade crossing signal, bell type, with or without reflectorized signs, per mast.....	1
(f)	*Smashboard, mechanical or power.....	4	(b)	Highway grade crossing signal, wig-wag or flashing light type (one pair of flashing lights), with or without bell or reflectorized signs, per mast.....	2
4	*Marker light, operated.....	2	(c)	Additional pair of flashing lights, illuminated "STOP" sign, auxiliary illuminated sign or rotating "STOP" disc.....	1
5	*Grade signal, semaphore or light, operative.....	2	(d)	Each gate mechanism, automatic.....	4
6	Switch (2 points) or derail.....	2	21	Highway grade crossing gate, manual, per post.....	1
(a)	Mechanical.....	4	(a)	Mechanical.....	1
(b)	Power.....	8	(b)	Power.....	1
7	Slip switch (3 points).....	2	22 (a)	Train control inductor or loop circuit.....	1
(a)	Mechanical.....	4	(b)	Train control ramp (energized) magnet.....	2
(b)	Power.....	8	23	Switch circuit controller, signal or highway crossing protection.....	1
8	Slip switch (4 points).....	2	24	Indicator.....	1
(a)	Mechanical.....	8	(a)	Wayside track occupancy or switch.....	2
(b)	Power.....	12	(b)	Yard track.....	4
9	Movable point frog (4 points).....	2	(c)	Third rail clearance, per instrument.....	2
(a)	Mechanical.....	8	(d)	Switch or derail, target or light.....	1
(b)	Power.....	12	(e)	Track pan lights, per mast.....	1
10	Derail, pipe connected to switch and operated thereby.....	1	25	Railroad grade crossing gate, per gate.....	2
11	Detector bar, 55 ft. in length, or fraction thereof.....	2	(a)	Mechanical.....	2
12 (a)	Facing point lock, movable bridge lock or rail lock.....	2	(b)	Power.....	4
1. Mechanical.....		2	26 (a)	Approach locking, per track per direction.....	1
2. Power.....		6	(b)	Throttle locking, per track per direction.....	1
(b)	Facing point lock, movable bridge lock or rail lock operated with another unit.....	1	27 (a)	Traffic lever (including circuit within the interlocking or block station).....	1
13	Spring switch.....	1	(b)	Traffic lever (including circuit within and without the interlocking or block station).....	1
(a)	Buffer.....	1	28	Detector devices.....	1
(b)	Mechanical facing point lock.....	4	(a)	Slide or rock fall, per 100 ft. of detection.....	1
14	Switch-and-lock movement, mechanical.....	1	(b)	High water or fire, per installation.....	1
15 (a)	Movable bridge circuit controller or pipe coupler.....	4	(c)	Dragging equipment, per detector.....	1
1. Mechanical.....		4	29	Switch heaters, controlled or automatic, per pair of switch points.....	1
2. Power.....		8			
(b)	Movable bridge circuit controller or pipe coupler operated with another unit.....	2			
(c)	Auxiliary circuit controller on movable bridge wedge, latch, lift rail, etc.....	1			
16 (a)	Non-coded track circuit.....	2			
(b)	Superimposed circuit on track circuit.....	2			
(c)	Coded track circuit.....	4			
(d)	Auxiliary track instrument for train detection.....	2			

* Each semaphore arm, light signal or marker to be counted separately and not in combination.

Signals, inoperative					
5LCD	2	2	-	-	2
29 RCD	2	2	2	-	-
37 LBD	2	2	1	-	1
	-	6	3	0	3
Signals, operative					
3 RAD	6	6	6	-	-
3 RCD	6	6	-	3	3
3 RA	6-4	10	10	-	-
3 RC	6-4	10	-	5	5
3 LA	4-4	8	4	2	2
3 LC	4-4	8	4	2	2
5 RA	6-4	10	3	3	4
5 RC	6-4	10	3	3	4
5 LA	6-4	10	5	5	-
5 LC	6-4	10	-	-	10
7 RA	6-6	12	6	6	-
7 LA-B	6-6	12	6	6	-
13 RA	6-6	12	-	12	-
13 LA-B	6-6	12	-	12	-
2	2	2	-	2	-
15 RA-B	6-6	12	6	6	-
15 LA	6-6	12	6	6	-
17 RA	6-4	10	5	5	-
17 LA-B	6-6	12	6	6	-
19 RA-B	6-6	12	6	6	-
19 LA	6-4	10	5	5	-
21 RBD	6	6	-	-	6
21 RA	6	6	3	3	-
21 RB	6-4	10	-	-	10
21 LA	6-4	10	3	3	4
21 LC	4	4	-	-	4
1679-80	6-6	12	4	4	4
1694-95	6-6	12	4	4	4
25 RA	6-4	10	3 1/3	3 1/3	3 1/3
25 LA-B	6-6	12	4	4	4
27 RA	6-4	10	4	2	4
27 LA-B	6-6	12	5	2	5
27 LBD	6	6	3	-	3
29 RA-B	6-6	12	4	4	4
29 RC	6	6	6	-	-
29 LA	6-4-4	14	7 1/3	3 1/3	3 1/3
37 RA	4-4	8	2	4	2
37 RC	4	4	4	-	-
37 LA	6	6	-	6	-
37 LB	4-6	10	7	-	3
1720	6	6	-	6	-
		382	144 2/3	143 2/3	93 2/3
Train Order Signal	4-4	8	4	4	-
Marker Light Operated					
29 RD	2	2	2	-	-
27 LD	2	2	2	-	-
		4	4	0	0

Description of unit	Unit Value	Total	C&SW	SOO	LS&I
Switch, power					
# 4	8	8	2 2/3	2 2/3	2 2/3
# 6	8	8	2 2/3	2 2/3	2 2/3
# 8	8	8	4	4	-
#10	8-2	16	5 1/3	5 1/3	5 1/3
#12	8-8	16	5 1/3	5 1/3	5 1/3
#14	8	8	-	8	-
#16	8	8	4	4	-
#18	8	8	4	4	-
#20	8	8	4	4	-
#22	8	8	2 2/3	2 2/3	2 2/3
#24	8	8	-	-	8
#26	8	8	2 2/3	2 2/3	2 2/3
#28	8	8	2 2/3	2 2/3	2 2/3
#30	8	8	2 2/3	2 2/3	2 2/3
#38	8	8	2 2/3	2 2/3	2 2/3
#40	8	8	4	-	4
		144	49 1/3	53 1/3	41 1/3
Non-coded track circuit					
1-2	2	4	4	-	-
3-4-5	2	6	-	3	3
6-7-8-9-10	2	10	3 1/3	3 1/3	3 1/3
11	2	2	-	-	2
12-13	2	4	2	2	-
14-15-16-17-18	2	10	-	10	-
19-20	2	4	4	-	-
21-22-23-24-25-26-27-28-29	2	18	9	9	-
30-31-32-33-34-35	2	12	-	-	12
36-37-38-39-40-41-42-43-44	2	18	6	6	6
45-46-47	2	6	2	2	2
48-49-50-51-52	2	10	5	-	5
53	2	2	2	-	-
54-55-56-57-58-59-60-61	2	16	5 1/3	5 1/3	5 1/3
62-63-64-65	2	8	-	8	-
66	2	2	2	-	-
67-68	2	4	2	-	2
		136	46 2/3	48 2/3	40 2/3
Electric lock on RT switch					
#32	2	2	2	-	-
#34	2	2	1	-	1
#36	2	2	-	1	1
		6	3	1	2
Highway grade crossing signal					
Baldwin Ave.	2-1-4	14	4 2/3	4 2/3	4 2/3
Mather "A" Road	2-1	6	2	2	2
Cooper Lake Road	2-1	6	3	-	3
M-28	2-1	6	2	2	2
Washington St.	2-1	6	2	2	2
		38	13 2/3	10 2/3	13 2/3
Switch circuit controller					
Hogans Yard Switches	1	2	-	2	-
Baldwin Ave.	1	1	-	-	1
Switch #32, 34, 36	1	3	1 1/2	1/2	1
Winthrop Jct.	1	3	-	3	-
		9	1 1/2	5 1/2	2

Description of unit	Unit Value	Total	LS&W	SOO	LS&I
Indicator, track occupancy or switch (panel)					
3RA	2	2	2	-	2
3RC	2	2	-	1	1
3TE-3LC-3LA-SRC-5TE	2	10	3 1/3	3 1/3	3 1/3
5LC	2	2	-	-	2
5LA-7TE	2	4	2	2	-
13RA-13TE-13LA-13LB	2	8	-	8	-
15 RA	2	2	2	-	-
15TE-15LA-17TE-17LA-17LB-19TE-21RA	2	14	7	7	-
21RB	2	2	-	-	2
21TE-21LA-25RA-25TE-27RA-27TE	2	12	4	4	4
21LC	2	2	-	-	2
27LB	2	2	1/2	-	1
27LA-29R B-29TE-29LA-37RTE	2	10	3 1/3	3 1/3	3 1/3
29RC	2	2	2	-	-
37RC	2	2	2	-	-
37LTE-37LB	2	4	2	-	2
37LA	2	2	-	2	-
#4-6-10-12	2-2	16	5 1/3	5 1/3	5 1/3
#8	2-2	4	2	2	-
#14	2-2	4	-	4	-
#16-18-20	2-2	12	6	6	-
#22	2-2	4	1 1/3	1 1/3	1 1/3
#24	2-2	4	-	-	4
#26-28-30-38	2-2	16	5 1/3	5 1/3	5 1/3
#32-34-36	2	6	2	2	2
#40	2-2	4	2	-	2
		152	54 2/3	56 2/3	40 2/3

Approach locking

3R	2-2	4	2	1	1
3L	2	2	2/3	2/3	2/3
5R	2	2	2/3	2/3	2/3
5L	2-2	4	1	1	2
7R	2	2	1	1	-
7L	2-2	4	2	2	-
13R	2	2	-	2	-
13L	2-2	4	-	4	-
15R	2-2	4	2	2	-
15L	2	2	1	1	-
17R	2	2	1	1	-
17L	2	2	1	1	-
19R	2	2	1	1	-
19L	2	2	1	1	-
21R	2-2	4	1	1	2
21L	2	2	2/3	2/3	2/3
25R	2	2	2/3	2/3	2/3
25L	2	2	2/3	2/3	2/3
27R	2	2	2/3	2/3	2/3
27L	2-2	4	1 2/3	2/3	1 2/3
29R	2-2	4	2 2/3	2/3	2/3
29L	2	2	2/3	2/3	2/3
37R	2	2	2/3	2/3	2/3
37L	2-2	4	1	2	1
		66	24 2/3	27 2/3	13 2/3

<u>Description of unit</u>	<u>Unit value</u>	<u>Total</u>	<u>C&NW</u>	<u>SOO</u>	<u>LS&I</u>
Time locking					
3LC	1	1	1/3	1/3	1/3
5RC	1	1	1/3	1/3	1/3
17LB	1	1	1/2	1/2	-
19RB	1	1	1/2	1/2	-
21LC	1	1	-	-	1
25LB	1	1	1/3	1/3	1/3
29RB	1	1	1/3	1/3	1/3
37RC	1	1	1	-	-
		<u>8</u>	<u>3 1/3</u>	<u>2 1/3</u>	<u>2 1/3</u>
Switch heaters					
14	2	2	-	2	-
16-18-20	2	6	3	3	-
22	2	2	2/3	2/3	2/3
24	2	2	-	-	2
26-28-30-38	2	8	2 2/3	2 2/3	2 2/3
40	2	2	1	-	1
		<u>22</u>	<u>7 1/3</u>	<u>8 1/3</u>	<u>6 1/3</u>

EXHIBIT "F"

Communication & Signal Wires Attached to Joint Pole Line	Wire Mileage of Each Company on Joint Pole Line			
	C&NW	SOO	LS&I	TOTAL
C&NW Communication Wires	65.72			
SoO Communication Wires		154.38		
LS&I Communication Wires			0	
C.T.C. Signal Wires (94.51 mi.) (Divided on same basis as maint. of C.T.C. System)	34.666	34.355	24.988	
Total Wire Mileage ea. Co.	100.386	189.235	24.988	314.609
% of Total Wire Mileage ea. Co.	31.91%	60.15%	7.94%	100.00%

Office of Asst. Chief Engineer - Signals & Communications
Soo Line Railroad Company
Minneapolis, Minnesota
July 3, 1962

6-25-6

EXHIBIT "F"

Re: Wire - Miles - Negaunee-Ishpeming Relocation

	Distance	Sig. Wires	Wire Miles Soo Comm.	C&NW Comm.
Eagle Mills Int. - "C"	3944'	(4) 2.99	Existing	---
"C" to "D"	4940'*	(10) 9.36	(20) 18.71	---
"A" to "B"	855'	(13) 2.11	---	(9) 1.4
"B" to "C"	8100'*	(4) 6.14	---	---
"B" to "D"	5386'*	(6) 6.12	---	(9) 9.1
"D" to "E"	4918'	(6) 5.59	(20) 18.63	(9) 8.3
"E" to "F"	4677'	(6) 5.31	(20) 17.11	(9) 7.9
Sig. 21RSD to G	2500'	(6) 2.84	---	---
"F" to "G"	1485'	(11) 3.09	(20) 5.63	(9) 2.5
"G" to Sig. 1679-80	6780'	(8) 10.23	(20) 25.68	(9) 11.5
1679-80 to 1694-95	7886'	(4) 5.97	(20) 29.87	(9) 13.4
1694-95 to Depot	6570'	(8) 9.95	(20) 24.89	(9) 11.2
Depot to "H"	2367'	(8) 3.59	(10) 4.48	---
"H" to Sig. 27 LBD	3490'	(8) 5.29	---	---
"H" to "T"	4951'	(10) 9.38	(10) 9.38	---
"T" to Sig. 1720	5720'	(6) 6.50	Existing	---
TOTALS		94.51	154.38	65.72

* Routing of Soo Pole Line will Affect Distance

Office of Asst. Chief Engineer - Signals & Communications
 Soo Line Railroad
 Minneapolis, Minnesota
 July 3, 1962

LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY

P. O. Box 2000
ISHPEMING, MICHIGAN 49849

PETER J. RAY
SENIOR AREA MANAGER-TRANSPORTATION

(906) 475-3588

January 20, 2004

Paul LaDue
Director of Contracts
Canadian National Railway Company
17641 Ashland Avenue
Homewood, Illinois 60430

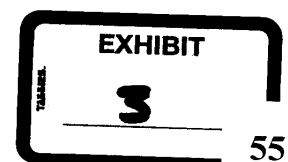
Re: Agreement by and between Chicago and North Western Railway Company, Soo Line Railroad Company and Lake Superior & Ishpeming Railroad Company, February 27, 1963

Dear Mr. Finn:

In accordance with Paragraph 47 of that certain Agreement, made and entered into as of the 27th day of February, 1963, by and among the Chicago and North Western Railway Company (the "North Western"), the Soo Line Railroad Company (the "Soo") and Lake Superior & Ishpeming Railroad Company (the "LS&I") (the "Agreement"), LS&I hereby gives notice to Canadian National Railway Company ("CN"), as successor in interest to North Western and Soo, of its intent to seek an exemption from the United States Surface Transportation Board (the "STB") authorizing LS&I to abandon its interest in the "joint tracks" covered by the Agreement between LS&I Jct., MP 69.52, and Landing Jct., MP 73.60. This is part of a contemplated abandonment that will include LS&I's entire line of railroad known as the Republic Subdivision extending from LS&I Jct. to Republic Mine (MP 94.5)

Paragraph 47 of the Agreement provides that in the event the abandonment is authorized, LS&I will give CN written notice, at least 60 days in advance of the date on which the abandonment will take place, and that if CN desires to continue its use of the joint tracks, it shall purchase LS&I's interest in such tracks and the traffic control system to be abandoned by paying LS&I in an amount equal to the net value of recoverable salvage of LS&I's interest in the abandoned joint track and traffic control system.

If you have any questions or desire additional information concerning this matter, you



may contact the undersigned or legal counsel for LS&I whose name appears below.

Very truly yours,

Peter J. Ray
Senior Area Manager-Transportation

cc: Edward T. Lyons
Jones & Keller, P.C.
1625 Broadway, Suite 1600
Denver, CO 80202
T: (303) 573-1600

LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY

P. O. Box 2000
ISHPEMING, MICHIGAN 49849

PETER J. RAY
SENIOR AREA MANAGER-TRANSPORTATION

(906) 475-3588
FAX (906) 475-3592

March 22, 2004

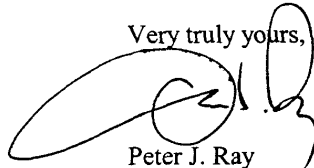
Mr. Paul LaDue
Director of Contracts
Canadian National Railway Company
17641 Ashland Avenue
Homewood, IL 60430

Dear Paul:

Per our phone conversation on 3/22/04, LS&I will grant CN's request for a 45-day extension on the 60-day response period with regard to the LS&I's desire to abandon its use of the joint trackage covered in the Agreement by and between Chicago and North Western Railway Company, Soo Line Railroad Company, and Lake Superior & Ishpeming Railroad Company dated February 27, 1963.

If you have any questions or desire additional information concerning this matter, you may contact the undersigned or legal counsel for LS&I whose name appears below.

Very truly yours,



Peter J. Ray
Senior Area Manager-Transportation

PJR:baw

cc: ✓ Edward T. Lyons
Jones and Keller
1625 Broadway, Suite 1600
Denver, CO 80202
T: [303] 573-1600



LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY

**P. O. Box 2000
ISHPEMING, MICHIGAN 49849**

**PETER J. RAY
SENIOR AREA MANAGER-TRANSPORTATION**

**(906) 475-3588
FAX (906) 475-3592**

March 4, 2004

Mr. Don Steckman, District Manager
Ferrellgas
603 US 41 East
Negaunee, MI 49866

Dear Mr. Steckman:

Re: Lake Superior & Ishpeming Railroad Company, Railroad Abandonment

This will confirm our recent conversation in which I informed you of LS&I's intention to seek an exemption from the United States Surface Transportation Board authorizing LS&I to abandon its line of railroad known as the Republic Subdivision extending from LS&I Jct. (MP 69.52) near Negaunee, Michigan, to Republic Mine (MP 94.5), near Republic, Michigan. I wanted you to have advance notice of the contemplated abandonment because of the effect it could have on future rail shipments to your facility at Negaunee.

As I informed you, the Canadian National Railway Company is the joint owner with LS&I of that portion of the mainline trackage, which is identified for abandonment, over which rail shipments are now delivered to your Negaunee facility. As the joint owner of this track, CN currently uses it in connection with its operation between Eagle Mills and L'Anse. If CN desires to continue its existing operation over the track, it has the contractual right to acquire it from LS&I. Accordingly, as long as CN continues to operate between Eagle Mills and L'Anse, you would presumably continue to have rail service available at Negaunee. LS&I cannot, of course, speak for CN or make commitments on its behalf. You should, therefore, contact CN to determine what rail service and rates they would offer at Negaunee after LS&I's abandonment of the line.

As I told you during our conversation, LS&I will do what it can to assist you in securing continuing rail service. In this connection, LS&I would be willing to deed to either Ferrellgas or CN, or both of them as they might desire, the existing LS&I-owned rail spur that connects Ferrellgas's Negaunee plant with the CN-LS&I mainline.

I hope this information will be of assistance to Ferrellgas in planning for an orderly replacement for the rail service it now receives from LS&I. If you have any questions or desire additional information, please do not hesitate to contact me.

Sincerely,

Peter J. Ray
Senior Area Manager-Transportation

cc: Edward T. Lyons
Jones & Keller, P.C.
1625 Broadway, Suite 1600
Denver, CO 80202



T: (303) 573-1600



April 13, 2004

LS & I Railway
Attn: Peter J. Ray
P.O. Box 2000
Ishpeming, MI 49849

Re: Railroad abandonment to Ferrellgas

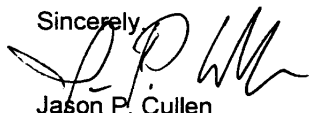
Dear Mr. Ray,

The purpose of this letter is to convey our willingness to accept the rail spur we currently lease from the Lake Superior & Ishpeming Railroad Company (LS & I), located in Nagaunee, MI, once an exemption from the United States Surface Transportation Board, authorizing LS & I to abandon its line of railroad known as the Republic Subdivision, is received.

We have confirmed with Canadian National (CN) that they intend to continue to service the track spur we utilize, via the rail line they currently jointly own with LS & I. As long as this remains the case and as long as LS & I continues to maintain all road crossings associated with the spur, once we confirm that the spur is structurally sound, we will be in full support of the railroad abandonment.

If you should have any questions or comments concerning this matter, please do not hesitate to contact me. I can be reached at (816) 792-6950 or by email at jasoncullen@ferrellgas.com.

Sincerely,


Jason P. Cullen
Supervisor of Real Estate

TRACKAGE AGREEMENT

This Agreement, made and entered into as of the 13th day of April, 1990, by and between Lake Superior & Ishpeming Railroad Company, hereinafter "LS&I" and Wisconsin Central Ltd., hereinafter "WC",

W I T N E S S E T H:

WHEREAS, LS&I and WC each operate over separate lines of railroad between Landing Jct. and Humboldt Jct., Michigan; and

WHEREAS, WC desires to abandon its trackage between Soo Jct. and Humboldt Jct. on WC's parallel route and operate over LS&I's trackage between Landing Jct., MP 73.60 and Humboldt Jct., MP 85.66, a distance of 12.06 miles;

WHEREAS, LS&I is willing to grant trackage rights to WC upon the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises it is mutually agreed by and between the parties herein as follows:

1. Subject to the terms, provisions, conditions, covenants and limitations in this Agreement, LS&I grants to WC the right to use, in common with LS&I and such other railroad company or companies as LS&I may hereafter at any time in the future admit to the joint use of all or any part hereof, the trackage of LS&I located between point A at Landing Jct., Michigan and point B at Humboldt Jct., Michigan, which is shown in red on the map attached to this Agreement marked Exhibit "A" and made a part hereof, and hereinafter referred to as the "Joint Trackage."

2. The use by WC of the said Joint Trackage will be limited to operation of loaded and empty cars with its own engines and crews in through movements over said Joint Trackage in either direction for bridge purposes only. WC shall not have the right to do any local freight, passenger, express or mail business, or to set out any cars, except in

case of emergency, on said Joint Trackage without the express written consent of LS&I.

3. The turnout required to connect WC tracks to the Joint Trackage at point B shall be constructed and maintained by LS&I at WC's sole cost and expense, and WC shall promptly reimburse LS&I for such costs and expenses upon being billed therefor. LS&I reserves the right to relocate the Joint Trackage or to change the existing points of connection of said Joint Trackage with other tracks of the LS&I, or the grade of the Joint Trackage in any manner not inconsistent with the rights granted by this Agreement at its sole expense.

4. Management of the Joint Trackage shall be the sole responsibility of the LS&I.

5. (a) As compensation for use by WC of the Joint Trackage, in addition to any costs and expenses provided for elsewhere in this Agreement, WC shall pay to LS&I a sum computed by multiplying the Base Charge specified in paragraph (d) of this Section by the number of cars (loaded or empty) and locomotive units moved by WC with its own crews and power over the Joint Trackage by miles of Joint Trackage used as specified in this Agreement. Each diesel unit, for the purpose of this Agreement, shall be treated as one car. The base charge shall be subject to change to reflect any increases or decreases in labor, material and other costs subsequent to the base year, as more fully set forth below.

(b) WC shall furnish LS&I, at the end of each month, a statement showing the number of cars, locomotive units and cabooses, and total car miles operated over the Joint Trackage during the month. All payments called for under this Section shall be made by WC within thirty (30) days after invoice. No payment shall be withheld because of any minor dispute as to the correctness of items in the invoices rendered, but any discrepancy shall be reconciled between the parties and adjusted in

the accounts pertaining to the month in which reconciled. The records of each party, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other party.

(c) The Base Charge shall be escalated upward or downward effective July 1 of each year, beginning July 1, 1991, to compensate for the increase or decrease in the cost of labor and material, excluding fuel, as reflected in the Annual Indexes of Charge-Out Prices and Wage Rates (1977=100), Series Q-MPW, included in "Indexes of Railroad Material Prices and Wage Rates" and supplements thereto, issued by the Association of American Railroads. In making such determination, the final "Material Prices, Wage Rates and Supplements Combined (Excl. Fuel)" index for the Western District shall be used and the final index figure for the calendar year 1989 shall be taken as the base. The escalated Base Charge shall be determined by multiplying the ratio of the index of the year to be escalated to the index of the base year by the Base Charge.

By way of example, assuming "A" to be the "Material Prices, Wage Rates and Supplements Combined (Excl. Fuel)" final index figure for the year 1989, "B" to be the final index figure for 1990, and "C" to be the Base Charge, the escalated charge effective July 1, 1991 would be determined by the following formula:

$$(1) \quad \frac{B}{A} \times C$$

If the base for the annual Indexes of Charge-Out Prices and Wage Rates issued by the Association of American Railroads shall be changed from the year 1977, appropriate revision shall be made in the base (established as herein provided) for the calendar year 1989. If the Association of American Railroads or any successor organization discontinues publication of the Annual Indexes of Charge-Out Prices and Wage Rates (or of any relevant component), an appropriate substitute for

determining the percentage of increase, or decrease, shall be negotiated by the parties.

(d) The Base Charge shall be \$0.25 per car mile.

6. All track changes required on Joint Trackage to allow WC the full and convenient use of the trackage rights intended by this Agreement shall be done by LS&I employees at the sole expense of WC. The existing interlocking and crossing diamond at point B shall be removed by LS&I at its expense and LS&I shall be entitled to the salvage thereof. The October 27, 1949 crossing agreement between WC and LS&I shall be terminated effective as of the date of such removal.

7. (a) LS&I shall exercise general management and supervisory control over the Joint Trackage. Except as otherwise provided herein, LS&I shall retain the unrestricted power to make changes, repairs, additions and betterments to the Joint Trackage as in its judgment may be necessary or expedient. Such changes, additions, betterments or repairs shall not, however, permanently impair the usefulness of the Joint Trackage to WC for the purposes herein stated.

(b) Subject to the provisions of the Section 7 hereof, LS&I shall maintain and keep the Joint Trackage in good condition and repair in compliance with standards prescribed by the Federal Railroad Administration for Class II track and shall comply with all other lawful regulations prescribed by law or any public authority with respect thereof. LS&I shall pay the taxes on the Joint Trackage (but not including any taxes based on the income, earnings or profits of WC) and shall in any event keep the Joint Trackage suitable for use by WC.

(c) All train schedules, rules, regulations and orders relative thereto shall be reasonable, just and fair between the parties hereto and shall not unjustly discriminate against either of them. The schedules, as may be practicable, shall afford an equality of right,

privilege and advantage to trains of the same class operated by either party in preference to trains of an inferior class operated by either party. WC employees engaged in or connected with the operation of trains, locomotives or cars on the Joint Trackage shall be required to know and be qualified with respect to the operating rules and regulations of LS&I. Necessary timetables and books of rules shall be supplied by LS&I at WC's expense.

8. LS&I shall be bound to use only reasonable and customary care, skill and diligence in maintaining and repairing the roadway, tracks, structures and appliances of and pertaining to the Joint Trackage. WC shall not by reason of any defect in the roadway, track, structures or appliances of the Joint Trackage, or by reason of the failure or neglect of LS&I to repair any such defect, or by reason of the failure or neglect of any joint employees, as herein defined, to repair such defect, have or make against LS&I any claim or demand for any loss, damage or injury whatsoever arising from such defect, neglect or failure; but should LS&I fail to repair any defect within a reasonable time after WC shall have notified it, specifying the defect and requesting that it be repaired, then WC shall have the right to make the necessary repairs at once, and LS&I shall pay to WC the cost thereof.

WC shall at all times require its officers and employees to give prompt notice to LS&I of any defect in the tracks, structures or appliances of the Joint Trackage which may come to the notice of such officers and employees; but in no case shall WC be liable to damages to LS&I, or to any person using the Joint Trackage for the failure of such officers or employees to give such notice.

In the event the Joint Trackage is out of service for any reason and it is necessary to detour trains, each party hereto shall assume and pay its own costs for any such detour movements.

9. (a) It is understood and agreed that the amounts heretofore provided to be paid by either party hereto to the other party hereto do not in any case include any cost or expense which a party hereto may incur by reason of loss or destruction of or damage to property, or injury to or death of persons, arising out of or in connection with the use or operation of locomotives, cars or trains over any of the Joint Trackage or the construction, maintenance and operation of tracks, facilities or other property jointly used hereunder, or any part thereof, and that such items of cost and expense shall be borne and paid by the parties as provided herein.

(b) Any liability for loss, damage, injury or death shared equally by the parties hereto will be shared equally by the parties hereto, under the provisions of paragraphs 10 to 15 inclusive, and any other railroad companies as may be admitted by the LS&I to the use of that part of the joint trackage at the time such loss and damage is incurred.

10. For the purpose only of establishing responsibility between the parties hereto for loss or destruction of, or damage to property and injury to or death of persons, it is understood by and between the parties hereto that all persons engaged in the construction, installation, operation, maintenance, repair or renewal of Joint Trackage or any part thereof, or additions, betterments or improvements thereto, or extensions thereof, including work train employees engaged in work train service on the Joint Trackage, shall while so engaged be deemed the joint employees of the parties hereto, except that LS&I employees and equipment while installing and maintaining the turnout and trackage at point B shall be deemed the sole employees and equipment of WC. Provided, however, that enginemen and trainmen of any party hereto engaged solely in its own service and supervisory officials and employees riding on such trains shall not be deemed joint employees hereunder; provided, further that

employees when assigned to work on the Joint Trackage while employed on work trains shall be deemed joint employees.

11. Liability for injury to or death of any persons or loss or destruction of or damage to any property, including the Joint Trackage and turnouts therefrom, and the person and property of the joint employees (hereinafter sometimes referred to as "loss or damage") in any manner resulting from or in connection with the operation of locomotives, trains or cars of either party hereto, or out of the presence on or about the Joint Trackage of locomotives, trains, cars, property or employees of either party hereto, or out of the construction, installation, operation, maintenance, repair or renewal of Joint Trackage hereunder, shall be borne and paid by the parties hereto as follows:

(a) When the same shall be due to:

- (1) The acts or omissions, negligent or otherwise, of the sole employee or employees of one of the parties hereto; or to
- (2) The concurring acts or omissions, negligent or otherwise, of a joint employee or employees and of a sole employee or employees of one of the parties hereto; or to
- (3) The defect in or failure of the exclusive equipment or appliances of one of the parties hereto;

it shall be borne by the party whose sole employee or employees, or whose exclusive equipment or appliances so caused the loss or damage.

(b) When the same shall be due to:

- (1) The concurring acts or omissions, negligent or otherwise, of the sole employees of both of the parties hereto; or to
- (2) The concurring acts or omissions, negligent or otherwise, of a joint employee or employees and the sole employees of both of the parties hereto;

it shall be borne equally by the parties hereto except that each party whose sole employees are so involved shall bear all loss or damage to its own exclusive property, or property in its custody, or upon its cars and

as to its sole employees, patrons and persons upon its locomotives, trains or cars.

(c) When the same shall be due to:

(1) The acts or omissions, negligent or otherwise, of a joint employee or employees; or to

(2) The failure of or defect in any part of the Joint Trackage; or to

(3) Any acts whatsoever not hereinabove provided for;

it shall be borne by each party hereto as to its own property, or property in its custody, or upon its cars and as to its sole employees, patrons and persons upon its locomotives, trains or cars, but as to other persons (including third parties, joint employees and their property), the Joint Trackage and joint equipment, the liability shall be borne by the party whose locomotive, train or car is involved in the accident causing the loss or damage, and if the locomotives, trains or cars of more than one party were involved in such accident, or if no locomotive, train or car of either of the parties hereto is involved, then such liability shall be borne equally by the parties hereto.

12. Third party claims for loss or damage to property arising out of the killing or injuring of livestock or the setting of fires on or along the Joint Trackage, when caused by a locomotive, train or car of one of the parties hereto, shall be handled or settled by the party whose locomotive, train or car caused such loss or damage, but if it cannot be determined whose locomotive, train or car caused such loss or damage, the claim will be handled or settled on behalf of both parties by the LS&I and WC shall reimburse LS&I for one-half of the cost thereof.

13. Each party hereto covenants and agrees with the other party hereto that it will pay for all loss, damage and expense, the risk of which it has herein assumed, the judgment of any court to the contrary notwithstanding, and will forever indemnify and save harmless the other

party hereto, and the successors and assigns of each of them, from and against all liability and claims therefor or by reason thereof, and will pay, satisfy and discharge all judgments that may be rendered by reason thereof, and all costs, charges and expenses incident thereto. In the event both of the parties hereto shall be liable hereunder upon any claim, demand, suit or cause of action, and the same shall be compromised or settled by voluntary payment of money or valuable consideration by either party hereto, release from liability shall be taken for and in the name of both of the parties hereto. Neither of the parties hereto, however, shall make any such compromise or settlement in excess of \$5000 without authority of the other party; but any settlement made by either in consideration of such sum or a lesser sum shall be binding upon the other party.

14. In case a lawsuit or lawsuits shall be commenced against either party hereto for or on account of any damage or injury for which the other party hereto shall be solely or jointly liable under this Agreement, the party so sued shall give to the other party so involved written notice of the pendency of such suit, and thereupon the other party will assume or join in the defense thereof, and if the party so notified is liable therefor under this Agreement, that party will save harmless the party so sued from all such loss, cost and expense so determined by this Agreement. Neither of the parties hereto shall be concluded by any judgment against the other party hereto unless it shall have had reasonable opportunity to assume or join in the defense thereof. When such notice and opportunity shall have been given, the party so notified shall to the extent of its liability, as determined by this Agreement, be concluded by such judgment.

15. If trains, locomotives or cars of WC are wrecked or derailed on the Joint Trackage, the LS&I shall pick up and remove said equipment,

and WC shall bear the entire cost of such service, except if LS&I does not have necessary personnel or equipment WC may furnish both as required, at its own expense; provided, however, if a minor derailment of WC's trains, locomotives or cars occurs on the Joint Trackage, and such derailed equipment can be promptly rerailed by the use of rerailers and blocking, WC, at its sole expense, may rerail such derailed equipment.

16. WC shall comply with all laws and lawful regulations of governmental authorities respecting its locomotives, trains and cars, and shall indemnify and save harmless the LS&I from all fines and penalties, costs and liabilities growing out of any failure or breach of this covenant.

17. The LS&I shall have the sole right to admit other companies to the use of the Joint Trackage for any purpose. The use of the Joint Trackage by other companies shall not unreasonably interfere with use of the Joint Trackage by the WC for the purposes hereinbefore set forth.

18. No right is given to any third person by this Agreement to recover, by way of damage or otherwise, against either of the parties hereto.

19. Should the Federal Railroad Administration, the Michigan Department of Transportation or any other lawful authority make any order against the parties or either of them in respect of the Joint Trackage, each of the parties will cooperate with the other in carrying out such order and will comply with the terms thereof, or such other action as may be appropriate in the circumstances.

20. All notices under this Agreement may be given by serving upon the WC at its offices at P. O. Box 5062, Rosemont, Illinois 60017-5062, and upon the LS&I by serving at its offices at 105 East Washington Street, Marquette, Michigan 49855.

21. If any covenant or provision of this Agreement not material to the right of WC to use the Joint Trackage shall be adjudged void, such adjudication shall not affect the validity, obligation or performance of any other covenant or provision which is in itself valid. No controversy concerning any covenant or provision shall delay the performance of any other covenant or provision. Should any covenant or provision of this Agreement be adjudged void, the parties will make such other agreement as under the advice of counsel will effect the purposes and intent of this Agreement.

22. If at any time a question shall arise touching the construction of any part of this Agreement, or concerning the business or manner of transacting the business carried on under the provisions hereof, or concerning the observance or performance of any of the conditions herein contained, upon which question the parties hereto cannot agree, such questions shall be submitted to the arbitrament of three disinterested persons to be chosen, one by the LS&I, one by the WC, and the other by the two so chosen within one (1) year from the time the matter(s) upon which arbitration is sought first became known to the party seeking to arbitrate. The party desiring such arbitration shall select its arbitrator and give notice thereof to the other party, and shall in such notice state precisely the matter or matters which it proposes to bring before the arbitrators; and only the matters so stated shall be considered or decided by them. If the notified party shall fail to name an arbitrator within twenty (20) days after notice as aforesaid has been given to the other party, the arbitrator named by the party giving notice may and shall name and appoint an arbitrator for and on behalf of the party so in default, and the arbitrator so named and appointed shall have the same power and authority as if he had been chosen by such party. If the two arbitrators thus chosen shall fail to select a third arbitrator

within twenty (20) days after the selection of the second arbitrator as aforesaid, such third arbitrator may be appointed, upon twenty (20) days notice by either party hereto to the other party of its intention to make application thereof, by any Judge of the United States District Court for the Western District of Michigan. The arbitrators shall, as soon as possible after their selection, give to each party twenty (20) days notice of the time and place of such meeting. After hearing both parties and taking such testimony or making such investigation as they may deem necessary, they shall make, within 90 days thereof, in writing their award upon the question or questions so submitted to them, and shall serve a copy of such award upon each party hereto, and the award of such arbitrators or a majority of them shall be final and binding upon both parties, and each or either party shall immediately make such changes in the conduct of its business, or such payments or restitution, as the case may be, as in and by such award may be required of them, respectively. The books and papers of both parties, as far as they may relate to matters submitted to arbitration, shall be open to the examination of the arbitrators. Each party shall assume and pay the fees and expenses of its arbitrators; LS&I and WC shall each assume and pay one-half of the fees and expenses of the third arbitrator.

23. This Agreement is made subject to any necessary approval of the Interstate Commerce Commission and other regulatory authorities having jurisdiction thereover or exemption therefrom, and shall become effective when such approval or exemption is final. Except as otherwise provided herein, the term of this Agreement shall be for fifty (50) years subsequent to its effective date, and it shall thereafter continue in effect until terminated by either party upon six (6) months written notice to the other, or as provided in Sections 24 or 25 hereof. WC agrees to assume responsibility for filing any necessary applications for approval

of this Agreement with the Interstate Commerce Commission or other regulatory agency and to bear all expenses in connection therewith. LS&I agrees to cooperate and assist WC in securing said approval.

24. Under the terms hereinafter stated, and to the extent that LS&I may lawfully do so, LS&I reserves to itself the exclusive right, exercisable at any time during the life of this Agreement without concurrence of WC, to elect to abandon all or any part of the Joint Trackage.

If, at the time of such election, WC is the only party (other than LS&I) having the right to use the Joint Trackage, LS&I shall, concurrent with its notice of abandonment, give to WC the option to purchase the part or parts of the Joint Trackage to be abandoned at the net liquidation value thereof, on the date of said notice. "Net Liquidation Value" shall mean fair market value of land and salvage value of track components less estimated cost of removal. WC shall have three (3) months from the date of receipt of LS&I's notice to exercise its option and shall evidence the exercise of its option by giving LS&I written notice thereof. Thereafter, WC shall make appropriate application to secure all necessary governmental authority for such transaction. Within thirty (30) days following the effective date of all requisite governmental approval of the transaction, WC shall pay to LS&I the amount of money required to purchase said Joint Trackage to be abandoned at the aforesaid Net Liquidation Value. Upon the receipt of payment of such sum, this Agreement shall terminate as to that portion of the Joint Trackage so purchased by WC. Contemporaneously with such payment, by instrument or instruments, LS&I shall convey and assign by good and sufficient quitclaim deed or deeds, bills of sale or other similar instruments satisfactory to WC, all of LS&I's right, title, interest and equity, in and to the part of the Joint Trackage so purchased. LS&I agrees that it shall promptly take

all necessary action to obtain from the trustees of its mortgages all releases or satisfactions covering the same and deliver to WC such instruments.

25. WC reserves to itself the exclusive right, exercisable at any time during the life of this Agreement, to elect to abandon its operation over the Joint Trackage. Upon the effective date of such abandonment, this Agreement shall terminate.

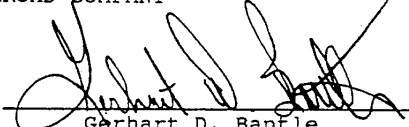
27. This Agreement shall inure to the benefit of and be binding upon each of the parties hereto, its successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

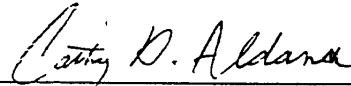
WISCONSIN CENTRAL LTD.

By: 
Edward A. Burkhardt
President

LAKE SUPERIOR & ISHPEMING
RAILROAD COMPANY

By: 
Garhart D. Bantle
President

ATTEST:


Cathy D. Aldana
Assistant Secretary

ATTEST:


Paul Regatt
Secretary

NOT TO SCALE

HUMBOLDT JCT. MP 85.66

NESTORIA

HUMBOLDT MINE

WCL

TRACK TO BE ABANDONED

LS&I

LANDINGS EAST

500 JCT.

BRAND

MINNAPOL

EUCLID YD.

WESTWYE

SOUTHWYE

EMPIRE MINE

PARTRIDGE JCT.

PARTRIDGE SIDING

PALMER LINE JCT MP 63.63

EAGLE MILLS JCT. MP 63.1

HOGAN YARD

EASTWYE

DIAMOND

EAGLE MILLS

WCL

MARQUETTE

LITTLE LAKE

ESCANABA

TILDEN MINE MP 24.54

REPUBLIC MINE MP 24.5

NORTH

_____ LSA I.R.R.
----- WCL



Engineering
Department

TRACK AGREEMENT WITH LS&I RR CO.

75

LANDING JCT. TO HUMBOLDT JCT., MICHIGAN

EXHIBIT A

APR. 10, 1990

SCALE=
NONE

DRL

LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY

P. O. Box 2000
ISHPEMING, MICHIGAN 49849

PETER J. RAY
SENIOR AREA MANAGER-TRANSPORTATION

(906) 475-3588

January 20, 2004

Paul LaDue
Director of Contracts
Canadian National Railway Company
17641 Ashland Avenue
Homewood, Illinois 60430

Re: Trackage Agreement -- Lake Superior & Ishpeming Railroad Company and
Wisconsin Central Ltd., April 13, 1990

Dear Mr. LaDue:

In accordance with Paragraph 24 of that certain Trackage Agreement, made and entered into as of April 13, 1990, by and between the Lake Superior & Ishpeming Railroad Company (the "LS&I") and Wisconsin Central Ltd (the "Trackage Agreement"), the LS&I hereby gives notice to Canadian National Railway Company ("CN"), as successor in interest of the Wisconsin Central, of LS&I's intent to abandon all of the "Joint Trackage" covered by the Trackage Agreement between Landing Jct., MP 73.60 and Humboldt Jct., MP 85.66. This is part of a contemplated abandonment that will include LS&I's entire line of railroad known as the Republic Subdivision extending from LS&I Jct. to Republic Mine (MP 94.5).

LS&I intends to file an abandonment exemption petition with the United States Surface Transportation Board as soon as practicable. CN will be given notice of the filing of that petition when it occurs and, effective with the date of such notice, CN shall have the option to purchase LS&I's interest in the described Joint Trackage to be abandoned at the Net Liquidation Value thereof calculated as of the date of said notice. "Net Liquidation Value" is defined under the Trackage Agreement to mean the fair market value of land and salvage value of track components less estimated cost of removal. CN shall have three (3) months from the date of receipt of notice of filing the abandonment petition to exercise its option to purchase the Joint Trackage. The exercise of the option and closing of the transaction shall be as specified in the Trackage Agreement. The Trackage Agreement provides that CN is responsible for securing all necessary governmental authority for its acquisition of the Joint Trackage.



If you have any questions or desire additional information concerning this matter, you may contact the undersigned or legal counsel for LS&I whose name appears below.

Very truly yours,

Peter J. Ray
Senior Area Manager-Transportation

cc: Edward T. Lyons
Jones & Keller, P.C.
1625 Broadway, Suite 1600
Denver, CO 80202
T: (303) 573-1600

LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY, INC.
LOSS FROM OPERATING AND MAINTAINING
LINE PROPOSED FOR ABANDONMENT
2001-2003

	NO. OF CARS	REVENUE	SWITCHING COSTS	TRACK FEES PAID TO CN	TRACK MAINTENACE	OPERATING LOSS	TRACK FEES FROM CN	NET LOSS
2001	44	\$20,592	\$5,874	\$1,498	\$90,556	\$(77,336)	\$14,178	\$(63,158)
2002	50	23,400	6,675	1,648	16,317	(1,240)	13,190	11,950
2003	<u>53</u>	<u>26,500</u>	<u>11,713</u>	<u>2,908</u>	<u>34,846</u>	<u>(22,967)</u>	<u>19,199</u>	<u>(3,768)</u>
AVG.	49	\$23,497	\$8,087	\$2,018	\$47,240	\$(33,848)	\$15,522	\$(18,325)

BEFORE THE SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

DOCKET NO. AB-68 (Sub. No. 4X)

LAKE SUPERIOR & ISPHEMING RAILROAD COMPANY—ABANDONMENT—IN
MARQUETTE COUNTY, MI.

ENVIRONMENTAL/HISTORIC REPORT

The Lake Superior & Ishpeming Railroad Company ("LS&I") intends to petition the United States Surface Transportation Board (the "Board") for exemption under 49 U.S.C. §10502 from the prior approval and other requirements of 49 U.S.C. § 10903 relating to LS&I's abandonment of a line of railroad known as the Republic Subdivision extending from LS&I Jct. (MP 69.52) near Negaunee, Michigan, to Republic Mine (MP 94.5) near Republic, Michigan, which traverses through United States Postal Service Zip Codes 49866, 49849 and 49879, a distance of approximately 25 miles, in Marquette County, Michigan.

The line includes the Ishpeming (MP 72.5), and Republic (MP 94.5) stations. A map of the subject line is attached hereto as Exhibit A. The line does not contain federally granted rights-of-way. Any documentation in the LS&I's possession will be made available promptly to those requesting it. The following information is submitted by LS&I to assist the Board's preparation of an environmental assessment regarding LS&I's proposed Petition for Exemption.

PRELIMINARY STATEMENT

The line proposed for abandonment consists of three distinct sections between LS&I Jct. (MP 69.52) and Republic Mine (MP 94.5). The first section of track between LS&I Jct. (MP 69.52) and Landing Jct. (MP 73.60) is jointly owned by LS&I and Canadian National Railway Company

("CN"). Through a series of agreements, LS&I owns an undivided one-third interest and CN owns an undivided two-thirds interest. LS&I conducts a limited operation over a short distance on this segment of track. In accordance with an agreement dated February 27, 1963, CN currently operates over this section of track and has the right to purchase LS&I's one-third interest if CN wishes to continue its use of the joint tracks.

The second section of track between Landing Jct. (MP 73.60) and Humboldt Jct. (MP 85.6) is wholly owned by LS&I. LS&I is not currently operating over this segment of track. CN operates over this segment under a trackage agreement dated April 13, 1990. CN has the right to purchase this portion of track at the Net Liquidation Value if it wishes to continue its current operation.

The third section of track between Humboldt Jct. (MP 85.6) and Republic Mine (MP 94.5) is wholly owned by LS&I and is the only portion of track that will be physically dismantled and salvaged. This segment has been out of service for more than two years and would qualify for abandonment under the class exemption provided in 49 C.F.R. § 1152.50. In correspondence dated January 20, 2004, LS&I has given CN notice of LS&I's intent to abandon these three segments of track. *See Exhibits B and C.* As of the date of this report, CN has yet to notify LS&I of its intent. If CN exercises its rights regarding the trackage from LS&I Jct. (MP 69.52) to Humboldt Jct. (MP 85.6) and continues its existing operations, then LS&I will seek an exemption from the environmental and historic requirements for this portion of the line under a constructive discontinuance of trackage rights theory.¹

¹ On January 20, 2004, Ms. Victoria J. Rutson, Chief of the Section of Environmental Analysis for the Surface Transportation Board, confirmed that if CN continues to use the line then the abandonment by LS&I would be tantamount to a constructive discontinuance of trackage rights, and an environmental and historic report would not be necessary for those portions of track that CN acquired.

ENVIRONMENTAL REPORT

(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.

RESPONSE: As stated above, LS&I seeks to abandon and discontinue service on three distinct segments of rail line between LS&I Jct. (MP 69.52) near Negaunee, Michigan, to Republic Mine (MP 94.5) near Republic, Michigan. Currently, LS&I services one shipper on the line, Ferrellgas ("Ferrellgas"). Ferrellgas is served over a spur extending one quarter of a mile east from the switch at LS&I Jct. LS&I serves no other traffic moving over the line to be abandoned beyond the switch at LS&I Jct. CN jointly owns the first segment of track, which is from LS&I Jct. (MP 69.52) to Landing Jct. (MP 73.6) and has trackage rights from Landing Jct. (MP 73.6) to Humboldt Jct. (MP 85.6). CN has the right to purchase these segments of line and continue its current service. If CN exercises these rights, rail service would continue to be available to Ferrellgas; and from LS&I Jct. (MP 69.52) to Humboldt Jct. (MP 85.6) the current trackage will continue in use and would not be dismantled following abandonment by LS&I. Following abandonment, however, LS&I will dismantle and salvage the line from Humboldt Jct. (MP 85.6) to Republic Mine (MP 94.5). However, this portion of the line has been out of service for more than five years. See Exhibit A.

Currently, LS&I and CN jointly maintain the track from LS&I Jct. (MP 69.52) to Landing Jct. (MP 73.6); and LS&I solely maintains the remaining two segments of track proposed for abandonment. If CN exercises its rights under the various agreements with LS&I, then CN would assume maintenance of the track from LS&I Jct. to Humboldt Jct. The line from Humboldt Jct. (MP 85.6) to Republic Mine (MP 94.5) would require no further maintenance as it would be dismantled and salvaged if this proposed action is approved.

(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 because of the proposed action.

RESPONSE: LS&I does not expect any adverse effects on regional or local transportation systems and patterns. LS&I currently serves Ferrellgas off a spur east from the switch at LS&I Jct. If CN exercises its rights to acquire the line, rail service would continue to be available to Ferrellgas. Additionally, Ferrellgas has truck service available to it that could handle its transportation needs. If CN does exercise its rights to acquire the trackage, then the present rail operations would essentially continue unchanged from LS&I Jct. (MP 69.52) to Humboldt Jct. (MP 85.6). The line from Humboldt Jct. (MP 85.6) to Republic Mine (MP 94.5) has been out of service for more than five years and will be dismantled and salvaged if the abandonment is granted.

(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.

RESPONSE: The proposed exemption will be consistent with local and/or regional land use plans. See Exhibits D, E, and S, letters from The City of Marquette, Community Development – Planning, the Marquette County Planning Division, and the Humboldt Township Planning Commission.

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

RESPONSE: The abandonment will have no effect on prime agricultural land along the rail line. See Exhibits F and G, letters from the Natural Resources Conservation Service, Marquette Area Office and Lansing Field Office.

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

RESPONSE: Not applicable. The abandonment will not affect coastal zones. See Exhibit K, letter from the Michigan Department of Environmental Quality, Geological and Land Management Division.

(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.

RESPONSE: The right-of-way from LS&I Jct. (MP 69.52), to Humboldt Jct. (MP 85.6), is suitable for alternative public use. CN is currently operating on that portion of the line through two separate operating agreements. In an agreement dated February 27, 1963, LS&I and CN have joint ownership from LS&I Jct. (MP 69.52) to Landing Jct. (MP 73.60). In an agreement dated April 13, 1990, LS&I granted CN trackage rights from Landing Jct. (MP 73.60) to Humboldt Jct. (MP 85.6). LS&I notified CN in letters dated January 20, 2004 of this proposed action. See Exhibits B and C. As of the date of this report, CN has not responded to LS&I whether it intends to acquire this segment of the line. The right of way from Humboldt Jct. (MP 85.6) to Republic Mine (MP 94.5) is not suitable for alternative public use by rail carriers and has been out of service for more than five years. This portion of line served the Humboldt and Republic Mines, both of which closed in 1981. LS&I's last shipment over this portion of line consisted of tailings from the Republic Mine in October of 1998. The terminus of this portion is at the Republic Mine and the line does not connect to any other lines. However, this portion of the line may be suitable for use as a recreational trail.

(4) Energy.

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

RESPONSE: The proposed action will not have a significant effect on the transportation of energy resources. As set forth above, limited shipments of liquefied petroleum gas are currently being handled for a single consignee, Ferrellgas, which is served off a spur at LS&I Jct. (MP 69.52). If CN exercises its rights to acquire the trackage, this traffic would continue to move by rail. Otherwise, it would be diverted to truck.

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

RESPONSE: Not Applicable. The proposed action will not affect recyclable commodities.

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

RESPONSE: This abandonment will not result in an increase or decrease in overall energy efficiency. Moreover, if CN exercises its rights to acquire the trackage and continues rail operations, the line would continue in service between LS&I Jct. (MP 69.52) and Humboldt Jct. (MP 85.6). The line from Humboldt Jct. (MP 85.6) to Republic Mine (MP 94.5) has been out of service for more than five years and the line will be dismantled and salvaged if the Board approves this action.

(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.

RESPONSE: The proposed abandonment will not result in diversions from rail to motor carriage of more than 1,000 rail carloads a year. However, if CN does not exercise its rights to acquire the trackage under the various agreements, there will be a diversion from rail to motor carriage of approximately 50 rail carloads per mile per year in connection with shipments handled over the spur

from LS&I Jct. (MP 69.52) for Ferrellgas. If CN exercises its rights to acquire the trackage and continues rail operations, there will be continued rail service from LS&I Jct. (MP 69.52) to Humboldt Jct. (MP 85.6) and Ferrellgas will have the option of continuing rail handling for its shipments. The line from Humboldt Jct. (MP 85.6) to Republic Mine (MP 94.5) is out of service and will be dismantled and salvaged.

(5) Air.

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

(A) An increase in rail traffic of at least 100 percent (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

RESPONSE: There will be no such effect.

(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or

RESPONSE: There will be no such effect.

(C) An average increase in truck traffic of more than 10 percent 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 reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

RESPONSE: LS&I does not believe that the proposed action will involve an increase in truck traffic of more than 10% of the average daily traffic (ADT) or 50 vehicles per day (VPD) on any affected road segment. If CN exercises its rights to acquire the trackage, then current rail operations will essentially continue unchanged between LS&I Jct. (MP 69.52) and Humboldt Jct. (MP 85.6). Ferrellgas, the only consignee now receiving service from LS&I, received a total of only 53 tank cars of propane gas in 2003. Even if all of this traffic is diverted to truck, it is not anticipated that this would increase truck traffic by more than 10% ADT or 50 VPD on any affected road segment. The

line from Humboldt Jct. (MP 85.6) to Republic Mine (MP 94.5) is out of service and the line will be dismantled and salvaged.

(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 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent 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.

RESPONSE: The area of proposed action is not within a Class I or nonattainment area under the Clean Air Act.

(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.

RESPONSE: This action will have no effect on the transportation of ozone-depleting materials.

(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.

RESPONSE (i-ii): The thresholds identified in Item 5(i) will not be impacted by the proposed action.

(7) Safety.

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

RESPONSE: This proposed abandonment is not expected to adversely affect health or public safety (including vehicle delay time at railroad grade crossings). If CN exercises its rights to acquire the trackage, then current rail operations will continue essentially unchanged between LS&I Jct. (MP 69.52) and Humboldt Jct. (MP 85.6). The line from Humboldt Jct. (MP 85.6) to Republic Mine (MP 94.5) is out of service and the line will be dismantled and salvaged. During the salvage operations on this line, precautions will be taken to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

(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.

RESPONSE: The proposed action will not result in transportation of hazardous materials.

(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.

RESPONSE: There are no known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way.

(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.

RESPONSE: LS&I is not aware of any endangered or threatened species or areas designated as critical habitat that would be adversely affected. The U.S. Fish and Wildlife Service ("Service")

notified LS&I that two threatened species may be within the proposed area: gray wolf (*Canis lupus*) and Canada lynx (*Lynx canadensis*). *See* Exhibit H, letter from the U.S. Fish and Wildlife Service. After discussions with Monica Joseph and Mike Koss of the Service, LS&I does not believe these two species will be impacted. As Ms. Joseph and Mr. Koss indicated, the gray wolf is a migratory species and unless it constructs a den within the right-of-way, it will not be affected. To LS&I's knowledge, there are no gray wolf dens within the proposed right-of-way. Mr. Koss indicated that the Canada lynx is very rare in the area, and although one was recently captured in Mackinac County, Michigan in November 2003, the Canada lynx has a low density within the area, and the last known occurrence was 1983. Therefore, it is unlikely that the proposed action will affect the Canada lynx.

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

RESPONSE: The proposed action should not affect wildlife sanctuaries or refuges, nor National or State parks or forests. The habitat will remain the same as it is today. The Service did not contend that any sanctuaries or refuges would be affected in its letter dated February 17, 2004. *See* Exhibit H. During salvage operations on the line from Humboldt Jct. (MP 85.6) to Republic Mine (MP 94.5), LS&I will only remove rails, ties, spikes and tie plates. All culverts and bridges will remain in place. Precautions will be taken to ensure that any historical features or biological attributes located adjacent to the proposed abandonment will not be affected.

(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.

RESPONSE: LS&I believes that the proposed exemption will be consistent with applicable federal, state and/or local water quality standards. LS&I consulted the United States Army Corps of Engineers and the Michigan Department of Environmental Quality ("MDEQ"), Water Division. *See* Exhibits I and J. As of the date of this report, the U.S. Army Corps of Engineers responded and stated that the Corps has transferred its regulatory responsibility to the MDEQ Geological and Land Management Division. *See* Exhibit I. The MDEQ – Water Division has requested a complete rail line – stream crossing survey to identify water quality concerns. *See* Exhibit J. The MDEQ Geological and Land Management Division did not make a determination as to whether or not the proposed action is consistent with applicable federal, state and/or local water quality standards. *See* Exhibit K.

(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.

RESPONSE: LS&I does not believe that any permits under 404 of the Clean Water Act are required for the proposed action. LS&I consulted the United States Army Corps of Engineers. *See* Exhibit I. The U.S. Army Corps of Engineers responded and stated that the Corps has transferred its regulatory responsibility to the MDEQ Geological and Land Management Division. The MDEQ Geological and Land Management Division did not indicate that the proposed action would require permits under 404 of the Clean Water Act. *See* Exhibit K.

LS&I salvage operations will not occur in wetlands or below the 100-year flood elevation. Since there will be no activities below the water level of a stream, or below 100-year flood plain elevations nor in wetlands there will not be any permits required under section 404 of Michigan Regulations.

*(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.)*

RESPONSE: LS&I does not believe any permits under Section 402 of the Clean Water Act are required for the proposed exemption. The U.S. Environmental Protection Agency ("U.S. EPA") and the MDEQ were notified of the proposed action by letters dated January 26, 2004. See Exhibits L and M. The MDEQ did not address the need for permits under Section 402 of the Clean Water Act. See Exhibit N. As of the date of this letter, the U.S. EPA has not responded. LS&I will provide the Board a copy of any response it may receive. Since there will not be any wastewater discharges associated with the proposed action, there will not be any permits required.

*(10) **Proposed Mitigation.** Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.*

RESPONSE: Any salvage operations that may result will be in accordance with LS&I's general practice of requiring its private contractors to comply with all federal, state and local laws and regulations pertaining to the environment, including, but not limited to, noise, air quality, water quality, and items of historical or archaeological significance.

HISTORIC REPORT

The following is submitted to the United States Surface Transportation Board ("Board") by the Lake Superior & Ishpeming Railroad Company ("LS&I") in accordance with the Board's reporting requirements set forth in 49 C.F.R. § 1105.8 for the purpose of assisting the Board's environmental and historical assessment regarding LS&I's proposed Petition for Exemption for abandonment and discontinuance of its line between railroad LS&I Jct. (MP 69.52) near Negaunee, Michigan, to the Republic Mine (MP 94.5) near Republic, Michigan, a distance of approximately 25 miles, in Marquette County, Michigan.

(1) 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.

RESPONSE: A copy of a U.S.G.S. (or suitable alternative) of the subject line is attached hereto as Exhibit A.

(2) 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.

RESPONSE: The LS&I Republic Subdivision which is the subject of the proposed abandonment commences at LS&I Jct. (MP 69.52) and ends at the Republic Mine (MP 94.5), a distance of approximately 25 miles. The line extends northwesterly from LS&I Jct. through urban areas within the Cities of Negaunee and Ishpeming, over tracks jointly owned by LS&I and CN for approximately 7.5 miles to West Ishpeming at an elevation of 1,410 feet. The line continues northwesterly with a gradual rise through a rural area for 5 miles and then levels off at an elevation of 1,560 feet. The line then continues westerly and southwesterly through a rural area to the end of the LS&I Republic

Subdivision at the Republic Mine at an elevation of 1,590 feet.

The right of way is generally 100 feet in width from LS&I Jct. (MP 69.52) to Republic Mine (MP 94.5).

(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.

RESPONSE: Attached hereto as Exhibit O are photographs of railroad structures on the property that are 50 years old or older, and of the immediately surrounding area.

(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.

RESPONSE:

- a) Copps Spur Bridge. The exact date of the construction of the Copps Spur Bridge is unknown, but it was modified in 1979 with the installation of the steel span to permit road widening.
- b) Diorite East (Boston Lake) Bridge. The Diorite East (Boston Lake) Bridge was constructed in 1910. LS&I is unaware of any major alterations.
- c) Diorite West Bridge. The Diorite West Bridge was constructed in 1910. LS&I is unaware of any major alterations.
- d) West of Diorite West Bridge. The West of Diorite West Bridge was constructed in 1910. LS&I is unaware of any major alterations.
- e) Escanaba River Bridge. The Escanaba River Bridge was constructed in 1910. LS&I is unaware of any major alterations.
- f) Black River Bridge. The Black River Bridge was constructed in 1952. LS&I is unaware

of any major alterations.

- g) Bruce Creek Bridge. The Bruce Creek Bridge was constructed in 1910. LS&I is unaware of any major alterations.

Each of the structures above has been updated over the intervening years from when they were first constructed. However, LS&I is unaware of any major alterations affecting the bridges outside of the above information. Please refer to the photographs attached as Exhibit O for further documentation.

(5) Rail carrier 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.

RESPONSE: The Lake Superior & Ishpeming Railroad Company is a wholly-owned subsidiary of Cleveland-Cliffs Inc ("Cleveland-Cliffs"), a leading provider of iron ore to the steel industry. Originally organized in 1892 as The Lake Superior & Ishpeming Railway Company, LS&I began construction of a rail line between Presque Isle Harbor and Ishpeming, Michigan, in 1895. In 1896, LS&I completed the construction of this line. These facilities were constructed to transport iron ore from mines located in Marquette County, Michigan, to the lake ore dock, for subsequent movement on lake vessels and ultimate delivery to steel mills.

The Marquette and South Eastern Railway Company was organized in 1900 and built a line from Big Bay to Lawson, Michigan. On July 1, 1911, the Munising Railway Company and the Marquette and South Eastern Railway Company were consolidated to form the Munising, Marquette and South Eastern Railway Company. On August 17, 1923, the Munising, Marquette and South Eastern Railway Company (with 140 miles of main line) merged with the Lake Superior & Ishpeming Railway Company (with main line mileage of 33). The new company was named Lake

Superior and Ishpeming Railroad Company and was headquartered at 105 East Washington Street in Marquette, Michigan. L. S. & I. Recently became an integral part of Cliffs Michigan Mining Company and relocated at Empire Mine.

Over the years since then, LS&I for a time expanded its operation by extending its lines to serve additional iron ore mines, as well as the timber industry, and a new iron ore pellet plant at Eagle Mills, Michigan. Eventually, however, as a result of the demise of logging operations and the closing of all but two of the iron ore mines, the process of expansion was reversed and a series of abandonments or other dispositions of unused portions of the line have reduced LS&I to its present size.

The Republic Subdivision, which is the subject of the proposed abandonment, extends from LS&I Jct. (MP 69.52) to the Republic Mine (MP 94.5). The track between LS&I Jct. (MP 69.52) and Landing Jct. (MP 73.6) is 1/3 owned by LS&I and 2/3 owned by CN. This track was constructed in 1963 as result of a route relocation to allow mining operations to commence on the old right-of-way. The original owners of this relocation were LS&I, Soo Line and Chicago & Northwestern Railroad. The Mather "B" mine was served by this route. Mather "B" mine ceased operations in 1979. The track between Landing Jct. (MP 73.6) and Duncan (MP 83.0) was constructed in 1910. LS&I solely owns it. This extension served the Blueberry, Barnes and Hecker, and Lloyd and Morris Mines. These were all part of the North Lake mining district. These mines all ceased operation between 1950 and 1960. CN has a trackage agreement with LS&I to operate over this segment. The track between Duncan (MP 83.0) and Republic (MP 94.5) was constructed in 1952. It is solely owned by LS&I. This extension served the Humboldt and Republic mines. These mines ceased operations in 1981. CN has a trackage agreement with LS&I to operate over the segment located between Duncan (MP 83.0) and Humboldt Jct. (MP 85.6). The LS&I is responsible

for dispatching the entire Republic Subdivision, which is done from the Eagle Mills yard office.

If CN exercises its rights to acquire the segments of line from LS&I Jct. (MP 69.52) to Humboldt Jct. (MP 85.6), then the line from LS&I Jct. (MP 69.52) to Humboldt Jct. (MP 85.6) will essentially continue present operations, and there would be no significant changes in carrier operations. The line from Humboldt Jct. (MP 85.6) to the Republic Mine (MP 94.5) is out of service; no significant changes in carrier operations are expected.

(6) Document Summary.

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.

RESPONSE: Typical documents in LS&I's possession concerning this abandonment may, but do not necessarily include, alignment maps showing the right-of-way and/or station maps. Such documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

(7) National Register of Historic Places.

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

RESPONSE: To the best of LS&I's knowledge, the proposed abandonment should have no effect on any known sites or properties listed, or are eligible for listing in the National Register of Historic Places. LS&I does not believe, based on the criteria listing in 36 C.F.R. § 60.4, that any of the bridge structures meet the criteria on the National Register of Historic Places, nor is there any appreciable significance in their construction. In a letter dated January 26, 2004, the Marquette County Historical Society was notified of the pending action. See Exhibit P. The Marquette County

Historical Society was unable to provide any substantive comments on this issue. *See Exhibit Q.*

The Michigan State Historic Preservation Office responded on February 23, 2004, that it was unable to initiate a review regarding historic properties in the project area. *See Exhibit R.*

(8) Subsurface Description.

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.

RESPONSE: To the best of LS&I's knowledge, there are no prior subsurface matters that may affect the archeological recovery of resources.

CERTIFICATION PURSUANT TO 49 C.F.R. § 1105.7(c)

The Lake Superior & Ishpeming Railroad Company (LS&I) by and through its authorized representative, Jones & Keller, P.C., certifies that on March 16, 2004, copies of the foregoing Environmental and Historical Reports were sent by first class mail to the following agencies:

Ms. Victoria Rutson
Chief, SEA
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

U.S. Department of the Interior
National Park Service
1849 C Street, N.W.
Washington, D.C. 20240

Randy Girard, Commissioner
Marquette County
234 Baraga St.
Marquette, MI 49855

State of Michigan
Governor Jennifer M. Granholm
P.O. Box 30013
Lansing, MI 48909

Frances Porter, Executive Director
Marquette County History Museum
213 North Front Street
Marquette, Michigan 49855

Sanford Pesola
Humboldt Township Planning Commission
5178 County Road FA
Champion, MI 49814

Norman Holmes, Chair
Marquette County Planning Commission
234 W. Baraga Avenue
Marquette, MI 49855

Dennis Stachewicz, Planner
City of Marquette
300 W. Baraga Avenue
Marquette, MI 49855

Victoria Radcliffe, Chairperson
Republic Township Planning Comm.
118 W. Kloman Ave.
Republic, MI 49879

Department of History, Art's and Library
Michigan Historical Center
P.O. Box 30740
Lansing, MI 48909-8240

U. S. Environmental Protection Agency -
Region 5 Office
Metcalf Building
77 West Jackson Boulevard
Chicago, IL 60604

Michigan Department of Transportation
425 W. Ottawa St.
P.O. Box 30050
Lansing, MI 48909

Chris Antieau
Geological and Land Management Division
525 West Allegan Street
P.O. Box 30458
Lansing, MI 48909-7958

Mitch Koetje
Department of Environmental Quality
Water Division
420 5th Street
Gwinn, MI 4984

Clifton Clark, District Supervisor
State of Michigan
Department of Environmental Quality
Remediation and Redevelopment Division
Upper Peninsula District Office
420 5th Street
Gwinn, MI 49841

Richard J. Gutleber
Department of the Army
Detroit District, Corps of Engineers
Regulatory Office
Marquette Field Office
1030 Wright Street
Marquette, MI 29855-1834

U. S. Fish and Wildlife Service
Region 3 Office
One Federal Drive
BHW Federal Building
Fort Snelling
Twin Cities, MN 55111

Ronald C. Williams, State Conservationist
U.S. Department of Agriculture
Natural Resources Conservation Service
Michigan State Office
3001 Coolidge Road, Suite 250
East Lansing, MI 48823-6321

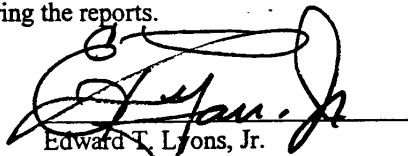
Richard A. Snay, Chief
United States Department of Commerce
National Oceanic and Atmospheric
Administration
National Geodetic Survey
Room 8736, 1315 East-West Highway
Silver Spring, MD 20910-3282

Craig A. Czarnecki, Field Supervisor
U.S. Department of the Interior
Fish and Wildlife Service
East Lansing Field Office (ES)
2651 Coolidge Road, Suite 101
East Lansing, MI 48823-6316

Dwight S. Jerome, Area Resource Soil
Scientist
U.S. Department of Agriculture
Natural Resources Conservation Service
Marquette Area Office
201 Rublein St.
Marquette, MI 49855

U.S. Department of the Interior
National Park Service
Midwest Regional Office
1709 Jackson St.
Omaha, NE 68102

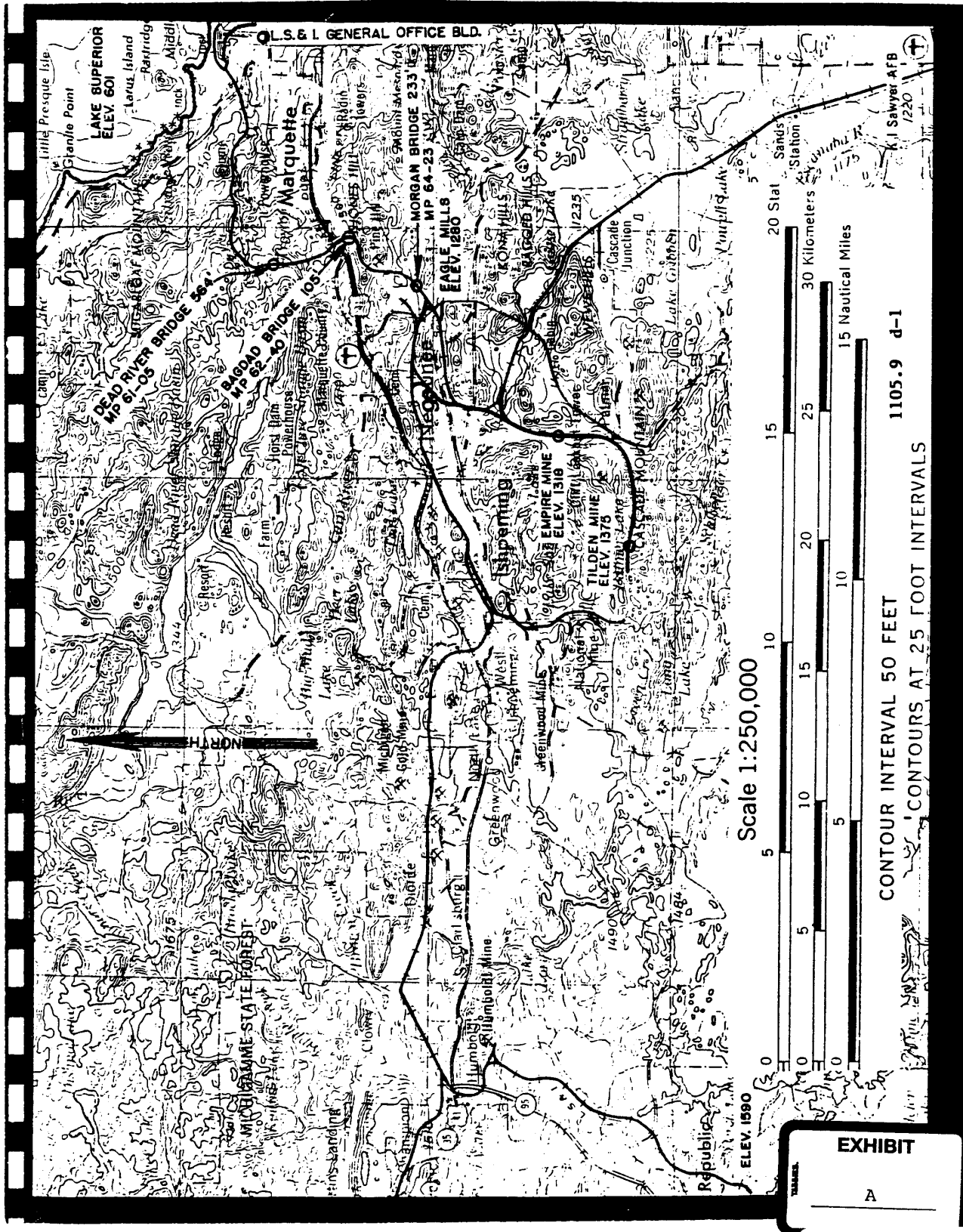
The required cover letters (pursuant to 49 C.F.R. § 1105.11) are attached hereto. LS&I has consulted with all appropriate agencies in preparing the reports.



Edward T. Lyons, Jr.
Jones & Keller, P.C.
1625 Broadway, 16th Floor
Denver, CO 80202
Phone: 303.573.1600
Fax: 303.573.8133

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Exhibit A	Map of the line proposed for Abandonment
Exhibit B	Letter to Canadian National dated January 20, 2004
Exhibit C	Letter to Canadian National dated January 20, 2004
Exhibit D	Letter from the City of Marquette, Community Development-Planning dated February 2, 2004
Exhibit E	Letter from the Marquette County Planning Commission dated February 5, 2004
Exhibit F	Letter from the Natural Resources Conservation Service, Marquette Area Office dated February 4, 2004
Exhibit G	Letter from the Natural Resources Conservation Service, Lansing Field Office dated February 3, 2004
Exhibit H	Letter from the U.S. Fish and Wildlife Service dated February 17, 2004
Exhibit I	Letter from the U.S. Corps of Engineers dated February 3, 2004
Exhibit J	Letter from the Michigan Department of Environmental Quality, Water Division dated February 10, 2004
Exhibit K	Letter from the Michigan Department of Environmental Quality, Geological and Land Management Division dated February 17, 2004
Exhibit L	Letter to the U.S. Environmental Protection Agency dated January 26, 2004
Exhibit M	Letter to the Michigan Department of Environmental Quality dated January 26, 2004
Exhibit N	Letter from the Michigan Department of Environmental Quality, Remediation and Redevelopment Division dated February 12, 2004
Exhibit O	Photographs of Railroad Structures
Exhibit P	Letter to the Marquette Historical Society-Research Library dated January 26, 2004
Exhibit Q	Letter from the Marquette County Historical Society dated February 6, 2004
Exhibit R	Letter from the Michigan State Historic Preservation Office dated February 23, 2004
Exhibit S	Letter from the Humboldt Township Planning Commission dated March 3, 2004



LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY

P. O. Box 2000
ISHPEMING, MICHIGAN 49849

PETER J. RAY
SENIOR AREA MANAGER-TRANSPORTATION

(906) 475-3588

January 20, 2004

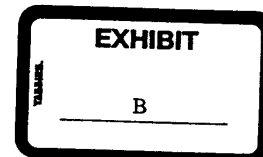
Paul LaDue
Director of Contracts
Canadian National Railway Company
17641 Ashland Avenue
Homewood, Illinois 60430

Re: Trackage Agreement -- Lake Superior & Ishpeming Railroad Company and
Wisconsin Central Ltd., April 13, 1990

Dear Mr. LaDue:

In accordance with Paragraph 24 of that certain Trackage Agreement, made and entered into as of April 13, 1990, by and between the Lake Superior & Ishpeming Railroad Company (the "LS&I") and Wisconsin Central Ltd (the "Trackage Agreement"), the LS&I hereby gives notice to Canadian National Railway Company ("CN"), as successor in interest of the Wisconsin Central, of LS&I's intent to abandon all of the "Joint Trackage" covered by the Trackage Agreement between Landing Jct., MP 73.60 and Humboldt Jct., MP 85.66. This is part of a contemplated abandonment that will include LS&I's entire line of railroad known as the Republic Subdivision extending from LS&I Jct. to Republic Mine (MP 94.5).

LS&I intends to file an abandonment exemption petition with the United States Surface Transportation Board as soon as practicable. CN will be given notice of the filing of that petition when it occurs and, effective with the date of such notice, CN shall have the option to purchase LS&I's interest in the described Joint Trackage to be abandoned at the Net Liquidation Value thereof calculated as of the date of said notice. "Net Liquidation Value" is defined under the Trackage Agreement to mean the fair market value of land and salvage value of track components less estimated cost of removal. CN shall have three (3) months from the date of receipt of notice of filing the abandonment petition to exercise its option to purchase the Joint Trackage. The exercise of the option and closing of the transaction shall be as specified in the Trackage Agreement. The Trackage Agreement provides that CN is responsible for securing all necessary governmental authority for its acquisition of the Joint Trackage.



If you have any questions or desire additional information concerning this matter, you may contact the undersigned or legal counsel for LS&I whose name appears below.

Very truly yours,

Peter J. Ray
Senior Area Manager-Transportation

cc: Edward T. Lyons
Jones & Keller, P.C.
1625 Broadway, Suite 1600
Denver, CO 80202
T: (303) 573-1600

LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY

P. O. Box 2000
ISHPEMING, MICHIGAN 49849

PETER J. RAY
SENIOR AREA MANAGER-TRANSPORTATION

(906) 475-3588

January 20, 2004

Paul LaDue
Director of Contracts
Canadian National Railway Company
17641 Ashland Avenue
Homewood, Illinois 60430

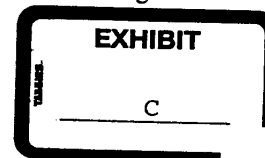
Re: Agreement by and between Chicago and North Western Railway Company, Soo Line Railroad Company and Lake Superior & Ishpeming Railroad Company, February 27, 1963

Dear Mr. LaDue:

In accordance with Paragraph 47 of that certain Agreement, made and entered into as of the 27th day of February, 1963, by and among the Chicago and North Western Railway Company (the "North Western"), the Soo Line Railroad Company (the "Soo") and Lake Superior & Ishpeming Railroad Company (the "LS&I") (the "Agreement"), LS&I hereby gives notice to Canadian National Railway Company ("CN"), as successor in interest to North Western and Soo, of its intent to seek an exemption from the United States Surface Transportation Board (the "STB") authorizing LS&I to abandon its interest in the "joint tracks" covered by the Agreement between LS&I Jct., MP 69.52, and Landing Jct., MP 73.60. This is part of a contemplated abandonment that will include LS&I's entire line of railroad known as the Republic Subdivision extending from LS&I Jct. to Republic Mine (MP 94.5)

Paragraph 47 of the Agreement provides that in the event the abandonment is authorized, LS&I will give CN written notice, at least 60 days in advance of the date on which the abandonment will take place, and that if CN desires to continue its use of the joint tracks, it shall purchase LS&I's interest in such tracks and the traffic control system to be abandoned by paying LS&I in an amount equal to the net value of recoverable salvage of LS&I's interest in the abandoned joint track and traffic control system.

If you have any questions or desire additional information concerning this matter, you



may contact the undersigned or legal counsel for LS&I whose name appears below.

Very truly yours,

Peter J. Ray
Senior Area Manager-Transportation

cc: Edward T. Lyons
Jones & Keller, P.C.
1625 Broadway, Suite 1600
Denver, CO 80202
T: (303) 573-1600

Marquette



the Superior location

February 2, 2004

Mr. Edward T. Lyons, Jr.
Jones & Keller
World Trade Center
1625 Broadway, 16th Floor
Denver, CO 80202

Dear Mr. Lyons:

In response to your letter regarding the possible abandonment of 25 miles of rail line owned by the Lake Superior and Ishpeming Railway from railroad milepost 69.52 near Negaunee, Michigan to milepost 94.5 near Republic, Michigan. The City of Marquette has no comments regarding the proposed abandonment and has determined that there will be no adverse effect on any municipal plans.

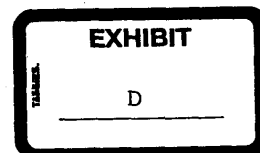
If you have any questions regarding these comments please contact me @ 906-228-0430.

Sincerely,

A handwritten signature in cursive script that reads "Dennis M. Stachewicz, Jr.".

Dennis M. Stachewicz, Jr.
Planner I
City of Marquette

c.c. Sandy Gayk, Director of Community Development
Norman Gruber, City Clerk





County of Marquette
RESOURCE MANAGEMENT/DEVELOPMENT DEPT.
County Courthouse
Marquette, MI 49855

Construction Codes 906/225-8180
Planning 906/225-8182
Facilities 906/225-8182
FAX 906/225-8203

February 5, 2004

Mr. Edward T. Lyons, Jr., Attorney
Jones & Keller
World Trade Center
1625 Broadway, 16th Floor
Denver, Colorado 80202

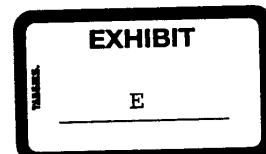
Dear Mr. Lyons:

On February 4th, 2004, the Marquette County Planning Commission reviewed a proposed Lake Superior and Ishpeming Railroad Company Railroad Abandonment. Marquette County Resource Management and Development staff prepared a report for review by the Commissioners that explained the location of the tracks proposed for abandonment, the likely hood that the east to west rail line will continue to be used by Canadian National and that the north to south line would become dismantled and salvaged. Commissioners found no adverse effects and voted 6-0 in support of the proposed abandonment. Commissioners also plan to support future trail development of the abandon north to south track if that should become a future item for review.

Sincerely,

A handwritten signature in cursive script, appearing to read "Norman Holmes".

Norman Holmes, Chair
Marquette County Planning Commission





February 4, 2004

United States
Department of
Agriculture

Natural
Resources
Conservation
Service

Marquette Area
Office

201 Rublein St.
Marquette, MI 49855
(P) 906-226-8871
(F) 906-226-7040
www.mi.nrcs.usda.gov

Mr. Edward T. Lyons, Jr.
Attorney at Law
World Trade Center
1625 Broadway, 16th Floor
Denver, Co 80202

SUBJECT: Lake Superior and Ishpeming Railroad Abandonment – Prime and Important Farmland Effects

Dear Mr. Lyons:

Your request for comment on the effect to prime and important farmlands from the proposed abandonment of the Lake Superior and Ishpeming Railroad was forwarded to me. Projects are subject to Farmland Protection Policy Act (FPPA) requirements if they may irreversibly convert farmland (directly or indirectly) to nonagricultural use and are completed by a Federal agency or with assistance from a Federal agency. Conversion of farmland (or any lands in this instance) would probably have taken place several years ago. Activities within an existing right-of-way purchased before August 4, 1984 are not subject to FPPA regulations. The abandonment of the sections of the railroad you indicated would not adversely impact prime or important farmlands. However, if there are any potential impacts to prime or important farmlands from reuse or reutilization of these railways our agency should be contacted. A Farmland Conversion Impact Rating will need to be completed in this instance.

For the purposes of the environmental report I have reviewed the soil maps and determined the segments that occur in prime and important farmland soils. I have indicated these areas on the enclosed copies of soil maps. I have also enclosed a list of the prime and important farmland soils in Marquette County along with a table showing the linear distance that the railroad crosses prime and important farmland. It is my determination that approximately 35,500 feet (or 6.7) miles of the sections of the railroad you have indicated occurs on soils considered prime or important farmland.

If you have any questions regarding the information I have provided please feel free to contact me at (906) 226-8871 ext. 3 or e-mail at dwight.jerome@mi.usda.gov

Sincerely,

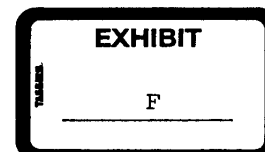
Dwight S. Jerome

DWIGHT S. JEROME
Area Resource Soil Scientist
USDA Natural Resources Conservation Service



The Natural Resources Conservation Service works in partnership with the American people to conserve and sustain natural resources on private lands.

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Marquette County, Michigan
Table 12.--Prime Farmland

(Only the soils considered prime farmland are listed. Urban or built-up areas of the soils listed are not considered prime farmland. If a soil is prime farmland only under certain conditions, the conditions are specified in parentheses after the soil name.)

Map symbol	Soil name
22B	Alcona loamy very fine sand, 1 to 6 percent slopes
32A	Charlevoix silt loam, 0 to 3 percent slopes (Prime farmland if drained)
33	Ensley muck (Prime farmland if drained)
34B	Onaway fine sandy loam, 1 to 6 percent slopes
39B	Amasa very fine sandy loam, 1 to 6 percent slopes
72B	Emmet fine sandy loam, 1 to 6 percent slopes
85A	Solona fine sandy loam, 0 to 3 percent slopes (Prime farmland if drained)
86B	Mashek fine sandy loam, 0 to 4 percent slopes
89B	Emmet-Solona fine sandy loams, 0 to 6 percent slopes (Prime farmland if drained)
90B	Emmet-Escanaba complex, 1 to 6 percent slopes
92A	Ensley-Solona complex, 0 to 3 percent slopes (Prime farmland if drained)
117B	Fence very fine sandy loam, 1 to 6 percent slopes
126B	Sundog silt loam, 1 to 6 percent slopes
130A	Chabeneau silt loam, 0 to 3 percent slopes
151A	Spear very fine sandy loam, 0 to 3 percent slopes (Prime farmland if drained)
197B	Shoepac-Trenary silt loams, 1 to 6 percent slopes
198B	Shoepac-Reade silt loams, 1 to 4 percent slopes
200A	Charlevoix-Ensley complex, 0 to 3 percent slopes (Prime farmland if drained)

Marquette County Important Farmland

39D	Amasa very fine sandy loam, 6 to 18 percent slopes
41A	Channing fine sandy loam, 0 to 3 percent slopes
87B	Cunard fine sandy loam, 1 to 6 percent slopes
72D	Emmet fine sandy loam, 6 to 18 percent slopes
190B	Emmet-Cunard fine sandy loams, 1 to 6 percent slopes, stony
90D	Emmet-Escanaba complex, 6 to 18 percent slopes
89B	Emmet-Solona fine sandy loams, 0 to 6 percent slopes
104C	Fence very fine sandy loam, 1 to 12 percent slopes, dissected
43B	Karlin sandy loam, 1 to 6 percent slopes
28B	Keweenaw loamy sand, 1 to 6 percent slopes
79B	Keweenaw-Munising complex, 1 to 6 percent slopes
24B	Munising fine sandy loam, 1 to 6 percent slopes
25B	Munising-Yalmer complex, 1 to 6 percent slopes
70B	Nadeau fine sandy loam, 1 to 6 percent slopes
185B	Northland loamy fine sand, 0 to 4 percent slopes
34D	Onaway fine sandy loam, 6 to 18 percent slopes
91B	Onaway-Nadeau fine sandy loams, 1 to 6 percent slopes
38B	Pence fine sandy loam, 0 to 6 percent slopes
187B	Reade silt loam, 0 to 4 percent slopes
148B	Shoepac-Ensley complex, 0 to 6 percent slopes
126D	Sundog silt loam, 6 to 18 percent slopes
31D	Trenary silt loam, 6 to 18 percent slopes

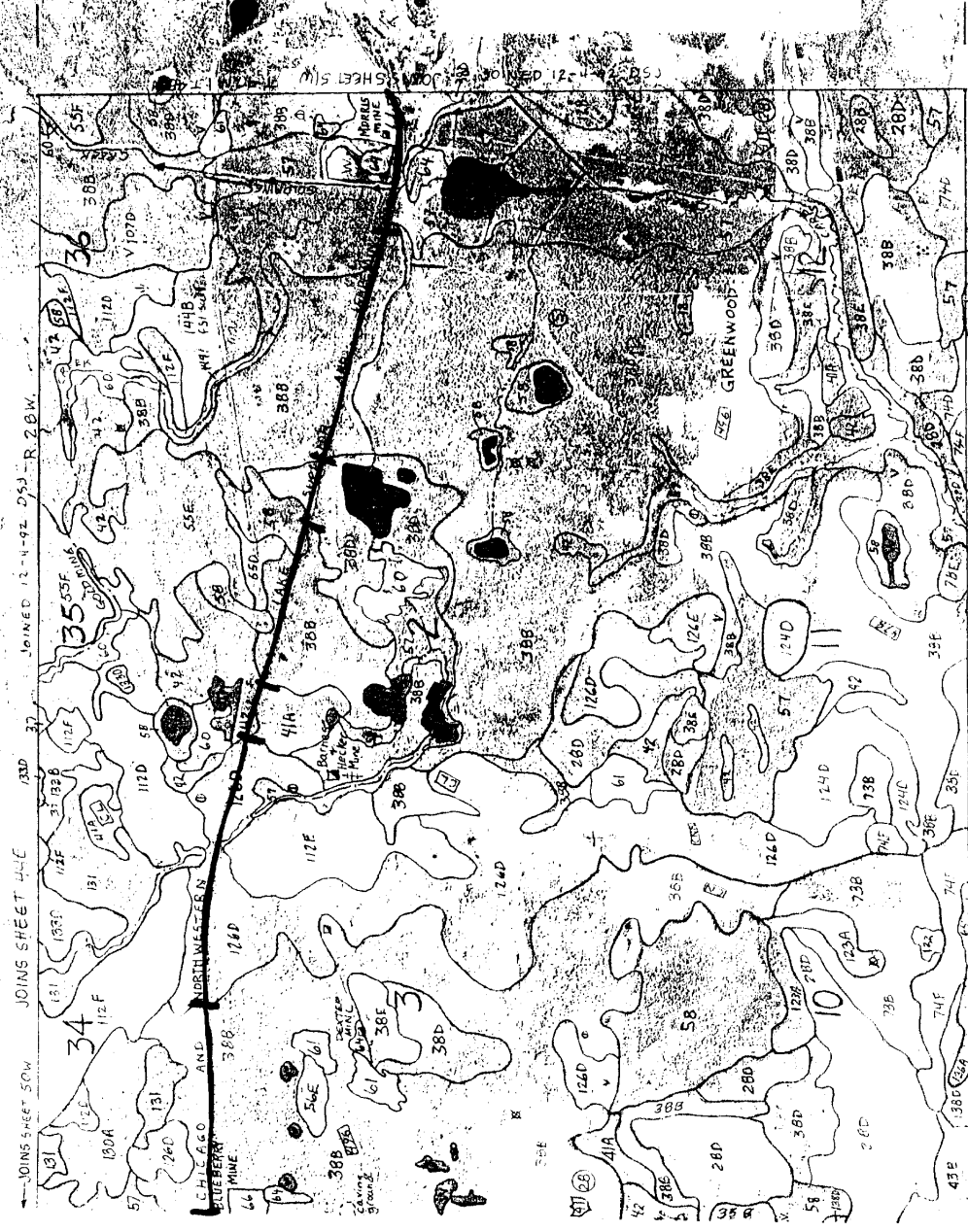
Prime/Important Farmland	Map #	Soil Map Unit	Distance (feet)
Prime	57E	126B Sundog silt loam, 1 to 6 percent slopes	800
Prime	57E	130A Chabeneau silt loam, 0 to 3 percent slopes	1600
Important	57E	41A Channing fine sandy loam, 0 to 3 percent slopes	500
Important	49E	38B Pence fine sandy loam, 0 to 6 percent slopes	6800
Important	43E	38B Pence fine sandy loam, 0 to 6 percent slopes	1300
Important	50W	38B Pence fine sandy loam, 0 to 6 percent slopes	6000
Important	50E	38B Pence fine sandy loam, 0 to 6 percent slopes	8500
Important	50E	41A Channing fine sandy loam, 0 to 3 percent slopes	600
Important	50E	126D Sundog silt loam, 6 to 18 percent slopes	3800
Important	51W	38B Pence fine sandy loam, 0 to 6 percent slopes	5600

50E

ELY TWP

34	35	36
3	2	1
10	11	12

↑ N



MINNESOTA
 ELY TWP
 1895
 ADVERTS COPY - 50C PER COPY

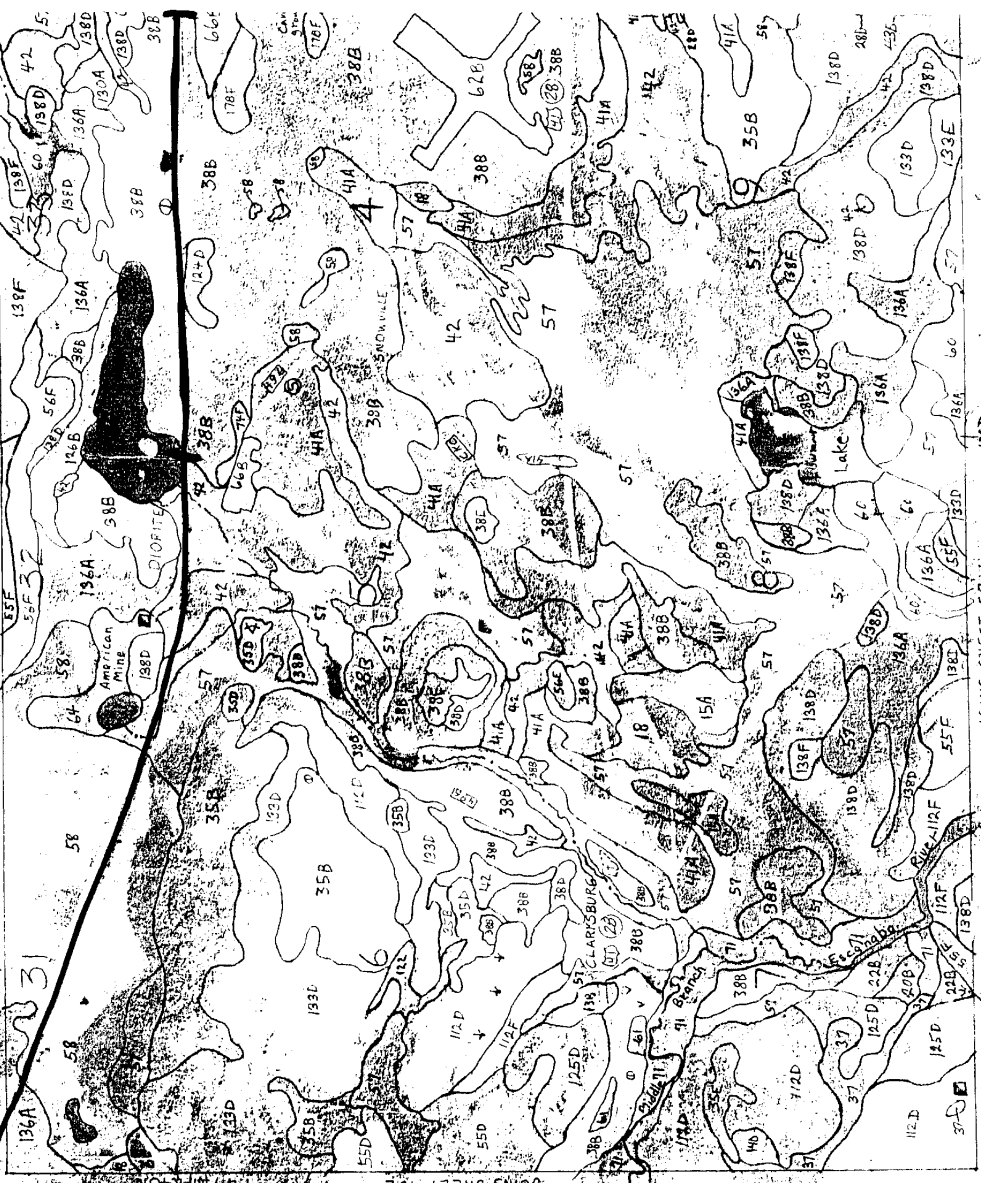
50 W

ELV TWP

31	32	33
6	5	4
7	8	9

↑ N

JOINED WCA 9-95 JOINING SHEET 44W R.25W



JOINED WCA 11-93

JOINED WCA 11-93

JOINED SHEET 50E

SECTION 31, TOWNSHIP 11N, RANGE 25W
ATLAS SHEET NO. 50E
SCALE 1:20,000

MAP OF ELV TWP, BUCHANAN
ATLAS SHEET NO. 50E
SCALE 1:20,000

22	23	24
27	26	25
34	35	36

↑ N

DIAMOND TOP



HANWELL CANTON, MICHIGAN
SECTION 31, T. 25 N., R. 25 E.
SCALE 1:62,500

25 43W-76
D.S.T.

18	17	16
19	20	21
20	29	28

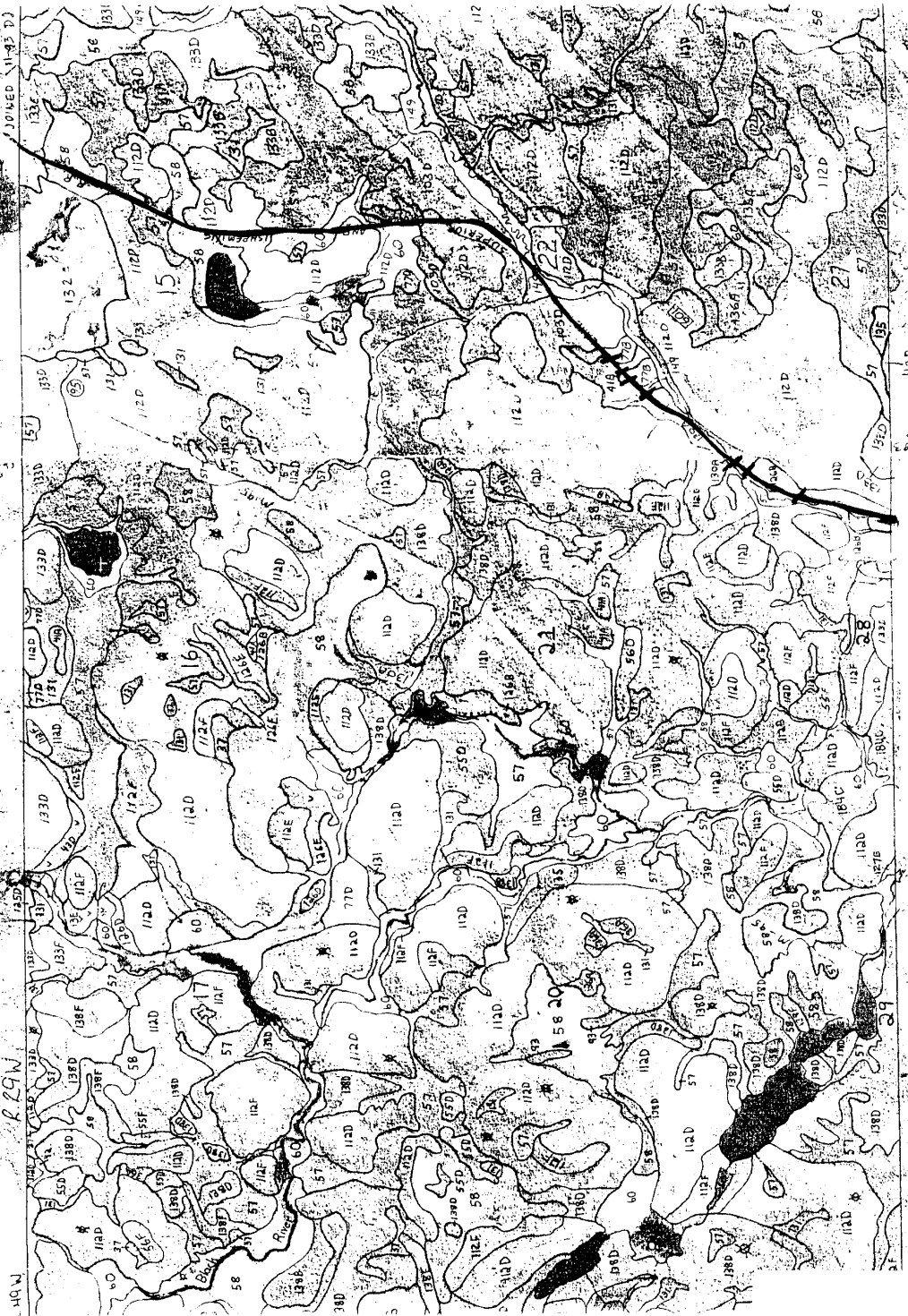
N

57E

HUMBOLT TWP

TOWNSHIP 1130193 TGS

R29W



ALL STATE OWNED LANDS
 ARE SUBJECT TO
 EASE 1130193
 EASE 1130193

Corrected 12-03-11



United States
Department of
Agriculture

Natural
Resources
Conservation
Service

Michigan State
Office

3001 Coolidge
Road, Suite 250
East Lansing, MI
48823-6321
(P) 517-324-5270
(F) 517-324-5171
www.mi.nrcs.usda.gov

February 3, 2004

Mr. Edward T. Lyons, Jr.
Jones & Keller
1625 Broadway, 16th Floor
Denver, Colorado 80202

**RE: Lake Superior and Ishpeming Railroad Company (LS&I), Railroad
Abandonment, Marquette County, Michigan**

Dear Mr. Lyons:

The Natural Resources Conservation Service (NRCS) has studied your proposal to file a petition with the United States Surface Transportation Board (STB) for an "exemption to permit abandonment of approximately 25 miles of rail line known as the Republic Subdivision, extending from railroad milepost 69.52... to milepost 94.5... in Marquette County, Michigan."

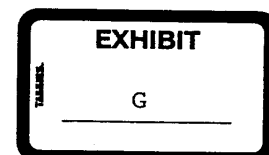
NRCS's concern would rest with the availability of alternate means of transportation for prime forestland timber and the effects this abandonment may have on that industry. It was determined through questioning Mr. Peter Ray, LS&I's Senior Area Manager for Transportation, that the LS&I line was never used in that capacity. NRCS staff members familiar with the Upper Peninsula's forest industry also concurred that most forest timber after harvest is transported by truck.

It is NRCS Michigan's conclusion that this abandonment will not have a negative effect on the timber industry as related to prime forest land. We thusly pose neither an objection to your proposal to file a petition with the STB on this matter nor the abandonment of the rail itself.

Thank you for this opportunity to comment.

Sincerely,

RONALD C. WILLIAMS
State Conservationist



The Natural Resources Conservation Service works in partnership with the American people to conserve and sustain natural resources on private lands.

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IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE

East Lansing Field Office (ES)
2651 Coolidge Road, Suite 101
East Lansing, Michigan 48823-6316

February 17, 2004

Edward T. Lyons, Jr.
Jones & Keller
World Trade Center
1625 Broadway, 16th Floor
Denver, CO 80202

Re: Endangered Species List Request, Proposed Railroad Abandonment, Lake Superior and
Ishpeming Railroad Company (LS&I), Marquette County, Michigan

Dear Mr. Lyons:

Thank you for your January 26, 2004 request for information on endangered, threatened, proposed, or candidate species and critical habitat which may be present within the proposed project area in Marquette County, Michigan. Your request and this response are made pursuant to section 7 of the Endangered Species Act of 1973, as amended (the Act).

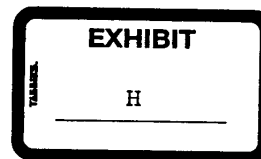
We understand that Jones & Keller, on behalf of LS&I wishes to abandon 25 miles of rail line know as the Republic Subdivision. Nine of the 25 miles, which occur in areas described as residential and forested (containing red/jack pine and oaks), will have rails and the creosote treated ties removed.

Endangered Species Act Comments

We have determined that two threatened species may be present within the proposed project area: gray wolf (*Canis lupus*), and Canada lynx (*Lynx canadensis*). A Canada lynx was recently captured in Mackinac County, Michigan in November 2003. Based on this recent discovery we believe the Canada lynx may occur in suitable habitat in the Upper Peninsula.

We suggest that you contact the following people for technical assistance on evaluating the presence of these species in the project area: Monica Joseph, MDNR Wildlife district biologist, for gray wolf information and Tameka Dandridge, U. S. Fish & Wildlife Service (USFWS) Wildlife biologist, of this office for Canada lynx information. Contact information for Monica Joseph:

Monica Joseph
MDNR Wildlife Biologist
Crystal Falls District Office
West US-2
P.O. Box 300
Crystal Falls, MI 49920
(906) 875-6622



Should information indicate that the gray wolf and/or Canada lynx are present within the impact area of the proposed project; a determination of effects must be made. The federal action

agency's compliance requirements under the Act are outlined in Enclosure B.

Section 7 of the Act requires federal agencies, or their designees, to consider impacts to federally listed threatened and endangered species for all federally funded, constructed, permitted, or licensed projects. Federally listed species are also protected by the Michigan Department of Natural Resources (MDNR) through Part 365, Endangered Species Protection, of the Natural Resources and Environmental Protection Act, 1994, P. A. 451.

Should the action agency determine that a listed species is likely to be affected (adversely or beneficially) by the project, the action agency should request section 7 consultation with this office. Even if the determination is a "no effect", we would appreciate receiving a copy for our information.

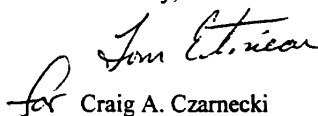
Section 7(d) of the Act underscores the requirement that the federal agency, its designee, or the permit/license applicant shall not make any irreversible or irretrievable commitment of resources during the consultation period, which in effect would deny the formulation or implementation of reasonable alternatives regarding their actions on any endangered or threatened species.

If the project is modified or new information about the project becomes available that indicates additional listed or proposed species may be present and/or affected, consultation with this office should be reinitiated.

We further advise that should any other species occurring in the project area become federally listed or proposed, the action agency would also be required to reevaluate its responsibilities under the Act. Since threatened and endangered species data is continually updated, we suggest the lead federal agency request an updated federal list of the species occurring in the project area if more than six months have passed.

We appreciate your concern for endangered species and look forward to continued coordination with your agency. Any questions can be directed to Tameka Dandridge of this office at (517) 351-8315.

Sincerely,


Craig A. Czarnecki
Field Supervisor

cc: U. S. Fish & Wildlife Service, E. Lansing Ecological Services Sub-Office, Marquette, MI
(Attn: Christie Deloria-Sheffield)
Michigan Department of Natural Resources, Wildlife Division, Lansing, MI
(Attn: Lori Sargent)

Enclosure B

**FEDERAL AGENCIES' RESPONSIBILITIES UNDER SECTIONS 7(a) AND 7(c)
OF THE ENDANGERED SPECIES ACT**

SECTION 7(a) - Consultation/Conference

Requires:

1. Federal agencies to utilize their authorities to carry out programs to conserve endangered and threatened species;
2. Consultation with U.S. Fish & Wildlife Service (Service) when a federal action may affect a listed endangered or threatened species to ensure that any action authorized, funded, or carried out by a federal agency is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. The process is initiated by the federal agency after they have determined if their action may affect (adversely or beneficially) a listed species; and
3. Conference with Service when a federal action is likely to jeopardize the continued existence of a proposed species or result in destruction or a adverse modification of proposed critical habitat.

SECTION 7(c) - Biological Assessment for Major Construction Projects¹

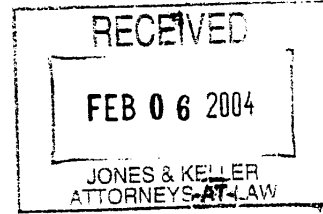
Requires federal agencies or their designees to prepare a Biological Assessment (BA) for major construction projects. The purpose of the BA is to identify any proposed and/or listed species which is/are likely to be affected by a construction project. The process is initiated by a federal agency in requesting a list of proposed and listed threatened and endangered species. The BA should be completed within 180 days after its initiation (or within such a time period as is mutually agreeable). If the BA is not initiated within 90 days of receipt of the species list, please verify the accuracy of the list with the Service. Sec. 7(d) states agencies shall not make any irreversible or irretrievable commitment of resources during the consultation process which would result in violation of the requirements under Section 7(a)(2). Planning, design, and administrative actions may be taken; however, no construction may begin.

To complete the BA, your agency or its designee should: (1) conduct an onsite inspection of the area to be affected by the proposal which may include a detailed survey of the area to determine if the species is present and whether suitable habitat exists for either expanding the existing population or potential reintroduction of the species; (2) review literature and scientific data to determine species distribution, habitat needs, and other biological requirements; (3) interview experts including those within the Service, state conservation departments, universities, and others who may have data not yet published in scientific literature; (4) review and analyze the effects of the proposal on the species in terms of individuals and populations, including consideration of cumulative effects of the proposal on the species and its habitat; (5) analyze alternative actions that may provide conservation measures; and (6) prepare a report documenting the results, including a discussion of study methods used, any problems encountered, and other relevant information. Upon completion, the report should be forwarded to: Field Supervisor, U.S. Fish & Wildlife Service, 2651 Coolidge Rd., East Lansing, MI 48823-5202.

¹ "Major Construction project" means any major federal action which significantly affects the quality of the human environment as referred to in NEPA (requiring an EIS) designed primarily to result in the building or erection of man-made structures such as dams, buildings, roads, pipelines, channels, and the like. This includes federal actions such as permits, grants, licenses, or other forms of federal authorization or approval which may result in construction.



DEPARTMENT OF THE ARMY
DETROIT DISTRICT, CORPS OF ENGINEERS
REGULATORY OFFICE
MARQUETTE FIELD OFFICE
1030 WRIGHT STREET
MARQUETTE, MICHIGAN 49855-1834



February 3, 2004

IN REPLY REFER TO

Engineering & Technical Services
Regulatory Office
File No. 04-252-000-0

Edward T. Lyons, Jr.
Jones & Keller
World Trade Center
1625 Broadway, 16th Floor
Denver, Colorado 80202

Dear Mr. Lyons, Jr.:

This is in response to your recent correspondence regarding Department of the Army jurisdiction over the proposed abandonment of approximately 25 miles of rail line (Republic Subdivision) from the Republic Mine (Republic) to Negaunee, Michigan. Thank you for giving the Corps of Engineers the opportunity to review this project.

As a result of the transfer of a portion of the Corps' regulatory responsibilities to the Michigan Department of Environmental Quality (MDEQ), this site is no longer within the Corps' jurisdiction. Therefore, we recommend that you contact Ms. Peg Bostwick, Lake and Stream Protection Unit, Geological and Land Management Division, MDEQ, P.O. Box 30458, Lansing, Michigan, 48909, (517) 335-3470, for a determination of State permit requirements.

If you have any questions please contact me at the above address or telephone (906) 228-2833. Please refer to File Number: 04-252-000-0.

Sincerely,

Richard J. Gutleber
Marquette Regulatory Field Office
Enforcement Branch



-2-

Copy Furnished

MDEQ, Upper Peninsula District Office



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
UPPER PENINSULA DISTRICT OFFICE



STEVEN E. CHESTER
DIRECTOR

February 10, 2004

Mr. Edward T. Lyons, Jr.
Jones & Keller, Attorney
World Trade Center
1625 Broadway, 16th Floor
Denver, Colorado 80202

Dear Mr. Lyons:

The Michigan Department of Environmental Quality (MDEQ), Water Division, would like to provide comment on the proposed rail line abandonment in Marquette County, Michigan. The proposed abandonment of 25 miles of rail line owned by Lake Superior and Ishpeming Railroad Company (LS&I) raises a water quality concern very important to the Upper Peninsula and the State of Michigan. Several stream crossings are located within the 25 miles of rail line. Rail line-stream crossings have a significant potential to contribute sediment to waterbodies, other non-point source pollutants, and create fish migration problems if crossings are not properly constructed or maintained.

MDEQ's concern with this rail line abandonment is the current condition and continued maintenance of the stream crossings. This responsibility lies with the landowner and if this rail line is abandoned it needs to be determined who will obtain this responsibility. Therefore, the MDEQ requests that a complete rail line-stream crossing survey of the proposed project location be completed to identify water quality concerns and the need for rail line-stream crossing maintenance prior to completing the transaction. The stream crossing survey may result in the need for corrective action on the part of LS&I to reduce water quality impairments and the survey should also be a part of any transfer in ownership of the property in question.

It is requested that the landowner use the Michigan Department of Environmental Quality, Water Division, "Upper Peninsula District – Road/Stream Crossing Data Sheet," and provide photo documentation of all the rail line-stream crossings contained in the proposed property abandonment. Information collected needs to be distributed to the MDEQ so we can discuss future maintenance needs with LS&I or future landowner.

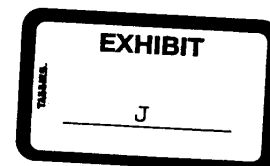
Please call me if you have any additional questions.

Sincerely,

Mitch Koetje
Water Division
UP District Office
906-346-8519

MK:TM
Enclosure

cc: Peter Ray, LS&I
Steve Casey, DEQ WD District Supervisor
Richard Powers, Chief, MDEQ Water Division



Upper Peninsula District – Road/Stream Crossing Data Sheet

Date		County	
Investigator		Road Owner	
Site Name		Land Owner	
Waterbody			

Road Information

Road Ownership	Name of Road	Road Type	Direction of Road	Length of Slope (ft)	0-25	25-50	50-100	100+	Slope (%)
MDOT (M or US)		Paved	North-South						
County Road Commission		Gravel	East-West						
USFS		Sand	Northeast-Southwest						
MDNR		Clay	Northwest-Southeast						
Corporate		Grass							
Municipality		Two-Track							
Private		Other							
Snowmobile/ORV/ATV Trail									
Unknown									

Road Slope Information

Stream Crossing Information

Bridge Type	Culvert Type	Material	No Structure	Measurements Taken	Dimensions
Single-Span	Arch	Metal	Stable Ford	Stream Width	
Double-Span	Box	Plastic	Unstable Ford	Stream Width at High Water Mark	
Temporary	Pipe	Cement		Depth of Sand to Gravel Substrate	

Stream Information

Comments

Culvert Information

Culvert Placement	Yes	No	Dimensions	Adequately Sized?	Yes	No	Dimensions					
Aligned Correctly?				Length of Culvert								
Adequate Armoring (riprap)?				Diameter of Culvert (s)								
Perched Culvert?												
Height of Perch				Number of Culverts	1	2	3	4	5	6	7	8

Erosion/Runoff Information

	Stable	Minor Erosion	Gross Erosion	Comments (Use Table Below)	Site Ranking
Erosion from Crossing				Washout Potential	L M H
Runoff from Road Approaches				Overall Site Ranking	L M H
Runoff from Ditches				Site Follow-Up Rank	L M H

Appendix Table 1. Use the codes in this table to describe any problems that are present at the road/stream crossing site.

Code	Description of Problem	Potential Impact(s) on Stream
a	Erosion and/or Runoff from Road Approaches	Sedimentation
b	Bridge Needs Repairs	
c	Culvert Undersized or Aligned Incorrectly	Channel Morphology, Migration
d	Erosion and/or Runoff from Ditches	Sedimentation
e	Embankment Unstable/Inadequate Armoring	Sedimentation
ge	Gross Erosion (general)	Sedimentation
i	Crossing Structure Impounding Water	Channel Morphology, Temperature
me	Minor Erosion (general)	Sedimentation
p	Perched Culvert	Channel Morphology, Migration
pp	Perched Culvert with a Plunge Pool	Channel Morphology, Migration, Temperature
se	Streambank Erosion	Channel Morphology, Sedimentation
t	Significant Amount of Trash in or around Stream	
x	No Structure at the Crossing	Channel Morphology, Sedimentation

*Note: The site is ranked according to erosion and/or runoff occurring from the crossing, road, ditches, inadequate armoring, and/or culvert misalignment. All other problems should be mentioned but not taken into account for when deciding overall rank, unless they have the potential for causing erosion through the course of time.



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

February 17, 2004

Mr. Edward Lyons
1625 Broadway
16th Floor
Denver, Colorado 80202

Dear Mr. Lyons:

SUBJECT: Federal Consistency Determination, Lake Superior and Ishpeming
Railroad Company, Rail Abandonment, Marquette County, Michigan

Staffs of the Geological and Land Management Division and the Environmental Science and Services Division have reviewed this phase of the project for consistency with Michigan's Coastal Management Program (MCMP), as required by Section 307 of the Coastal Zone Management Act, PL 92-583, as amended (CZMA). Thank you for providing the opportunity to review this proposed activity.

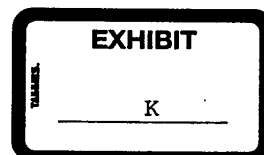
Our review indicates that this project is located outside of Michigan's coastal management boundary. No adverse impacts to coastal resources are anticipated from this proposed activity as described in the information you forwarded to our office. Therefore, this phase of the project is consistent with MCMP.

This consistency determination does not waive the need for permits that may be required under other federal, state, or local statutes. Please call me if you have any questions regarding this review.

Sincerely,

Chris Antieau
Great Lakes Shorelands Section
Geological and Land Management Division
517-373-3894

cc: Ms. Catherine Ballard



EDWARD T. LYONS, JR.
ATTORNEY AT LAW



ELYONS@JONESKELLER.COM

January 26, 2004

United States Environmental Protection Agency – Region 5 Office
Metcalf Building
77 West Jackson Boulevard
Chicago, IL 60604

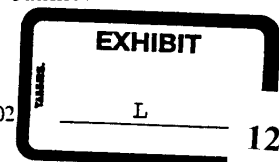
Re: Lake Superior and Ishpeming Railroad Company, Railroad Abandonment

To Whom It May Concern:

The Lake Superior and Ishpeming Railroad Company (the “LS&I”) is planning to file with the United States Surface Transportation Board (STB) a petition for exemption to permit abandonment of approximately 25 miles of rail line known as the Republic Subdivision, extending from railroad milepost 69.52 (LS&I Jct.) near Negaunee, Michigan to milepost 94.5 (Republic Mine) near Republic, Michigan, in Marquette County, Michigan. This letter formally advises the United States Environmental Protection Agency – Region 5 Office concerning this proposed action. This notification complies with the requirements outlined in Part 1105 of the Code of Federal Regulations (“C.F.R.”).

To assist in the preparation of the environmental review documents that will be submitted with the petition for exemption, this letter requests the United States Environmental Protection Agency – Region 5 Office’s comments regarding the proposed abandonment’s environmental effects. To facilitate review of this proposed action, a map of the affected rail line has been attached to this letter. The proposed line to be abandoned is highlighted on the attached figure. Please note that the portion of the line extending from LS&I Jct. (M.P. 69.52) to Landing Jct. (M.P. 73.6) is jointly owned by Canadian National Railway Company (the “CN”) and CN holds trackage rights to operate over the portion of the line extending from Landing Jct. (M.P. 73.6) to Humboldt Jct. (M.P. 85.6). CN has the right to acquire these two portions of the line to be abandoned by LS&I and, if they are acquired by CN, the entire portion of the line extending from LS&I Jct. (M.P. 69.52) to Humboldt Jct. (M.P. 85.6) will remain in service and will not be dismantled and salvaged following abandonment by LS&I. The trackage extending from Humboldt Jct. (M.P. 85.6) to Republic Mine (M.P. 94.5) will be dismantled and salvaged by LS&I if the abandonment is authorized.

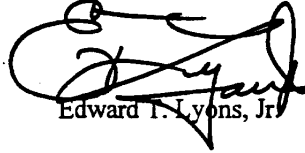
No adverse environmental effects are planned as a result of this action; however, a written response from the United States Environmental Protection Agency – Region 5 Office is necessary to ensure potentially impacted agencies have been contacted. Written responses should be received by February 9, 2004 and will be included in the final environmental report issued to the Board. In accordance with the regulations outlined in



49 C.F.R. § 1105.7 relating to environmental documentation for actions within the jurisdiction of the STB, we will send the completed environmental report for your review at least 20 days prior to our filing date.

Thank you for your prompt attention to this letter. If you have any questions, please contact me at the above address, Tel. (303) 573-1600, or Peter Ray, LS&I's Senior Area Manager-Transportation at P.O. Box. 2000, Ishpeming, MI, 49849, Tel. (906) 475-3588.

Very truly yours,



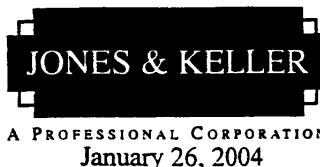
Edward T. Lyons, Jr.

Encl.

CC: Peter Ray
Ken Simmons, Esq.

JONES & KELLER

EDWARD T. LYONS, JR.
ATTORNEY AT LAW



ELYONS@JONESKELLER.COM

Michigan Department of Environmental Quality
P.O. Box 30473-7973
Lansing, MI 48909-8240

Re: Lake Superior and Ishpeming Railroad Company, Railroad Abandonment

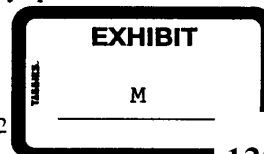
To Whom It May Concern:

The Lake Superior and Ishpeming Railroad Company (the "LS&I") is planning to file with the United States Surface Transportation Board (STB) a petition for exemption to permit abandonment of approximately 25 miles of rail line known as the Republic Subdivision, extending from railroad milepost 69.52 (LS&I Jct.) near Negaunee, Michigan to milepost 94.5 (Republic Mine) near Republic, Michigan, in Marquette County, Michigan. This letter formally advises the Michigan Department of Environmental Quality concerning this proposed action. This notification complies with the requirements outlined in Part 1105 of the Code of Federal Regulations ("C.F.R.").

To assist in the preparation of the environmental review documents that will be submitted with the petition for exemption, this letter requests the Michigan Department of Environmental Quality's comments regarding the proposed abandonment's environmental effects. To facilitate review of this proposed action, a map of the affected rail line has been attached to this letter. The proposed line to be abandoned is highlighted on the attached figure. Please note that the portion of the line extending from LS&I Jct. (M.P. 69.52) to Landing Jct. (M.P. 73.6) is jointly owned by Canadian National Railway Company (the "CN") and CN holds trackage rights to operate over the portion of the line extending from Landing Jct. (M.P. 73.6) to Humboldt Jct. (M.P. 85.6). CN has the right to acquire these two portions of the line to be abandoned by LS&I and, if they are acquired by CN, the entire portion of the line extending from LS&I Jct. (M.P. 69.52) to Humboldt Jct. (M.P. 85.6) will remain in service and will not be dismantled and salvaged following abandonment by LS&I. The trackage extending from Humboldt Jct. (M.P. 85.6) to Republic Mine (M.P. 94.5) will be dismantled and salvaged by LS&I if the abandonment is authorized.

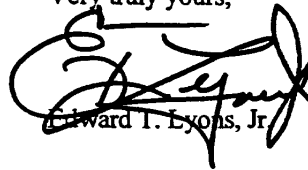
No adverse environmental effects are planned as a result of this action; however, a written response from the Michigan Department of Environmental Quality is necessary to ensure potentially impacted agencies have been contacted. Written responses should be received by February 9, 2004 and will be included in the final environmental report issued to the Board. In accordance with the regulations outlined in 49 C.F.R. § 1105.7 relating to environmental documentation for actions within the jurisdiction of the STB, we will send the completed environmental report for your review at least 20 days prior to our filing date.

WORLD TRADE CENTER ■ 1625 BROADWAY, 16TH FLOOR ■ DENVER, COLORADO 80202
PHONE: 303 573 1600 ■ Fax: 303 573 8133 ■ www.joneskeller.com



Thank you for your prompt attention to this letter. If you have any questions, please contact me at the above address, Tel. (303) 573-1600, or Peter Ray, LS&I's Senior Area Manager-Transportation at P.O. Box. 2000, Ishpeming, MI, 49849, Tel. (906) 475-3588.

Very truly yours,



Edward I. Lyons, Jr.

Encl.

CC: Peter Ray
Ken Simmons, Esq.



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
UPPER PENINSULA DISTRICT OFFICE



STEVEN E. CHESTER
DIRECTOR

February 12, 2004

Mr. Edward T. Lyons, Jr.
Jones & Keller
World Trade Center
1625 Broadway, 16th Floor
Denver, Colorado 80202

Dear Mr. Lyons:

SUBJECT: Acknowledgment of Receipt of
Jones & Keller Letter Dated January 26, 2004

Thank you for your letter of January 26, 2004, to the Michigan Department of Environmental Quality (MDEQ), regarding the Lake Superior and Ishpeming Railroad Company, Railroad Abandonment. Your letter was referred to the Upper Peninsula District Office of the MDEQ's Remediation and Redevelopment Division (RRD).

Your letter provides notification to the MDEQ that the Lake Superior and Ishpeming Railroad Company intends to seek approval from the U.S. Surface Transportation Board (STB) to abandon certain specified rail line within Marquette County, Michigan. It is also stated that the MDEQ will be sent a completed environmental report for review at least 20 days prior to the filing of a petition with the STB.

At present, the MDEQ does not have specific knowledge of environmental conditions on, or adjacent to, the portion of rail line specified in your letter. However, past RRD experience would suggest that certain contaminants associated with railroad operations or materials may exist within the described transportation corridor. Other environmental issues or factors may exist such as regulated wetlands or stream crossings. While your letter states that no adverse environmental effects are planned as a result of the abandonment action, there is presently no further information available to the MDEQ with regard to environmental considerations.

I look forward to receipt of the environmental report which your letter indicates will be forthcoming. The report should be directed to my attention at the MDEQ, 420 Fifth Street, Gwinn, MI 49841.

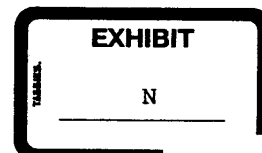
I am hopeful this correspondence provides you with information useful in this stage of LS&I's abandonment planning process. Should you have further questions, please do not hesitate to contact Mr. Steve Harrington at 906-346-8507 or you may contact me at 906-346-8515.

Sincerely,

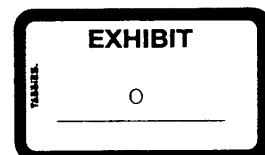
Clifton Clark
District Supervisor
Remediation and Redevelopment Division
906-346-8515

cc: Mr. Philip L. Schrantz, MDEQ
Mr. Steve Harrington, MDEQ

420 5TH STREET • GWINN, MICHIGAN 49841
www.michigan.gov • (906) 346-8300



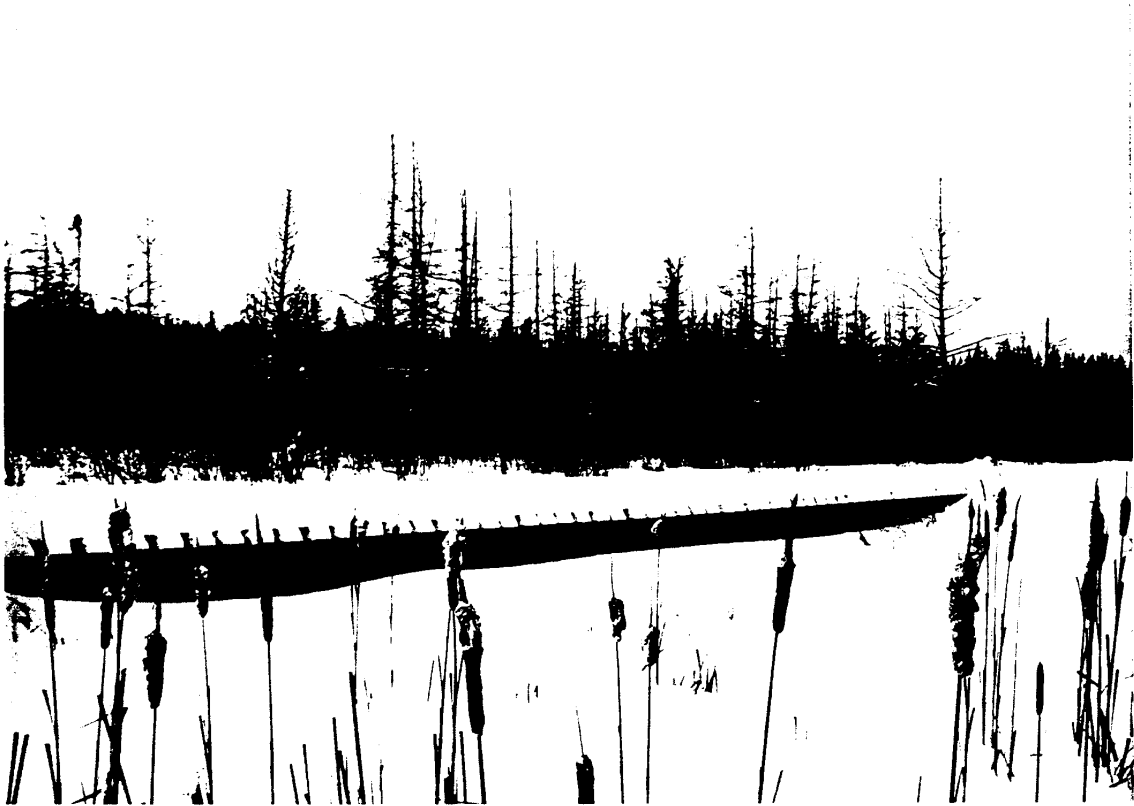
**COPPS SPUR BRIDGE
(MP 79.05)**



DIORITE EAST (BOSTON LAKE)
BRIDGE
(MP 81.31)



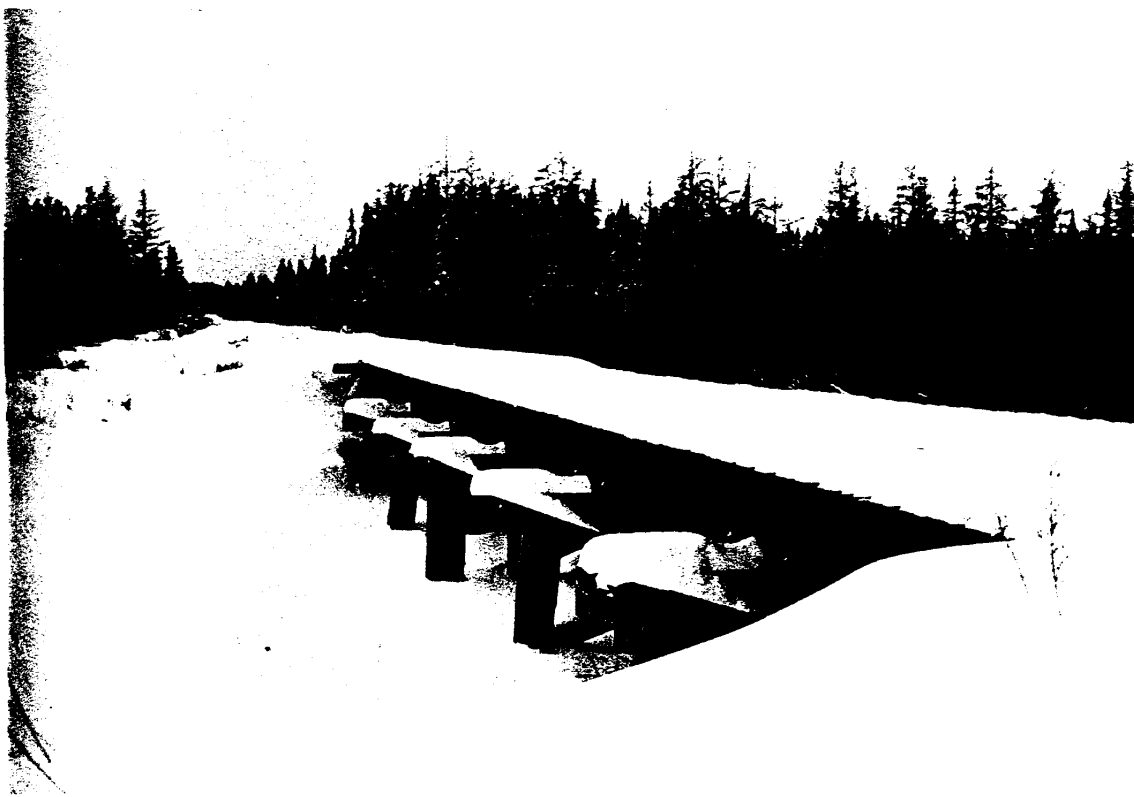
**DIORITE WEST BRIDGE
(MP 81.80)**



WEST OF DIORITE WEST BRIDGE
(MP 82.87)



ESCANABA RIVER BRIDGE
(MP 85.46)



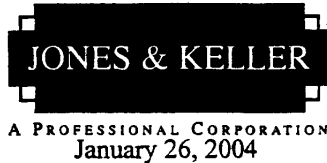
**BLACK RIVER BRIDGE
(MP 90.73)**



BRUCE CREEK BRIDGE
(MP 93.69)



EDWARD T. LYONS, JR.
ATTORNEY AT LAW



ELYONS@JONESKELLER.COM

Mr. Frances Porter, Executive Director
Marquette Historical Society-Research Library
213 North Front Street
Marquette, MI 49855

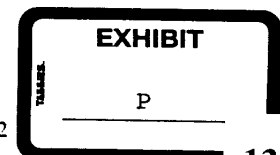
Re: Lake Superior and Ishpeming Railroad Company, Railroad Abandonment

Dear Mr. Porter:

The Lake Superior and Ishpeming Railroad Company (the "LS&I") is planning to file with the United States Surface Transportation Board (STB) a petition for exemption to permit abandonment of approximately 25 miles of rail line known as the Republic Subdivision, extending from railroad milepost 69.52 (LS&I Jct.) near Negaunee, Michigan to milepost 94.5 (Republic Mine) near Republic, Michigan, in Marquette County, Michigan. This letter formally advises the Marquette Historical Society concerning this proposed action. This notification complies with the requirements in Part 1105 of the Code of Federal Regulations ("C.F.R.").

To assist in the preparation of the environmental review documents that will be submitted with the petition for exemption, this letter requests the Marquette Historical Society's comments regarding the proposed abandonment's effect on regional and/or local land use plans. To facilitate review of this proposed action, a map of the affected rail line has been attached to this letter. The proposed line to be abandoned is highlighted on the attached figure. Please note that the portion of the line extending from LS&I Jct. (M.P. 69.52) to Landing Jct. (M.P. 73.6) is jointly owned by Canadian National Railway Company (the "CN") and CN holds trackage rights to operate over the portion of the line extending from Landing Jct. (M.P. 73.6) to Humboldt Jct. (M.P. 85.6). CN has the right to acquire these two portions of the line to be abandoned by LS&I and, if they are acquired by CN, the entire portion of the line extending from LS&I Jct. (M.P. 69.52) to Humboldt Jct. (M.P. 85.6) will remain in service and will not be dismantled and salvaged following abandonment by LS&I. The trackage extending from Humboldt Jct. (M.P. 85.6) to Republic Mine (M.P. 94.5) will be dismantled and salvaged by LS&I if the abandonment is authorized.

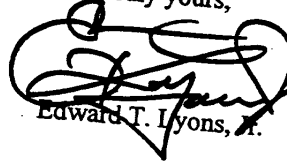
No adverse effects are anticipated as a result of this planned action; however, a written response from the Marquette Historical Society is necessary to ensure potentially impacted agencies have been contacted. Written responses should be received by February 9, 2004 and will be included in the final environmental report issued to the Board. In accordance with the regulations outlined in 49 C.F.R. § 1105.7 relating to environmental documentation for actions within the jurisdiction of the STB, we will send



the completed environmental report for your review at least 20 days prior to our filing date.

Thank you for your prompt attention to this letter. If you have any questions, please contact me at the above address, Tel. (303) 573-1600, or Peter Ray, LS&I's Senior Area Manager-Transportation at P.O. Box. 2000, Ishpeming, MI, 49849, Tel. (906) 475-3588.

Very truly yours,



Edward T. Lyons, Jr.

Encl.

CC: Peter Ray
Ken Simmons, Esq.

MARQUETTE COUNTY HISTORY MUSEUM
J.M. LONGYEAR RESEARCH LIBRARY

213 North Front Street
Marquette, Michigan 49855
(906) 226-3571
www.marquettecohistory.org

February 6, 2004

Edward T. Lyons, Jr.
Attorney at Law
Jones & Keller
1625 Broadway, 16th Floor
Denver, CO 80202

Re: Lake Superior and Ishpeming Railroad Company, Railroad Abandonment

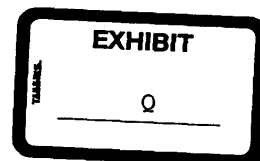
Dear Mr. Lyons.

Regarding your letter of January 26, 2004, I regret to inform you that it would be inappropriate for the Marquette County Historical Society, to provide comments about the abandonment of the 25 miles of line from Negaunee to the Republic Mine. Neither I, nor my staff, have the expertise or knowledge to assess the impact of the proposed action on regional or local land use plans. I recommend you contact the Marquette County Planning Commission or the Negaunee and/or Ishpeming City Planning Commissions to ascertain the information you require.

I am sorry I could not be of assistance in this matter. Please do not hesitate to contact me if you have questions or concerns.

Sincerely,


(Ms.) Frances Porter
Executive Director





JENNIFER GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF HISTORY, ARTS AND LIBRARIES
LANSING

DR. WILLIAM ANDERSON
DIRECTOR

February 23, 2004

EDWARD T LYONS
JONES & KELLER PC
WORLD TRADE CENTER
1625 BROADWAY 16TH FLOOR
DENVER CO 80202

Dear Mr. Lyons:

On February 2, 2004, the State Historic Preservation Officer (SHPO) received your request for review under Section 106 of the National Historic Preservation Act of 1966, as amended. The Section 106 regulations specify what is required for a Section 106 review [36 CFR § 800.11]. The information that you have sent is incomplete. The SHPO cannot initiate the Section 106 review process until we receive complete project information.

Section 106 requires federal agencies to take into account the effect of their undertakings on historic properties. It is the responsibility of the federal agency, *not the SHPO*, to fulfill the requirements of Section 106. In some instances, the federal agency may delegate legal responsibility to a state, local, or tribal government. Consultants or designees contracted to prepare information, analyses, or recommendations, are *not* recognized as federally-delegated authorities. For your reference, a complete version of the Section 106 regulations can be found at www.achp.gov/regs.html.

The information still required for your project review has been checked on the following pages. Please read each requirement carefully, and respond in full. Also, when sending the required information to the SHPO, please reference the date on which we first received your request for review (this date is provided above). Once the required information is received in full by the SHPO, we can proceed with the review. The Section 106 process for this project is not complete. If you have any questions, please contact the Environmental Review section of the SHPO at (517) 335-2721 or by e-mail at ER@michigan.gov.

Please note that incomplete project information shall be held for ninety (90) days from the date the SHPO received it, after which the SHPO will dispose of it, unless otherwise notified.

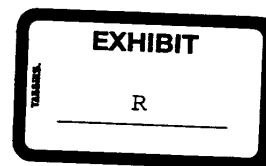
Thank you for your cooperation.

Sincerely,

Brian G. Grennell
Environmental Review Specialist

for Brian D. Conway
State Historic Preservation Officer

Enclosure(s)



STATE HISTORIC PRESERVATION OFFICE, MICHIGAN HISTORICAL CENTER
702 WEST KALAMAZOO STREET • P.O. BOX 30740 • LANSING, MICHIGAN 48909-8240
(517) 373-1630
www.michigan.gov/hal

EDWARD T. LYONS, JR.
ATTORNEY AT LAW

JONES & KELLER

A PROFESSIONAL CORPORATION

January 26, 2004

ELYONS@JONESKELLER.COM

FEB -2 2004

Department of History
Art's and Library
Michigan Historical Center
P.O. Box 30740
Lansing, MI 48909-8240

Re: Lake Superior and Ishpeming Railroad Company, Railroad Abandonment

To Whom It May Concern:

The Lake Superior and Ishpeming Railroad Company (the "LS&I") is planning to file with the United States Surface Transportation Board (STB) a petition for exemption to permit abandonment of approximately 25 miles of rail line known as the Republic Subdivision, extending from railroad milepost 69.52 (LS&I Jct.) near Negaunee, Michigan to milepost 94.5 (Republic Mine) near Republic, Michigan, in Marquette County, Michigan. This letter formally advises the Michigan Historical Center concerning this proposed action. This notification complies with the requirements outlined in Part 1105 of the Code of Federal Regulations ("C.F.R.").

To assist in the preparation of the environmental review documents that will be submitted with the petition for exemption, this letter requests the Michigan Historical Center's comments regarding the proposed abandonment. To facilitate review of this proposed action, a map of the affected rail line has been attached to this letter. The proposed line to be abandoned is highlighted on the attached figure. Please note that the portion of the line extending from LS&I Jct. (M.P. 69.52) to Landing Jct. (M.P. 73.6) is jointly owned by Canadian National Railway Company (the "CN") and CN holds trackage rights to operate over the portion of the line extending from Landing Jct. (M.P. 73.6) to Humboldt Jct. (M.P. 85.6). CN has the right to acquire these two portions of the line to be abandoned by LS&I and, if they are acquired by CN, the entire portion of the line extending from LS&I Jct. (M.P. 69.52) to Humboldt Jct. (M.P. 85.6) will remain in service and will not be dismantled and salvaged following abandonment by LS&I. The trackage extending from Humboldt Jct. (M.P. 85.6) to Republic Mine (M.P. 94.5) will be dismantled and salvaged by LS&I if the abandonment is authorized.

No adverse environmental effects are planned as a result of this action; however, a written response from the Michigan Historical Center is necessary to ensure potentially impacted agencies have been contacted. Written responses should be received by February 9, 2004 and will be included in the final environmental report issued to the Board. In accordance with the regulations outlined in 49 C.F.R. § 1105.7 relating to environmental documentation for actions within the jurisdiction of the STB, we will send



Environmental Review • State Historic Preservation Office
Michigan Historical Center • Department of History, Arts and Libraries
702 West Kalamazoo Street, P.O. Box 30740
Lansing, MI 48909-8240



Your project submission is incomplete. The State Historic Preservation Office (SHPO) cannot initiate the Section 106 review process until we receive complete information. Unless otherwise indicated the terms "not applicable" or "unknown" are not acceptable responses. We require that you use this form as the format for your project submission. Project information should be sent to:

Environmental Review Coordinator, State Historic Preservation Office, Michigan Historical Center, 702 West Kalamazoo Street, P.O. Box 30740, Lansing, MI 48909-8240. Telephone: (517) 335-2721, Fax: (517) 335-0348. The SHPO has 30 days from receipt of complete project information to review and comment on the project.

- ☐ 1. **Project Name, Indicating if a New or Old Project.** The project is new if initiating correspondence with our office concerning the project for the very first time. A project is old if the project has been previously submitted for SHPO review or if it is part of a larger, related project within the same project area (please reference the ER project number used in all communication with our office).
- ☒ 2. **Name of Federal Agency Funding, Licensing, or Assisting Project.** Every project has a federal funding, licensing, or permitting agency. Include the name, address, and telephone number of the contact person at the federal agency. A federal agency or federally delegated authority contact is *mandatory*. Projects not receiving federal assistance, nor requiring a federal permit or license, are not subject to Section 106 review except in certain circumstances when mandated by state or local policy.
- ☐ 3. **Name of State Agency Funding, Licensing, or Assisting Project, if applicable.** Include the name, address, and telephone number of the contact person at the state agency. If this is a grant program note the name of the program (i.e. CDBG, HOME, TEA-21, etc).
- ☐ 4. **Consultant Contact Person, if applicable.** If a consultant is preparing the project information, include the name, address, telephone number, and email address of the contact person to whom questions may be directed. Please be aware that consultants are not recognized as federally delegated authorities. The SHPO will not issue opinions of effect to consultants. To complete the review process, federal or federally delegated contact information is mandatory.
- ☒ 5. **Project Location.**
- Address;
 - City or Village if within the limits, or Township if outside the limits;
 - County; and
 - Section, Township, and Range.
- ☒ 6. **Maps of Project Location.**
- General map highlighting the location of the project.
 - Localized map highlighting the location of the project (i.e. a copy of a portion of a USGS map or a city street map). Maps must provide the precise location of the project. If the project is will occur in several locations (i.e. improvements to a city water system), all such locations must be noted. Please ensure that street/road names are included and legible.
- ☐ 7. **Project Work Description and Statement of Effects.** This is a detailed description of the work that will be undertaken. Include any information about building removals, rehabilitation, ground disturbance, excavation or landscape alteration such as sidewalk or tree removals. Evaluate the impact of these actions on historic properties identified in *Identification of Historic Properties* (#9). The SHPO is mandated to assess the effects that a project will have on the historic built environment. Economic benefits, impacts to the natural and social environment are not relevant unless these bear some connection to the integrity of the historic built environment.
- ☒ 8. **Indicate the Project's Area of Potential Effects (APE).** The terms "not applicable" or "unknown" are not acceptable responses. The area of potential effects must be highlighted on the localized map. Describe the steps taken to identify the area of potential effects and justify the boundaries chosen. The area of potential effects is defined as the geographic area or areas within which an undertaking may directly, or indirectly, cause changes in the character or use of historic properties. *In most instances, the area of potential effects is not simply the project's physical boundaries, or right-of-way.* The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by an undertaking.

- ☒ 9. **Date of Existing Properties in the Project's Area of Potential Effects (APE).** *The terms "not applicable" or "unknown" are not acceptable responses. If research has been done and no approximate date is found, the term "not found" is acceptable, however the level of effort made to determine dates must be indicated. Dates for both historic and non-historic properties are necessary. Note if no properties exist within the project's area of potential effects.*

- ☒ 10. **Information pertaining to historic properties.**

Identification of Historic Properties. *The terms "not applicable" or "unknown" are not acceptable responses. If there are no historic properties within the project's area of potential effects, the term "no historic properties present" is acceptable, but you must complete the section No Historic Properties Present in the Project's Area of Potential Effects (#9B). A historic property is defined as any prehistoric or historic district, site, building, structure, or object that is 50 years of age or older and is listed in, or eligible for listing in, the National Register of Historic Places. It is your responsibility to make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Michigan Sites-On-Line is a directory of properties listed in the National Register (www.michiganhistory.org). This directory, however, does not include properties eligible for listing in the National Register, and simply searching this directory does not fulfill your responsibility to identify historic properties. The SHPO does not conduct research.*

- A. **Historic Properties Present in the Project's Area of Potential Effects.** Identify and describe any historic properties listed in, or eligible for listing in, the National Register of Historic Places within the project's area of potential effects. Describe the steps taken to identify historic properties, including the level of effort made to carry out such steps.
- B. **No Historic Properties Present in the Project's Area of Potential Effects.** Note if no historic properties exist within the project's area of potential effects and describe the steps taken to determine that there are no historic properties, including the level of effort made to carry out such steps.

- ☒ 11. **Historic Significance and Context.** *The terms "not applicable" or "unknown" are not acceptable responses. If there are no historic properties within the project's area of potential effects, the term "no historic properties present" is acceptable. This statement details the condition, previous disturbance to, and history of any historic properties in the project's area of potential effects. Please indicate if such information is not available and describe the steps taken to determine the historic significance and context.*

- ☒ 12. **Photographs.** Provide photographs of the site itself and all historic properties identified in **Identification of Historic Properties (#10).**
- *Faxed or photocopied photographs are not acceptable.*
 - *Photographs may be color or black and white.*
 - *Digital photographs are acceptable provided they have a high dpi and clear resolution.*
 - *Photographs should be keyed to a project map (#6).*
 - *Photographs must provide clear views (i.e. subject of the photograph should not be obscured by shadows, trees, cars, or any other type of obstruction) of any historic properties in the project's area of potential effects.*
 - *If submitting a project which is, or may be in, a historic district (especially in commercial or residential neighborhoods fifty years of age or older) please submit representative streetscape views of the built environment in the project's area of potential effects to provide the SHPO with an idea of the architectural context.*

- ☒ 13. **Determination of Effect.** Following a reasonable and good faith effort to identify historic properties within the project's area of potential effects, provide the SHPO with your finding of the project's effect upon historic properties within the project's area of potential effects. For a determination of: (1) *no historic properties affected* [36 CFR § 800.4(d)(1)] in which there are either no historic properties present or no historic properties affected, include the basis for this determination.

For a determination of: (2) *no adverse effect* [36 CFR § 800.5(b)]; or (3) *adverse effect* [36 CFR § 800.5(d)(2)] explain why the criteria of adverse effect [36 CFR § 800.5(a)(1)] were found applicable or not applicable and include any conditions to avoid, minimize, or mitigate adverse effects. Adverse effects must be resolved in consultation with the SHPO pursuant to 36 CFR § 800.6. Please indicate the efforts undertaken to seek views provided by consulting parties and the public pursuant to 36 CFR § 800.6(a)(4), and provide copies or summaries of this information to the SHPO.

DANIEL MANIER, Chairman

TOM PROPHET, Vice Chairman

MATT ELIASON, Secretary

BERNHARDT ROSTEN, Commissioner

**Humboldt Township
Planning Commission**
Phone 906-339-2927 fax 906-339-4431
CHAMPION, MICHIGAN 49814

March 3, 2004

Mr. Edward T. Lyons Jr.
Jones & Keller
World Trade Center
1625 Broadway 16th Floor
Denver, Colorado 80202

Mr. Lyons

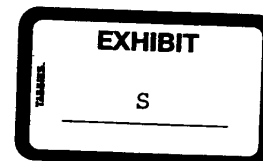
During our regular meeting on February 23rd 2004, the Humboldt township planning commission reviewed the documents and discussed the possible environmental effects with the LS&I abandonment in our township. After the review, the planning commission concluded that the abandonment would have no adverse environmental effects on Humboldt Township.

Sincerely,



Daniel Manier
Humboldt Township Planning Commission Chairman

CC: Sanford Pesola



EXHIBIT

11

147

ISAAC T. WARREN
ASSOCIATE



March 29, 2004

IWARREN@JONESKELLER.COM

Brian G. Grennell
Environmental Review Specialist
State Historic Preservation Office
Michigan Historical Center
702 West Kalamazoo Street
P.O. Box 30740
Lansing, Michigan 48909-8240

Re: Lake Superior & Ishpeming Railroad Company

Dear Mr. Grennell:

This letter confirms the phone conversation we had on March 29, 2004. During that conversation, you acknowledged receipt of the environmental report regarding Lake Superior & Ishpeming Railroad Company's (LS&I) petition to the Surface Transportation Board for exemption from the requirements of 49 U.S.C. § 10903. Specifically, the environmental report relates to the abandonment of LS&I's line of railroad known as the Republic Subdivision. Additionally, we discussed the State Historic Preservation Office's (SHPO) request in a letter dated February 23, 2004, for more information on the proposed action in order to complete a Section 106 review. I asked whether the environmental report fulfilled the request for additional information. In response, you stated that the SHPO will make a formal request for any additional information it needs beyond the environmental report. If and when such requests are made, I look forward to assisting your office with the Section 106 review. At this time, however, I am of the understanding that no further information is needed from LS&I for the SHPO's Section 106 review. If there are any further questions, please do not hesitate to call me at 303.573.1600.

Very Truly Yours,

Isaac Warren

cc: Peter Ray
Ken Simmons, Esq.
Bob Clark



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

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.

April 20, 2004

Mr. Edward T. Lyons
Attorney at Law
World Trade Center
1625 Broadway, 16th Floor
Denver Co. 80202

Subject: Lake Superior and Ishpeming Railroad Abandonment

Dear Mr. Lyons,

The Noquemanon Trails Network Council has just received a copy of the report labeled "BEFORE THE SURFACE TRANSPORTATION BOARD" regarding the Lake Superior and Ishpeming Railroad Abandonment in Marquette County, Mi., which was forwarded to us from the National Park Service. We would like to make some comments on this matter and be included in any further correspondence.

The Noquemanon Trails Network Council is a non profit 501(c)3 organization whose mission is to develop and maintain a regional, multi-use, non-motorized land and water trail network and greenway system.

We have been working with the Michigan Department of Transportation, the National Park Service through its representative, Barbara Nelson Jameson, and our local municipalities to create a non-motorized "Heritage" trail which would connect the cities of Ishpeming, Negaunee and Marquette. This trail would be of the Rails-to-Trails standard and would feature the numerous historical sites related to the history of iron mining in Marquette County. There are old mines, points of interest, and the Michigan Iron Mining Museum along the proposed route.

As proposed, this Heritage Trail would utilize a significant portion of the proposed Railroad Abandonment to link the cities. The Trail would be a significant alternative transportation route and a tourist attraction for the area. We are requesting that consideration for this use be included in any future plans for the abandonment of the track and that we be informed of any further action on this matter so that we may provide public input.

Sincerely,


Craig Stien, Treasurer
Noquemanon Trails Network Council
528 E. Arch #5
Marquette, Mi. 49855

cc. Nancy Krupiarz, Michigan Rails -to-Trails Conservancy
Barbara Nelson Jameson, U.S. National Park Service

EDWARD T. LYONS, JR.
ATTORNEY AT LAW



ELYONS@JONESKELLER.COM

April 23, 2004

Kenneth A. Westlake, Chief
Environmental Planning and Evaluation Branch
US EPA
Region 5
77 West Jackson Blvd.
Washington, D.C. 20423-0001

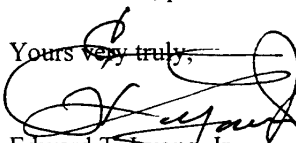
Re: Lake Superior & Ishpeming Railroad Company--Abandonment and Discontinuance
of Service--In Marquette County, MI
STB Docket No. AD-68 (Sub-No. 4X)

Dear Mr. Westlake:

We are in receipt of a copy of your letter dated April 16, 2004 to Victoria Rutson, Chief of the Section of Environmental Analysis at the STB. In that letter, in the third bullet point, you have requested confirmation from the Michigan State Historic Preservation office ("SHPO") of the statements contained in LS&I's Environmental/Historic Report 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. The Environmental/Historic Report prepared by LS&I was sent to the SHPO on March 16, 2004. On March 29, 2004, Isaac Warren, an associate in this law firm, addressed a letter to Mr. Brian G. Grennell at the SHPO confirming a telephone conversation between them on that same date in which Mr. Grennell stated that if the SHPO needed additional information to complete a Section 106 review, beyond that contained in the environmental report, they would make a formal request to this law firm. A copy of the letter from Mr. Warren to Mr. Grennell is enclosed for your information.

To date, we have received no advice that the SHPO desires additional information in order to complete the Section 106 review. We will, of course, respond to any such request, but in the meantime, it would appear that the SHPO has all of the information it needs to complete the review.

If we can be of any further assistance in this matter, please do not hesitate to contact us.

Yours very truly,

Edward T. Lyons, Jr.

Encs.

cc: Victoria Rutson, Chief, Section of Environmental Analysis
Brian G. Grennell, Michigan State Historic Preservation Office
Peter Ray
Ken Simmons, Esq.

WORLD TRADE CENTER ■ 1625 BROADWAY, 16TH FLOOR ■ DENVER, COLORADO 80202
PHONE: 303 573 1600 ■ Fax: 303 573 8133 ■ www.joneskeller.com