



E1-1763

JENNIFER GRANHOLM  
GOVERNORSTATE OF MICHIGAN  
DEPARTMENT OF HISTORY, ARTS AND LIBRARIES  
LANSINGDR. WILLIAM ANDERSON  
DIRECTOR

February 23, 2004

EDWARD T LYONS  
JONES & KELLER PC  
WORLD TRADE CENTER  
1625 BROADWAY 16<sup>TH</sup> 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](http://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](mailto: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,

A handwritten signature in black ink that reads 'Brian G. Grunich'.

Brian G. Grunich  
Environmental Review Specialistfor Brian D. Conway  
State Historic Preservation Officer

Enclosure(s)

JONES & KELLEREDWARD T. LYONS, JR.  
ATTORNEY AT LAW

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 you 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 streetroad 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. **Data 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](http://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.*



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, 16<sup>th</sup> 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



**Culvert Information**

Culvert Placement	Yes	No	Dimensions	Adequately Sized?		Yes	No	Dimensions
				Length of Culvert	Diameter of Culvert (s)			
Aligned Correctly?								
Adequate Armoring (riprap)?								
Perched Culvert?								
Height of Parch				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	Runoff from Road Approaches	Runoff from Ditches								Washout Potential	Overall Site Ranking	Site Follow-Up Rank	L	M
Erosion from Crossing													L	M	H
Runoff from Road Approaches													L	M	H
Runoff from Ditches													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	Channel Morphology, Migration
c	Culvert Undersized or Aligned Incorrectly	Sedimentation
d	Erosion and/or Runoff from Ditches	Sedimentation
e	Embankment Unstable/Inadequate Armoring	Sedimentation
ge	Gross Erosion (general)	Channel Morphology, Temperature
l	Crossing Structure Impounding Water	Sedimentation
me	Minor Erosion (general)	Channel Morphology, Migration
p	Perched Culvert	Channel Morphology, Migration, Temperature
pp	Perched Culvert with a Plunge Pool	Channel Morphology, Sedimentation
se	Streambank Erosion	Channel Morphology, Sedimentation
t	Significant Amount of Trash in or around Stream	Channel Morphology, Sedimentation
x	No Structure at the Crossing	

\*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.