

CONRAIL®

E1-2826
CD

February 8, 2007

UPS NEXT DAY AIR

Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW, Room 504
Washington, DC 20423-0001

Re: STB No. AB 167 (Sub-No. 1188X)
Consolidated Rail Corporation -- Abandonment
Exemption -- in Wayne County, Michigan

Dear Ms. Rutson:

In a decision served July 18, 2006, the Board reopened the above-referenced proceeding and imposed certain conditions on the abandonment exemption filed by Consolidated Rail Corporation ("Conrail"), including:

"(4)(a) prior to commencement of any salvage activities, Conrail shall consult with USEPA [U. S. Environmental Protection Agency, Region 5] and MDEQ [Michigan Department of Environmental Quality Land and Water Management Division] in order to ensure that any concerns regarding potential contamination of the right-of-way are addressed, and (b) Conrail shall report the results of these consultations in writing to SEA prior to the onset of salvage operations."

Conrail hereby reports the results of these consultations. Conrail's correspondence to and the responses from MDEQ and USEPA are attached for your reference.

Conrail wrote to MDEQ on July 10, 2006, and in its e-mail response of October 31, 2006 MDEQ stated:

"[W]e have determined that there is no apparent need for a permit under Part 301 – Inland Lakes and Streams, or Part 303 – Wetland Protection, of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994 as amended." MDEQ further stated that "[f]ollowing discussions with DEQ Water Bureau staff, we have been notified that there is no need for a stormwater discharge permit for this project. No concerns have been raised by DEQ staff regarding potential contamination in the right of way."

Conrail wrote to USEPA on October 31, 2006, and, in its response of December 14, 2006, USEPA stated:

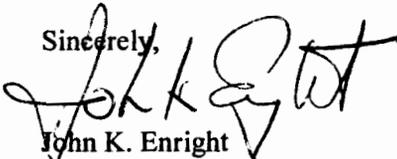
Akron Secondary
February 8, 2007
Page 2

“We consider it reasonable to be concerned for this specific portion of track, compared to the average rail abandonment site, because of the significant number of brownfield sites adjacent to virtually the entire length of this right-of-way (ROW). Default ownership and land use of this ROW upon abandonment are potentially uncertain because the City of Highland Park is in receivership to the State of Michigan and because Wayne County is expressing planning interests in utilizing the land. In addition, portions of this land have significant potential to become derelict dump sites. Therefore we deem it prudent to accurately define site responsibility and provide due care to protect Conrail and whichever jurisdiction eventually receives the ROW property. Based upon consultation with Gerald Phillips of our Resource Conservation and Recovery Act (RCRA) Program, and our Regional Brownfields Coordinator, Deborah Orr, U.S. EPA recommends that an assessment consistent with all appropriate inquiry and/or State of Michigan requirements be conducted at the ROW property.” (emphasis supplied).

The focus of the U.S. EPA’s comments is clearly on the future disposition of the property by Conrail after it abandons its rail service obligations. Accordingly, EPA’s recommendation that an environmental assessment be conducted is outside the purview of the STB and the SEA and unrelated to the subject proceeding. Conrail submits that the environmental conditions paced on the proposed abandonment in the SEA’s June 23, 2006 Environmental Assessment have now been met and that it intends to proceed with consummating the subject abandonment.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054
(856) 231-7206

Enclosures

cc: Christa Dean
Peg Bostwick - MDEQ
Kenneth A. Westlake – USEPA

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July 10, 2006

VIA UPS Overnight

Ms. Margaret Bostwick
Michigan Department of Environmental Quality
Lake & Stream Protection Unit, Great Lakes Shorelands Section
525 West Allegan Street
1st Floor, South Tower
Lansing, MI 48933

Dear Ms. Bostwick:

Conrail is proposing to abandon portions of two contiguous railroad lines, one of which is known as the Detroit Terminal West Industrial Track, consisting of a single track and two turnouts between milepost 7.70 at Joseph Campau Street and milepost 10.30 near Woodrow Wilson Street, and the other known as the Highland Park Industrial Track, consisting of a single track and two turnouts between milepost 7.40 near Woodrow Wilson Street and milepost 5.70 at Cloverdale Street (together hereinafter the "Line") in the cities of Detroit and Highland Park, Wayne County, MI. Conrail filed an application (Application) with Surface Transportation Board (STB) on May 30, 2006 regarding the proposed abandonment, which was docketed as STB Docket No. AB-167 (Sub-No: 1188X). A copy of the Application, including Conrail's Environmental and Historic Report, is attached for your reference.

On June 23, 2006, the STB's Section of Environmental Analysis (SEA) served the Environmental Assessment (EA) in this proceeding. A copy of the EA is attached for your reference. On page 7 of the EA, the SEA recommended that certain conditions be placed on the proposed abandonment, including:

2. Based on comments of the U.S. Army Corps of Engineers and the U.S. Environmental Agency, Consolidated Rail Corporation shall contact the Michigan Department of Environmental Quality prior to commencement of any salvage activities regarding applicable stormwater management requirements and any other state permit requirements and comply with the reasonable requirements.
4. Prior to commencement of any salvage activities, Consolidated Rail Corporation (Conrail) shall consult with the U.S. Environmental Protection Agency, Region 5, and the Michigan Department of Environmental Quality in order to ensure that any concerns regarding potential contamination of the right-of-way are addressed. Conrail shall report the results of these consultations in writing to the Board's Section of Environmental Analysis prior to the onset of salvage operations.

The U.S. Army Corps of Engineers specifically recommended that Conrail contact you (see page 3 of the EA and page 38 of the Application) regarding a determination of state

permit requirements regarding applicable stormwater management requirements and any other state permit requirements (see also Condition No. 2 of the EA). In this case, the abandonment would involve the salvage and removal of only the rail and crossties. Enclosed as Exhibit A to the Application is a copy of a U.S.G.S. map with the area of the subject track defined. There would be no in-stream salvage of any bridges. Accordingly, do you concur with our view that the proposed abandonment will not require permits as designated under section 402 of the Clean Water Act (33 U.S.C. 1342) or any other state permits?

Conrail notes that it has previously written to the MDEQ regarding coastal zone issues and Section 402 permitting issues (see pages 91 and 94 of the Application), and that on September 30, 2005, Chris Antieau of the MDEQ indicated that "[n]o adverse impacts to coastal resources are anticipated from this proposed activity as described in the information [Conrail] forwarded to our office. Therefore, this phase of the project is consistent with MCMP" (see page 35 of the Application).

Conrail also hereby consults with the MDEQ, as required under Condition No. 4 of the EA, and requests that the MDEQ identify any concerns it may have regarding any potential contamination of the right-of-way by Conrail's salvage operations on the line. Please note that the removal of the rail and crossties would not involve any excavation or other material disturbance of the underlying property.

Please forward any comments you may have regarding this proposal, in writing to the address below. Because Conrail cannot begin salvage operations until it has consulted with the MDEQ and reported the results of its consultation to the SEA, I would appreciate your response as soon as possible. If I may be of any further assistance, please contact me at (856) 231-7206. Thank you for your cooperation.

Sincerely,

John K. Enright / rbd

John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054

Enclosure(s)

-----Original Message-----

From: Peg Bostwick [mailto:bostwicp@michigan.gov]

Sent: Tuesday, October 31, 2006 10:31 AM

To: Enright, John

Subject: STB Docket No. AB-167 (Sub-No. 1188X)

Mr. Enright —

This note is in response to your letter of July 10, 2006 regarding STB Docket No AB-167 (Sub-No. 1188X). We understand that Conrail is seeking to abandon two contiguous lines of railroad in Wayne County Michigan, and is completing an environmental review associated with that abandonment.

The Michigan Department of Environmental Quality (DEQ) - Land and Water Management Division has reviewed the materials that you submitted to us, and have circulated this information to other DEQ staff in our District office. Based on the information provided, we have determined that there is no apparent need for a permit under Part 301 - Inland Lakes and Streams, or Part 303 - Wetland Protection, of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994 as amended. In the event that the scope of this project is modified such that lakes, streams, or wetlands are impacted by this project, please notify our office for additional review. Following discussions with DEQ Water Bureau staff, we have been notified that there is no need for a stormwater discharge permit for this project. No concerns have been raised by DEQ staff regarding potential contamination in the right of way.

My apologies for the delay in responding to your initial request for review. Please let me know if you have remaining questions.

Peg Bostwick
Chief, Wetlands, Lakes and Streams Unit
Land and Water Management Division
517-335-3470

D'Zuro, Robert

From: D'Zuro, Robert
Sent: Tuesday, October 31, 2006 12:36 PM
To: 'west.norman@epa.gov'
Cc: Enright, John; D'Zuro, Robert
Subject: FW: STB Docket No. AB-167 (Sub-No. 1188X)



STB Docket No
AB-167 (Sub-No 1...

Mr. West:

Per our conversation today regarding Consolidated Rail Corporation's ("Conrail") Abandonment Exemption in Wayne County, Michigan (STB Docket No. AB-167 (Sub-No. 1188X)), please find attached per your request the following: (1) the Surface Transportation Board's ("STB") Section of Environmental Analysis ("SEA") Environmental Assessment ("EA") served June 23, 2006; (2) the STB's decision served July 18, 2006 adopting the recommendations in the EA; (3) a July 12, 2006 e-mail response from Simon Monroe of the National Geodetic Survey; and (4) an October 31, 2006 e-mail response from Peg Bostwick of the Michigan Department of Environmental Quality ("MDEQ").

In its July 18, 2006 decision (page 3), the STB placed the certain conditions on Conrail's proposed abandonment, including:

- (2) based on comments of the Corps and USEPA, Conrail shall contact MDEQ prior to commencement of any salvage activities regarding applicable stormwater management requirements and any other state permit requirements, and comply with the reasonable requirements;
- (3) based on recommendations of USEPA, Conrail shall conduct salvage activities in the following manner: recycle or appropriately dispose of rails, crossties, and any ancillary structures and materials;
- (4)(a) prior to commencement of any salvage activities, Conrail shall consult with USEPA and MDEQ in order to ensure that any concerns regarding potential contamination of the right-of-way are addressed, and (b) Conrail shall report the results of these consultations in writing to SEA prior to the onset of salvage operations.

Conrail has consulted with the MDEQ, and in her October 31, 2006 response Ms. Bostwick of the MDEQ stated that no permits are required for the proposed abandonment and that no concerns have been raised by DEQ staff regarding potential contamination in the right-of-way.

As required by the STB decision, Conrail is hereby consulting the USEPA as noted above. Regarding condition (3) above, please note that in its Environmental and Historic Report filed by Conrail with its Notice of Exemption on May 31, 2006 in this proceeding, we stated that "[i]t is Conrail's intention that upon the Board's approval of the subject abandonment to salvage the rail and any other materials that can be reused or recycled." The USEPA was served with a copy of Conrail's Notice of Exemption.

We respectfully request that the USEPA advise as soon as possible any concerns it may have regarding potential contamination of the right-of-way so that we may report back to the SEA the results of our consultations with the USEPA and the MDEQ.

If you have any questions or need any additional information, please contact me at 215-209-5014 or John K. Enright, Associate General Counsel, at 856-231-7206.

I thank you for your consideration in this matter.

Bob D'Zuro
(215) 209-5014

(215) 209-4819 (fax)
robert.dzuro@conrail.com



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

DEC 14 2006

REPLY TO THE ATTENTION OF:

B-19J

Robert D'Zuro
Conrail Corporation
2001 Market Street, 8th Floor
Philadelphia, PA 19103

Re: **STB Docket No. AB-167 (Sub-No. 1188X) Consolidated Rail Corporation
Rail Abandonment in Wayne County, Michigan**

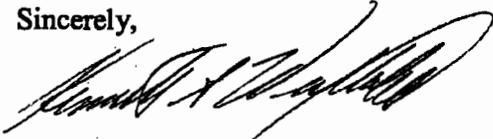
Dear Mr. D'Zuro:

On October 3, 2005 the U.S. Environmental Protection Agency (U.S. EPA) submitted a reply to Conrail's inquiry letter concerning the possible abandonment of 4.30 miles of two contiguous rail lines through the former industrial corridor in the community of Highland Park, Michigan. The Surface Transportation Board (STB) subsequently issued a decision on July 18, 2006 which included the condition 2.(4)(a) which states that "...prior to commencement of any salvage activities, Conrail shall consult with USEPA and MDEQ in order to ensure that any concerns regarding potential contamination of the right-of-way are addressed, and...". Per your phone conversation with my staff member, Norm West, on October 31, 2006, and a follow-up e-mail to him on that date, you communicated that the other STB conditions have been met. In a communication from Peg Bostwick, Chief of the MDEQ Wetlands, Lakes and Streams Unit, dated October 31, 2006, she stated that "No concerns have been raised by DEQ staff regarding potential contamination in the right-of-way." Our letter of response is provided pursuant to 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.

We consider it reasonable to be concerned for this specific portion of track, compared to the average rail abandonment site, because of the significant number of brownfield sites adjacent to virtually the entire length of this right-of-way (ROW). Default ownership and land use of this ROW upon abandonment are potentially uncertain because the City of Highland Park is in receivership to the State of Michigan and because Wayne County is expressing planning interests in utilizing the land. In addition, portions of this land have significant potential to become derelict dump sites. Therefore we deem it prudent to accurately define site responsibility and provide due care to protect Conrail and whichever jurisdiction eventually receives the ROW property. Based upon consultation with Gerald Phillips of our Resource Conservation and Recovery Act (RCRA) Program, and our Regional Brownfields Coordinator, Deborah Orr, U.S. EPA recommends that an assessment consistent with all appropriate inquiry and / or State of Michigan requirements be conducted at the ROW property.

Thank you for consideration of this concern. Should you have questions regarding this letter, feel free to contact me or my staff member, Norm West, at (312) - 353 - 5692 or west.norman@epa.gov. Please forward copies of any Phase 1, Phase 2 or similar reports regarding this property to Gerald Phillips, mail code D-8J at this address.

Sincerely,



**Kenneth A. Westlake, Chief
NEPA Implementation Section
Office of Science, Ecosystems and Communities**

**Cc: John K. Enright
Associate General Counsel
Consolidated Rail Corporation
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054**

**Christa Dean
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20432**

**Peg Bostwick
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**Mitch Adelman
Remediation and Redevelopment Division
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301 E. Louis Glick Highway
Jackson, MI 49201**