

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 4, 2013

Louis E. Gitomer, Esq.
600 Baltimore Avenue, Suite 301
Towson, MD 21204

RE: Finance Docket No. 35523, CSX Transportation, Inc. – Joint Use –
Louisville & Indiana Railroad Company, Inc.; Approval of Request to
Submit a Preliminary Draft Environmental Assessment

Dear Mr. Gitomer:

I am responding to your letter of May 20, 2013, in which you request that CSX Transportation (CSXT) prepare a Preliminary Draft Environmental Assessment (PDEA) for submission to the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) in lieu of the environmental and historic reports required under the Board's environmental rules at 49 C.F.R. §§1105.7 and 1105.8. For the reasons set forth below, I am granting your request.

Your letter indicates that on or about May 31, 2013, CSXT plans to file a minor application with the Board under 49 U.S.C. §11323(a)(6) and 49 C.F.R. Part 1180. Specifically, you state that CSXT will seek Board authority for the joint use by CSXT and the Louisville & Indiana Railroad Company (L&I) of L&I's railroad line between its connection with CSXT in Indianapolis, Indiana at milepost 4.0±, and its connection with CSXT in Louisville, Kentucky at milepost 110.5±, including designated sidings and turnouts (the Line). You also state that in order to jointly use the Line with L&I, CSXT will seek authority to jointly use a perpetual non-exclusive freight railroad operating easement over the Line (the Easement).

Based on a prior discussion of February 17, 2011, OEA concurs with your request to submit a PDEA. The PDEA will serve as an administrative draft for OEA, which is responsible for ensuring the Board's compliance with the National Environmental Policy Act. OEA will independently review the PDEA and make appropriate recommendations to the Board, including recommendations to mitigate potential environmental impacts. OEA will then issue a Draft Environmental Assessment (EA) based upon the PDEA for a 30-day public review and comment period. Following the public review and comment period, OEA will prepare a Final EA containing OEA's final recommendations to the Board.

The Council on Environmental Quality (CEQ) regulations at 40 C.F.R. §1506.5(b) specifically contemplate that an agency may permit an applicant to prepare an EA. The agency, however, must make its own evaluation of the environmental issues and take responsibility for the scope and content of the EA. Therefore, as stated above, OEA will conduct an independent analysis and verification of the EA, including any proposed mitigation measures. OEA has ultimate responsibility for the environmental document; therefore, the extent to which OEA may adopt all or portions of the PDEA as the Draft EA will be determined after you have submitted the PDEA to, and it has been reviewed by, OEA.

If during the environmental review process it becomes clear that potentially significant adverse environmental effects would result from the project and could not be adequately mitigated, OEA would then be required under CEQ regulations and the Board's environmental rules at 49 C.F.R. 1105(6)(a) to prepare a more detailed Environmental Impact Statement (EIS). Should this occur, OEA will inform you of that decision. OEA would then use the PDEA as an informational submittal and determine if it has the resources to prepare an EIS in a timely and expeditious manner, or whether it would be more appropriate for the applicant to retain a third-party contractor to prepare the EIS under OEA's direct control and supervision to assist OEA in the environmental review process.

Thank you for initiating early consultation for the proposed undertaking. If you have any questions or would like to discuss this matter further, please contact Dave Navecky of my staff at (202) 245-0294 or email at naveckyd@stb.dot.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

Victoria Rutson
Director
Office of Environmental Analysis