

#EO-1639
PAW

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

May 24, 2011

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

RE: Finance Docket No. 35522, CSX Transportation, Inc. – Acquisition and
Operation – Grand Trunk Western Railroad Company; Approval of
Request to Submit a Preliminary Draft Environmental Assessment

Dear Mr. Gitomer:

I am responding to your letter of May 20, 2011, 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 July 1, 2011, CSXT plans to file a minor application with the Board under 49 U.S.C. §11323. Specifically, you state that CSXT will seek Board authority to acquire from the Grand Trunk Western Railroad Company (GTW) an exclusive, perpetual, non-assignable railroad operating easement (the Elsdon Easement) over approximately 22.3 miles of GTW's Elsdon Subdivision (the Acquisition).¹ You also state that CSXT proposes to acquire trackage rights over GTW on approximately 35 miles of GTW's South Bend Subdivision (Trackage Rights).²

Based on prior discussions, 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

¹ Extends from milepost 31.0 located at or near the CSXT connection at Munster, IN to milepost 8.7, located at or near Elsdon, IL, which connects to the southern end of the BNSF Railway Company's Corwith Yard.

² Between the CN connection to CSXT at Wellsboro, IN at or near milepost 71.1 and Griffith, IN, at or near milepost 36.1.

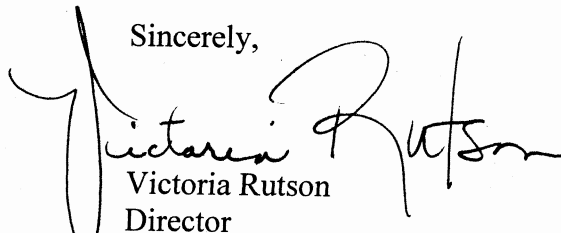
review and comment period. Following the public review and comment period, OEA will prepare a Final EA containing OEA's final recommendations to the Board.

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 Diana Wood of my staff at (202) 245-0302 or email at woodd@stb.dot.gov.

Sincerely,



Victoria Rutson
Director
Office of Environmental Analysis