



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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CHICAGO, IL 60604-3590

OCT 31 2013

E1-20346
Rec'd 11/1/13

REPLY TO THE ATTENTION OF
E-19J

Victoria Rutson, Director
Office of Environmental Analysis
Surface Transportation Board
395 E Street, SW, Room 1104
Washington, DC 20423

RE: **Comments on the Draft Environmental Assessment for the Docket No. FD 35523,
CSX Transportation, Inc. - Joint Use - with the Louisville & Indiana Railroad
Company, Inc.**

Dear Ms. Rutson:

Under the National Environmental Policy Act (NEPA), the Council on Environmental Quality regulations, and Section 309 of the Clean Air Act, U.S. Environmental Protection Agency (EPA) reviews and comments on major federal actions. Typically, these reviews focus on Environmental Impact Statements (EIS), but we also have the discretion to review and comment on other environmental documents prepared under NEPA as interest and resources permit. We received the Draft Environmental Assessment (EA) for the above project, dated August 30, 2013. We contacted David Navecky by phone on September 27, 2013, regarding our concerns for the above project in Indiana and Kentucky, and in light of the then-pending federal government shutdown. Following the shutdown, we again contacted David Navecky on October 17, 21 and 28, 2013, and confirmed the deadline for public comment had been extended to November 1, 2013. Our specific comments are presented in the following five points and more general NEPA comments are provided in the enclosed Addendum.

1- Based upon Figures 2.2-1 inset, 2.9-1 and 2.10-1, we believe the full extent of this decision includes additional impacts that need to be considered in the NEPA analysis. We understand that eleven additional trains will run daily between Sidney, Ohio, and Indianapolis, Indiana, with some or all of them then routed south along the proposed Louisville & Indiana Railroad Company (LIRC) line to Louisville, Kentucky. These additional trains will pass through Indianapolis and terminate at a new location in Louisville. These will impose new impacts in Louisville. Indianapolis and along the Indianapolis to Sidney route of at least eleven additional trains magnitude. These impacts are not considered in this NEPA evaluation. Although these impacts are beyond the "logical termini" of the proposal, they are connected actions and should be addressed in this NEPA analysis.

2- The noise analysis results on Page 3-65 and Appendix G Figures 144, 145 and 146 did not appear to include Louisville or Indianapolis populations where a greater number of communities.

**Note from OEA: The subject letter is incorrect. The public
comment period on the Draft EA ended on September 30, 2013
and was not extended to November 1, 2013.**

including those with environmental justice concerns, may be impacted. The Draft EA indicates that 1,551 noise receptor sites will experience adverse noise increases. The voluntary mitigation measures VM 57 and 58 are important steps to take. More importantly, the Draft EA is not clear that, with all the mitigation measures proposed, these 1,551 receptors will experience decreased noise impact to acceptable levels. Further, there is no post-project monitoring proposed to determine that these target reductions are achieved.

3- We understand that the proposed construction will be constrained to be within the existing right-of-way (ROW) resulting in some wetlands, ponds and floodplain areas that will not be avoided. Nevertheless, a NEPA analysis of water impacts should provide the public and decisionmakers with a full understanding of which waters will be impacted, their type, description and size, the amount and type of impact at each water body, and mitigation provided for each. This could be in a table format, but to simply state these impacts will be dealt with in permitting is inadequate. We concur with the U.S. Fish and Wildlife Service (USFWS) recommendations for construction measures on Page 3.36.

4- One bridge will require replacement, over the Flat Rock Creek. From the illustrations in Mark Wallschloger's letter from the Indiana Department of Natural Resources (INDNR), Appendix Figures 144, 145 and 146, it is clear the current bridge has caused extensive scouring of the banks. The new replacement structure should take extra care in design and construction to repair this scour and prevent future erosion at this site.

5- In discussion of project impacts to wildlife and habitats, the Draft EA states on Page 3-44, "The proposed increase in train traffic on the Line [sic the LIRC] could result in an increase in wildlife strikes. However, as noted previously, the proposed increase in train traffic on the Line would result from CSXT diverting existing train traffic from its connecting rail lines. Therefore, any increase in animal strikes on the Line could be offset by fewer animal strikes on CSXT's connecting rail lines." This conclusion is not supported by any analysis. Without further analysis available in the Draft EA than Figure 3.6-1, we conclude two impact outcomes. First, more trains at higher speeds are likely to produce more strikes to all species. Second, there is far more "priority Habitat" illustrated in Figure 3.6-1 in relation to the proposed LIRC Line than along the Ohio River CSXT Line; therefore greater impacts to threatened and endangered species, state priority species, and migratory birds are expected. While animal strike numbers have not been recorded and could be very difficult to obtain, we recommend that some method of estimating these impacts be devised, and mitigation measures be developed in concert with USFWS and/or INDNR.

We acknowledge the proposed care for threatened and endangered (T&E) species and mitigation measures presented on Page 3-45. Applicants have agreed "to limit project-related tree removal during the Indiana bat's roosting period (VM 21). Additionally, Applicants have agreed to best management practices (BMPs) during project-related construction to protect water quality and avoid or minimize potential impacts to the three mussel species discussed above (VM 12, VM 13, VM 14, VM 15, VM 16, VM 17, VM 18, VM 19, VM 27, and VM 28)." We commend these measures. However, the Draft EA further indicates that migratory bird roosting areas will experience potential impacts. We recommend there be mitigation with nearby habitat restoration at appropriate ratios to compensate such losses.

Thank you for the opportunity to comment on this Draft EA. If you have any questions on our comments, please contact me or have your staff contact Norm West of my staff at (312) 353-5692 or at west.norman@epa.gov.

Sincerely,

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

Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

Enclosure: Addendum- Comments by USEPA Region 4

Addendum: Comments by U.S. EPA Region 4 on the STB Environmental Assessment for Their Docket No. FD 35523 Proposed CSX Transportation, Inc. Joint Use with the Louisville & Indiana Railroad Company, Inc.

Rafael Santamaria

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Consistent with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA), Region 4 offers the following general comments/suggestions for your consideration /inclusion that could help facilitate your compliance with the NEPA regulations for this project **(Draft EA for CSX Joint use Louisville and Indiana Railroad)**

1. The Draft Environmental Assessment (DEA) development must be consistent with Section 309 of the Clean Air Act.
2. Any deconstruction (demolition) should be done according to the State Historic Preservation Officer (SHPO), the National Historic Preservation Act (NHPA)'s rules, regulations and guidelines and should ensure disposal of federal property is done according to federal regulations for disposal of federal property. Ensure the demolition and construction debris be properly handled by licensed contractors (if needed) and disposed in licensed sanitary landfills for each type of debris.
3. In construction/demolition projects, the DEA should address: proper handling of hazardous materials removal and disposal (asbestos, PCBs, lead from paint), and waste management (e.g., reuse or recycling as opposed to landfill dumping); wastewater management, indoor air quality, energy and water conservation (e.g., low flow toilets, energy efficient windows and doors, efficient lighting, etc.); other pollution prevention measures (e.g., use of materials with recycled content) as well as impacts to noise, traffic, air and water quality, wildlife and vegetation (could any endangered or threatened species be impacted?); erosion, sedimentation control, and impacts to historic resources.
4. The DEA and draft Finding of No Significant Impact (FNSI) should be made available for public inspection at various public locations. It would be very beneficial to ensure the public is well informed at all times through frequent public meetings, flyers, announcements and public hearings.
5. The DEA should address the needed and required permits, how to obtain them from the associated regulatory agencies and how to implement and comply with them.
6. The DEA should address land cleared, if any, or forested clear-cut harvested trees and should describe the type and age of trees present; will the trees be harvested? Concerning cumulative impacts, recently (in the near past/present/future) how many other sites and cumulative number of acres of land will or have been cleared at the facility/project?
7. The DEA should make sure decisions made based on archaeological surveys done in previous years are still valid.
8. The DEA should address impacts to traditional American Indian resources, if any, under the various alternatives. Consultation with the American Indian Tribes/organizations should be made and it should include a list of Tribes and or Native American Indian Organizations consulted about this project along with their responses and comments.
9. The DEA should address the Graves and Repatriation Act – (NAGPRA) to identify National Register-eligible archaeological sites; to ensure proper evaluations are carried out in order to

minimize the adverse impacts to historic properties in the project areas; and so that in the event burials are located during ground-disturbing activities, the proper procedures for unexpected discoveries are followed.

10. The DEA should discuss in some detail if there was any EJ community involvement, follow-up analyses, and/or outreach efforts performed. Also, what impact will the project have on minority businesses?

11. In addition to the noise analyses to be done related to the entire site, the DEA should also discuss what noise effects can be attributed to the temporary (state type and length of time) demolition and construction that will take place on the site.

12. The DEA should establish the contractor's procedures for borrow materials which should be according to local and state soil conservation rules and regulations to ensure the quality of the fill to be used and where the fill is borrowed from (to ensure protection of that environment).

13. If there are any reasons to expect the contractor to encounter any contaminated soils, this should be discussed in detail in the DEA and the proper studies of the site should be done along with the corrections before any work on the project is done by the contractor.

In addition, contaminated soils, solid wastes, chemicals and hazardous materials should be properly handled by licensed contractors and disposed in licensed sanitary landfills according to the type of waste; that chemicals and hazardous material be disposed of according to local, state, Federal rules, regulations, guidelines and requirements.

14. The DEA should include the latest cumulative impacts (past, present and future and also the total direct and indirect impacts) analysis as they affect the air quality in the area.

15. The DEA should address handling of above ground/underground storage tanks (AST/UST), if any, according to the State and Federal rules regulations and guidelines. The DEA should address the issue of removing or not removing them and should include state and federal documentation concurring/not concurring with the final decision.

16. The DEA should address the potential for impacts from air toxics associated with the project.

17. In general, construction activities should be restricted to existing rights-of-way, if possible and best management practices should be utilized. Impacts to wetlands, floodplains, and other sensitive resources should be avoided. If avoidance is not possible, mitigation must be offered to minimize adverse impacts. If construction must run through a wetland, the area should be restored to its "natural" state. That is, the affected area should be returned to its original soil horizon as well as original contours. Also, the area should be re-vegetated with indigenous species.

If structures must be placed in a floodplain, they should be constructed to minimize the infiltration/inflow (I/I) of flood waters and should be sturdy enough to withstand the uplift and velocity forces of such waters. To minimize impacts to prime farmland and public health, water and sewer lines should not run directly through fields or obstruct the flow of water to crops. The land should be returned to its original contour and re-vegetated with indigenous plant life.

Ancillary facilities (e.g., pump stations) should be designed so not to impede the natural flow of flood waters.

Since soil disturbance associated with the demolition and construction would require disturbance to the existing site soils topography it could generate considerable amounts of storm water, erosion and environmental harm, the owner should require the personnel involved in the project, including the consultant engineers and contractors to comply with existing local, state and federal rules, regulations and guidelines to minimize potential adverse impacts on wetlands, groundwater, aquifers, creeks/rivers, lakes, ponds, reservoirs, and water quality. The owner should comply with

the local and state erosion and sediment rules and guidelines; the Clean Water Act; the required state and Corps of Engineers permits; the Executive Order 11988 - Flood Plain Management and the Executive Order 11990 - Protection of Wetlands. Runoff controls should be updated periodically for the duration of the construction (e.g., every 2-3 months and maintained to help ensure success - e.g., silt fences emptied and hay bales replaced).

18. The owner should encourage the contractors to maintain and operate all construction equipment per manufacturer's specifications and recommendations to minimize air emissions. The owner should also consider offering incentives for contractors to specify the use of retrofitted diesel equipment or purchase of available ultra-low diesel fuel in their bids. The DEA should address the impact of the construction on the air quality if some of the construction could be done at night.

19. The Final EA should include Time Schedule showing proposed start and finish dates for each project task.

20. The long-term and indirect impacts of the proposed action should be considered. If the extension of service to the proposed users could cause further development of an environmentally sensitive area, alternate alignments/sites should be considered.

21. Recycling should be done according to DoD 4160.21-M/chapter 7 RESOURCE RECOVERY AND RECYCLING PROGRAM (RRRP) which states: All installations, worldwide, shall have recycling programs as required by Executive Order 12780. Pursuant to Public Law 97-214 (10 USC 2577), and DoD Instruction (DoDI) 4715.4, Pollution Prevention.

22. The EPA suggests the recommendations made by Green Building to be followed whenever possible. Green or sustainable building is the practice of creating healthier and more resource-efficient models of construction, renovation, operation, maintenance, and demolition. Research and experience increasingly demonstrate that when buildings are designed and operated with their lifecycle impacts in mind, they can provide great environmental, economic, and social benefits.

Elements of Green building include:

*Smart Growth and Sustainable Development *Energy Efficiency and Renewable Energy *Water Stewardship *Environmentally Preferable Building Materials and Specifications *Waste Reduction *Toxics and *Indoor Environments.

Additional information on Green Building can be found at:

<http://www.epa.gov/greenbuilding/>

<http://www.greenbuilding.com/>

www.epa.gov/greenbuilding

www.greenhighways.org

<http://www.usgbc.org/>

www.greenseal.org

Other links

Waste Reduction Resource Center - hosted by North Carolina but it is an EPA Region 4 resource

<http://wrrc.p2pays.org/>

Industrial materials - <http://www.epa.gov/osw/consERVE/rrr/imr/index.htm>

http://www.fema.gov/plan/prevent/fhm/dl_zone.shtm

C&D - <http://www.epa.gov/osw/consERVE/rrr/imr/cdm/>

www.epa.gov/nscep/

<http://www.pavementpreservation.org/toolbox/links/arrafull.pdf>

<http://www.secement.org/fdr.htm>

http://www.cement.org/pavements/pv_sc_fdr.asp

<http://www.techtransfer.berkeley.edu/newsletter/04-2/refs.php>

<http://www.youtube.com/watch?v=s7w7gsFYNzA>