

EI-20140



West Michigan RR Co - Abandonment Exemption - Van Buren County, STB

Bocket No. AB-1107X

KJacobs to: David.Navecky

03/05/2013 10:58 AM

Cc: RWimbish

History: This message has been replied to.

Dave -

As information, David Drullinger and Sarah Ehinger of the Michigan Department of Environmental Quality (MDEQ) have confirmed that West Michigan Railroad Co. (WMI) does not need to obtain a permit under Section 404 of the Clean Water Act in connection with its proposed track salvage activities related to the above referenced abandonment. MDEQ's feedback on the issue is set forth in the email thread below. During the course of consultation, MDEQ wanted to know whether we believe there are any contaminants left on the site that could, during the course of track salvage, result in contaminating the waters of the state. We have advised MDEQ that we are unaware of any such contamination threats.

We consulted with MDEQ in order to meet the first precondition to salvage set in the February 1, 2013 Environmental Assessment (EA). The two other conditions outlined in the EA have been met -- consultation with the U.S. Fish and Wildlife and consultation with the Michigan SHPO, and evidence of those consultations have been sent to you in previous emails.

The communication is for purposes of your records, and provides evidence of WMI's satisfaction of the aforementioned MDEQ consultation requirement set forth in the EA.

Should you have any additional questions, comments, or concerns please don't hesitate to contact me.

Best,
Kenneth

Kenneth Jacobs
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----- Forwarded by Kenneth Jacobs/bakermiller on 03/05/2013 10:57 AM -----

From: "Drullinger, Dave (DEQ)" <DRULLINGERD@michigan.gov>
To: "KJacobs@bakerandmiller.com" <KJacobs@bakerandmiller.com>,
Cc: "Ehinger, Sarah (DEQ)" <EhingerS1@michigan.gov>, "Jordan, Kameron (DEQ)" <JORDANK@michigan.gov>
Date: 02/28/2013 03:21 PM
Subject: RE: West Michigan RR Co - Abandonment Exemption - Van Buren County, STB Boeket No. AB-1107X

Ken, the Consolidated E&H Report that you provided does not identify any activities in the proposed railroad abandonment project that would require DEQ permits to protect surface water, groundwater, or wetland resources. The report specifically said that soils would not be disturbed, including soils in streambanks, beds, or wetlands.

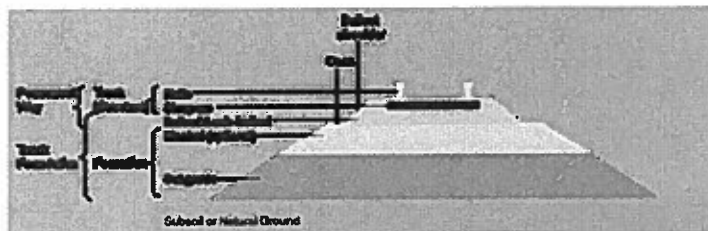
The DEQ has specific guidance for the abandonment of railroad tracks, as it relates to storm water and soil erosion permitting in Michigan. Please review the information below. If you have questions about it, contact Sarah Ehinger. Her contact information is at the bottom of this brief guidance. My apologies that the graphics became fuzzy when I copied them.

Question: Does railroad abandonment/track removal require a soil erosion or construction storm water permit?

Answer:

The typical process for removing rail consists of the following

1. Remove anchors from rail
2. Unbolt the angle bars or use a torch to cut bolts
3. Use a small trackhoe (excavator) with a grapple to lift the rail from the ties, staking five or six sticks in a pile along the right of way.
4. Remove spikes and tie plates from the ties and pile them along the right of way
5. Lift ties out with the forks on a skid-steer loader. Place the ties in small piles along the right of way. Use the skid-steer to backdrag the area where the ties were to remove indentation from the ties
6. Trucks with log loaders will drive down the track bed and remove the ties , rail, and plates.



Typically disturbed area will be limited to the "permanent way" which is laid on a crushed stone ballast.

As long as track abandonment is limited to track removal and does not include additional earth work extending into the subgrade or subsoil, this activity is not considered a destabilizing earth change and does not require permit coverage. This determination is based primarily on the fact that the ballast is composed primarily of crushed stone, which is quite stable and is not prone to erosion.

It sounds like the process described would not disturb the subgrade or subsoil and is unlikely to disturb much of the sub ballast area, therefore it would not need a storm water or soil erosion permit.

If the railroad has reason to believe they may have contamination that could be exposed to runoff water and result in a discharge to waters of the state, they should conduct testing of the potentially contaminated materials to determine the risk. I am not aware of any specific contaminants of concern associated with exposed ballast materials.

Sarah (VanDelfzijl) Ehinger
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Thanks for contacting our Department of Environmental Quality, Office of Environmental Assistance. To help us improve our services, we encourage you to complete our short customer service survey (http://www.michigan.gov/documents/deq/deq-oea-customerservice_survey_371974_7.html).

David Drullinger
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From: KJacobs@bakerandmiller.com [<mailto:KJacobs@bakerandmiller.com>]
Sent: Thursday, February 28, 2013 12:47 PM
To: Drullinger, Dave (DEQ)
Subject: West Michigan RR Co - Abandonment Exemption - Van Buren County, STB Bocket No. AB-1107X

Good Afternoon Mr. Drullinger,

We spoke moments ago about the condition placed on the West Michigan Railroad Company ("WMI") abandonment in Van Buren County, Michigan by the Surface Transportation Board ("STB") Environmental Assessment. This condition requires that we consult with the Michigan Department of Environmental Quality ("MDEQ") regarding permitting requirements under Section 404 of the Clean Water Act.

As I mentioned in our phone conversation, WMI does not believe that the abandonment will have any effect on the nearby bodies of water. In this email I have provided you with a copy of our Environmental & Historical Report explaining our plans and the possible impacts from this abandonment, which we do not anticipate that the abandonment will have any environmental impacts. Additionally, I have included a copy of the STB's Environmental Assessment.

Upon your review of the attached documents, should need any additional information please contact me at 202.663.7830. Once your office has reached a conclusion on this matter please inform me of your decision, even if your office concludes that we are not required to have a permit under Section 404 of the Clean Water Act.

Thank you for your assistance in this matter.

Sincerely,
Kenneth

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