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BALL JANIK LLP

A T T O R N E Y S

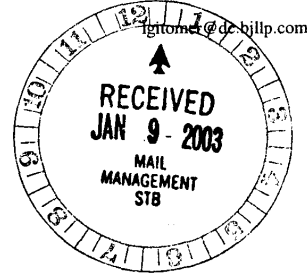
1455 F STREET, NW, SUITE 225
WASHINGTON, D.C. 20005

www.balljanik.com

TELEPHONE 202-638-3307
FACSIMILE 202-783-6947

January 9, 2003

LOUIS E. GITOMER
OF COUNSEL
(202) 466-6532



Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D. C. 20423

AB 364-7X

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

Dear Secretary Williams:

Enclosed are the original and 10 copies of a Notice of Exemption for discontinuance in the above-entitled proceeding and check number 00115848 for the filing fee of \$2,700. Also enclosed are three computer diskettes containing the Notice, Environmental Report and Historic Report.

Please time and date stamp the additional copy of this letter and the notice and return it with our messenger. Thank you for your assistance.

If you have any questions, call or email me.

Sincerely yours,

Louis E. Gitomer
Attorney for The Texas Northeastern
Division, Mid-Michigan Railroad, Inc.

ENTERED
Office of Proceedings

JAN 09 2003

Enclosures

Part of
Public Record

FEE RECEIVED

JAN 09 2003

**SURFACE
TRANSPORTATION BOARD**

FILED

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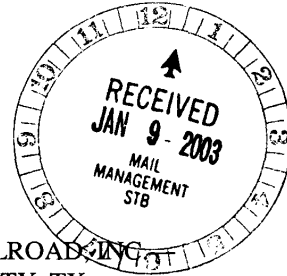
TRANSPORTATION BOARD

1

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB 364-7X
Docket No. AB-364 (Sub-No. 7X)



THE TEXAS NORTHEASTERN DIVISION, MID-MICHIGAN RAILROAD, INC.
DISCONTINUANCE EXEMPTION—IN GRAYSON COUNTY, TX

NOTICE OF EXEMPTION

Gary A. Laakso, Esq.
Vice President Regulatory Counsel
RailAmerica, Inc.
5300 Broken Sound Boulevard N.W.
Second Floor
Boca Raton, FL 33487
(561) 994-6015

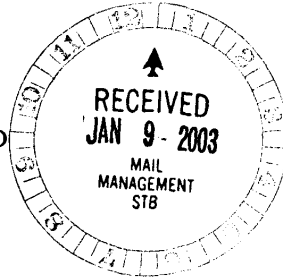
Louis E. Gitomer, Esq.
Of Counsel
BALL JANIK LLP
1455 F Street, N.W., Suite 225
Washington, D.C. 20005
(202) 638-3307

Attorneys for: THE TEXAS
NORTHEASTERN DIVISION,
MID-MICHIGAN RAILROAD, INC.

Dated: January 9, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB 364- 7 x
Docket No. ~~AB-364 (Sub No. 5X)~~



THE TEXAS NORTHEASTERN DIVISION, MID-MICHIGAN RAILROAD, INC.—
DISCONTINUANCE EXEMPTION—IN GRAYSON COUNTY, TX

NOTICE OF EXEMPTION

The Texas Northeastern Division, Mid-Michigan Railroad, Inc. ("TNER") files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for TNER to discontinue service over a 10.51-mile rail line between Denison, milepost 662.54, and Sherman, milepost 673.05, all in Grayson County, TX (the "Line").

1. Proposed consummation date. The proposed consummation date is February 28, 2003.
2. Certification required by 49 C.F.R. § 1152.50(b). *See* Exhibit A.
3. Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (e)(4).

(a) General.

(1) Exact name of applicant. The Texas Northeastern Division, Mid-Michigan Railroad, Inc.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105. TNER is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Relief sought. TNER seeks to use the class exemption at 49 C.F.R. § 1152.50 to discontinue service over a 10.51-mile rail line between Denison, milepost 662.54, and Sherman, milepost 673.05, all in Grayson County, TX.

(4) Map. *See* Exhibit B.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Gary A. Laakso, Esq., Vice President Regulatory Counsel, RailAmerica, Inc., 5300 Broken Sound Boulevard N.W., Second Floor, Boca Raton, FL 33487, (561) 994-6015, and Louis E. Gitomer, Ball Janik LLP, 1455 F St., N.W., Suite 225, Washington, DC 20005, (202) 638-3307.

(8) List of all United States Postal Service ZIP Codes that the line proposed for abandonment traverses. The Line traverses ZIP Codes 75020, 75021, 75090, 75091 and 75092.

(e) Rural and community impact.

(4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

The Line traverses two urban areas that have adequate road and highway networks. The portion of the Line between Sherman and Denison is in a rural area and is close to and mainly paralleled by U.S. Highway 75. Therefore, there is little or no likelihood that the rail corridor is

needed for a transit or highway corridor in the cities of Sherman or Denison, TX, or in the rural area between the two cities. TNER is unaware of any restrictions on the title to the property.

4. The level of labor protection. The interests of railroad employees who may be adversely affected by the proposed discontinuance of rail service will be adequately protected by the labor protective conditions in Oregon Short Line R. Co. -- Abandonment -- Goshen, 360 I.C.C. 91 (1979).

5. Certification. Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11 are attached as Exhibit C.

6. Environmental Report. *See* Exhibit D. Based on information in TNER's possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

7. Historic Report. *See* Exhibit E.

Respectfully submitted,



Louis E. Gitomer, Esq.
Of Counsel
BALL JANIK LLP
1455 F Street, N.W., Suite 225
Washington, D.C. 20005
(202) 638-3307

Gary A. Laakso, Esq.
Vice President Regulatory Counsel
RailAmerica, Inc.
5300 Broken Sound Boulevard N.W.
Second Floor
Boca Raton, FL 33487
(561) 994-6015

Attorneys for: THE TEXAS
NORTHEASTERN DIVISION,
MID-MICHIGAN RAILROAD, INC.

Dated: January 9, 2003

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

I, David C. Eyermann, being duly sworn depose and state that I am Vice President and General Manager of The Texas Northeastern Division, Mid-Michigan Railroad, Inc. ("TNER"), that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.

12/30/02

his 30th day of December, 2002
Sandra Price-Coy
 Notary Public



EXHIBIT B

MAP

EXHIBIT C

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50 (d) (1), the undersigned hereby certifies that notice of the proposed discontinuance of rail service in Docket No. ~~AB-364~~ (Sub-No. ~~5X~~) was mailed via first class mail on December 30, 2002, to the following parties: *AB 364-7X*

State Public Service Commission

Public Utility Commission
William B. Travis Building
1701 N. Congress
P.O. Box 13326
Austin, TX 78711-3326

Railroad Commission
P.O. Box 12967
Austin, TX 78711-2967

Transportation Commission
125 East 11th Street
Austin, TX 78701-2483

Military Traffic Management Command

MTMCTEA
ATTN: Railroads for National Defense
720 Thimble Shoals Blvd.
Suite 130
Newport News, VA 23606-2574

National Park Service

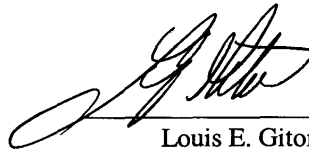
Mr. Tom Ross
Chief of National Recreation and Trails
U.S. Department of Interior - National Park Service
Recreation Resources Assistance Division
P.O. Box 37127
Washington, DC 20013-7127

National Park Service

U.S. Department of Interior
National Park Service
Land Resources Division
800 North Capitol St., N.E.
Room 540
Washington, DC 20002

U.S. Department of Agriculture

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Auditors' Building
14th Street and Independence Avenue, S.W.
Washington, DC 20250

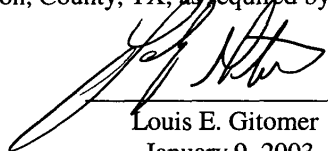
A handwritten signature in black ink, appearing to read 'Louis E. Gitomer', is written over a horizontal line.

Louis E. Gitomer
January 9, 2003

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed discontinuance of rail service in Docket No. ~~AB-364 (Sub-No. 5X)~~ was advertised on January 5, 2003 in the Herald Democrat, a newspapers of general circulation in Grayson, County, TX, as required by 49 C.F.R. § 1105.12.

AB 364-7x



Louis E. Gitomer
January 9, 2003

EXHIBIT D

**ENVIRONMENTAL REPORT
CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. § 1105.7, the undersigned hereby certifies that a copy of the Environmental Report in Docket No. AB-364 (Sub-No. 5X) was mailed via first class mail on December 20, 2002 and January 9, 2003, to the following parties:

AB 364-7

State Clearinghouse
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, TX 78711

Environmental Protection Division
P.O. Box 13087
Austin, TX 78711-3087

Texas General Land Office
P.O. Box 12873
Austin, TX 78711-2873

Honorable John Bullard
Mayor Pro Tem
2036 West Day
Denison, TX 75020

Honorable Tom Osburn
Mayor of Sherman
Municipal Building
405 N. Rusk
Sherman, TX 75090

Honorable Horace Groff
County Judge
100 W. Houston
Sherman, TX 75090

State Conservationist
U.S.D.A. Natural Resources Conservation Service
Sherman Service Center
406B W Lamar
Sherman, TX 75090

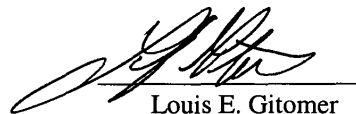
United States Environmental Protection Agency
Region 6
First Interstate Bank Tower at Fountain Plaza
1445 Ross Avenue
12th Floor, Suite 1200
Dallas, TX 75202

U.S. Fish and Wildlife Service
Region 2
P.O. Box 1306
Albuquerque, NM 87103-1306

U.S. Army Engineer District, Fort Worth
P.O. Box 17300
Fort Worth, TX 76102-0300

National Park Service
Recreation Resources Assistance Division
P.O. Box 37127
Washington, DC 20013-7127

The National Geodetic Survey
Department of Commerce/NOAA
SSMC3
Station 9356
1315 E. West Highway
Silver Spring, MD 20910



Louis E. Gitomer
January 9, 2003

ENVIRONMENTAL REPORT

(49 C.F.R. 1105.7)

43 364-7A
Docket No. AB-364 (Sub-No. 5X)

**TEXAS NORTHEASTERN DIVISION, MID-MICHIGAN RAILROAD, INC.—
DISCONTINUANCE EXEMPTION—IN GRAYSON COUNTY, TX**

Dated: January 9, 2003

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

The Texas Northeastern Division, Mid-Michigan Railroad, Inc. ("TNER") proposes to discontinue service over an 10.51-mile rail line between Denison, milepost 662.54, and Sherman, milepost 673.05, all in Grayson County, TX (the "Line"). Upon receipt of discontinuance authority, TNER will terminate its common carrier obligation to operate over the Line.

Prior to the TNER leasing the Line from the Missouri Pacific Railroad Company ("MP")¹, the Line had been abandoned. When the Missouri-Kansas-Texas Railroad Company (the "MKT") merged into MP,² MKT was authorized to abandon its 10.51-mile line between milepost P-662.54, at Denison, and milepost P-673.05, at Sherman.³ MKT consummated the abandonment prior to the Lease, but did not remove the track and materials from the Line.

There has been no traffic moving over the Line in local or overhead service for over two years, since at the latest March 3, 1986.

¹ *Mid Michigan Railroad Company, Inc.—Lease and Operation Exemption—Missouri Pacific Railroad Company*, ICC Finance Docket No. 31646 (ICC served August 28, 1990).

² *Union Pacific Corp.—Cont.—MO-KS-TX Co. et al.*, 4 I.C.C.2d 409 (1988).

The only alternative to discontinuance of service would be to continue to maintain but not use the Line. TNER provides overhead service through trackage rights over the Burlington Northern and Santa Fe Railway Company.⁴ TNER has not provided local or overhead service on the Line since TNER leased the property from UP on October 23, 1990. TNER believes that there is not a sufficient volume of traffic available to the Line to justify the costs of maintaining and operating the Line. Making a capital investment in the Line would not be a prudent use of carrier resources. With no potential traffic, TNER has decided to seek to discontinue service over the Line.

A map of the proposed discontinuance of service is attached hereto as Exhibit 1.

(2) Transportation System. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

No passenger or freight traffic will be diverted to other modes as a result of the proposed discontinuance of service. There has been no local or overhead freight traffic on the Line in over two years. There has been no passenger traffic over the Line in recent memory. Hence, no existing rail freight or passenger traffic will be diverted to motor carrier. Accordingly, the proposed discontinuance of service will have no adverse effects on regional or local transportation systems and patterns.

(3) Land Use. (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies. (ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed

³ *Missouri-Kansas-Texas Railroad Company—Abandonment Exemption—in Grayson County, TX*, ICC Docket No. AB-102 (Sub-No. 21X), 4 I.C.C.2d 409, 488-489 (1988).

⁴ *Texas Northeastern Division, Mid-Michigan Railroad, Inc.—Trackage Rights Exemption—Burlington Northern Railroad Company*, ICC Finance Docket No. 32255 (ICC served March 9, 1993).

action on any prime agricultural land. (iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 1105.9. (iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

(i) TNER considers the proposed discontinuance of service to be consistent with existing land use plans. The land adjoining the Line is developed urban property in the Cities of Sherman and Denison, TX, but rural along the rest of the Line. TNER contacted the Cities of Sherman and Denison, TX and the County of Grayson, TX by letters dated December 20, 2002. *See* Exhibit 2. No response has been received as of this date. A copy of this Environmental Report has been mailed to the appropriate local and state agencies for their information and further comment.

(ii) TNER notified the United States Department of Agriculture ("USDA") Natural Resources Conservation Service (the agency succeeding to the responsibilities of the Soil Conservation Service) of the proposed discontinuance of service letter dated December 20, 2002, and requested assistance in identifying any potential effects on prime agricultural land. *See* Exhibit 2. No response has been received to date. A copy of this report is being supplied to the USDA for its information and further comment.

(iii) The Line does not pass through a designated coastal zone.

(iv) The area traversed by the Line, as described in item (i) above, is most suitable to making the right-of-way on the Line available to the adjacent land owners through sale. An adequate road and highway network serves the Cities of Sherman and Denison, TX. Therefore, there is little or no likelihood that the rail corridor is needed for a transit or highway corridor. The right-of-way could be used for a recreational trail.

(4) Energy. (i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why. (iv) If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

(i) The proposed discontinuance of service will have no effect on the transportation of energy resources.

(ii) The proposed discontinuance of service will have no effect on the transportation of recyclable commodities.

(iii) The proposed discontinuance of service will have minimal effect on overall energy efficiency as no cars have used the Line for over two years.

(iv) The proposed discontinuance of service will not cause the diversion more than 1,000 rail carloads a year; or an average of 50 rail carloads per mile per year for any part of the Line of rail traffic to motor carriage.

(5) Air. (i) If the proposed action will result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) an increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. § 10901 (or § 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in sub-section (5)(i)(A) will apply. (ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either: (A) an increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line; (B) an increase in rail yard activity of at least 20 percent (measured by carload activity); or (C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply. (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the

materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

(i) The proposed discontinuance of service will not result in meeting or exceeding the specified thresholds.

(ii) The proposed discontinuance of service will not result in meeting or exceeding the specified thresholds.

(iii) The proposed discontinuance of service will not affect the transportation of ozone depleting materials.

(6) Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause: (i) an incremental increase in noise levels of three decibels Ldn or more; or (ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

Not applicable.

(7) Safety. (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings). (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials. (iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

(i) The proposed discontinuance of service will have no detrimental effects on public health and safety.

(ii) The proposed discontinuance of service will not affect the transportation of hazardous materials.

(iii) TNER is not aware of any known hazardous material waste sites or sites where known hazardous material spills have occurred on or along the rail corridor of the Line.

(8) Biological Resources. (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects. (ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

(i) TNER does not believe that the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat. TNER notified the U.S. Fish and Wildlife Service of the proposed discontinuance of service by letter dated December 20, 2002, and requested assistance in determining whether the proposed discontinuance of service will adversely affect endangered or threatened species or areas designated as a critical habitat. *See Exhibit 2*. A copy of this Report has been supplied to the U.S. Fish and Wildlife Service for its information and further comment.

(ii) TNER is unaware of any wildlife sanctuaries or refuges, National or State parks or forests that would be adversely affected by the proposed discontinuance of service. TNER notified the National Parks Service of the proposed discontinuance of service by letter dated December 20, 2002, and requested assistance in identifying any potential effects on wildlife sanctuaries or refuges, National or State parks or forests. *See Exhibit 2*. To date, no response to this request has been received. A copy of this Report is being supplied to the National Park Service for its information and comment.

(9) Water. (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards.

Describe any inconsistencies. (ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects. (iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

(i) TNER is confident that the proposed discontinuance of service will be consistent with applicable water quality standards. TNER contacted the Texas Environmental Protection Division ("TXEPD") and the United States Environmental Protection Agency ("USEPA") by letters dated December 20, 2002. *See Exhibit 2.* To date, no response to this request has been received. A copy of this Report has been supplied to the TXEPD and USEPA for their information and comment.

(ii) TNER believes that no permits under section 404 of the Clean Water Act are required for the proposed discontinuance of service and that no designated wetlands or 100-year flood plains will be affected by the proposed discontinuance of service. TNER contacted the U.S. Army Corps of Engineers by letter dated December 20, 2002 and has received no response to date. *See Exhibit 2.* A copy of this Report has been supplied to the U.S. Army Corps of Engineers for its information and comment.

(iii) TNER believes that no permit under section 402 of the Clean Water Act would be required for the discontinuance of service. TNER contacted the TXEPD and the USEPA by letter dated December 20, 2002. *See Exhibit 2.* A copy of this Report has been supplied to the TXEPD and USEPA for their information and further comment.

(10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

TNER does not expect any adverse environmental impact from the proposed discontinuance of service and, therefore, sees no need for any mitigating actions. TNER will, of course, adhere to any remedial actions suggested by the recipients of this Report, which are required by the Board.

EXHIBIT 1

EXHIBIT 2

TEXAS NORTHEASTERN RAILROAD
5300 BROKEN SOUND BLVD., N.W. 2ND FLOOR
BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

Honorable Tom Osburn
Mayor of Sherman
Municipal Building
405 N. Rusk
Sherman, TX 75090

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

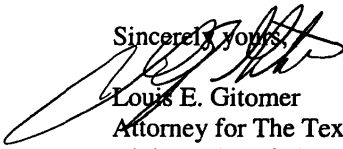
Dear Mayor Osborn:

On or about January 9, 2003, we expect to be filing with the Surface Transportation Board ("STB") a notice of exemption seeking authority to discontinue service over The Texas Northeastern Division, Mid-Michigan Railroad, Inc.'s 10.51-mile rail line between Denison, milepost 662.54, and Sherman, milepost 673.05, all in Grayson County, TX.

Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area. We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423, telephone 202-565-1538 and refer to the above Docket No. AB-364 (Sub-No. 5X).

Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to our representative) would be appreciated within 3 weeks. Your comments will be considered by the STB in evaluating the environmental impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. Our representative in this matter is Louis E. Gitomer who may be contacted by telephone at 202-638-3307, email at lgitomer@dc.bjllp.com, or mail at Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Sincerely yours,


Louis E. Gitomer

Attorney for The Texas Northeastern
Division, Mid-Michigan Railroad, Inc.

Enclosure

TEXAS NORTHEASTERN RAILROAD
5300 BROKEN SOUND BLVD., N.W. 2ND FLOOR
BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

Honorable John Bullard
Mayor Pro Tem
2036 West Day
Denison, TX 75020

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

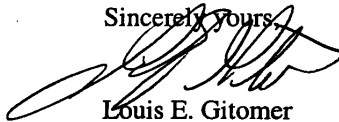
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Sincerely yours,



Louis E. Gitomer
Attorney for The Texas Northeastern
Division, Mid-Michigan Railroad, Inc.

Enclosure

TEXAS NORTHEASTERN RAILROAD
5300 BROKEN SOUND BLVD., N.W. 2ND FLOOR
BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

Honorable Horace Groff
County Judge
100 W. Houston
Sherman, TX 75090

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

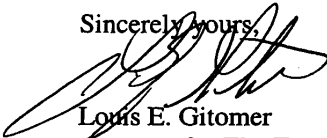
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BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

State Conservationist
U.S.D.A. Natural Resources Conservation Service
Sherman Service Center
406B W Lamar
Sherman, TX 750

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

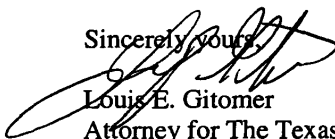
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BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

U.S. Fish and Wildlife Service
Region 2
P.O. Box 1306
Albuquerque, NM 87103-1306

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

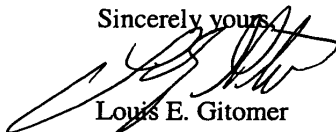
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BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

Director
National Park Service
1849 C Street NW
Washington, DC 20240

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

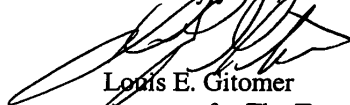
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OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

Environmental Protection Division
P.O. Box 13087
Austin, TX 78711-3087

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

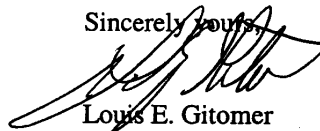
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BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

United States Environmental Protection Agency, Region 6
First Interstate Bank Tower at Fountain Plaza
1445 Ross Avenue, 12th Floor, Suite 1200
Dallas, TX 75202

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

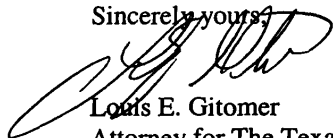
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BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

U.S. Army Engineer District, Fort Worth
P.O. Box 17300
Fort Worth, TX 76102-0300

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

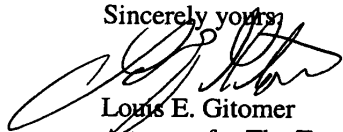
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BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

State Clearinghouse
Governor's Office of Budget and Planning
P.O. Box 12428
Austin, TX 78711

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

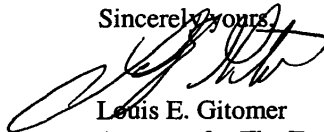
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BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

Texas General Land Office
P.O. Box 12873
Austin, TX 78711-2873

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

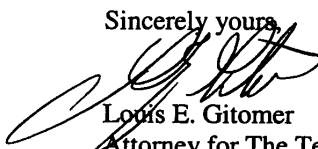
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BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East-West Highway
Silver Spring, MD 20910-3282

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

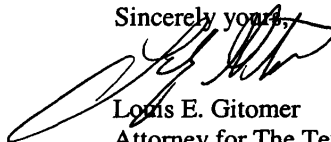
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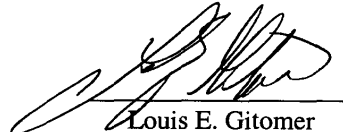
Enclosure

EXHIBIT E

**HISTORIC REPORT
CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Historic Report in Docket No. AB-364 (Sub-No. 5X) was mailed via first class mail on December 20, 2002 and January 9, 2003, to the following party:

Texas Historical Commission
P.O. Box 12276, Capitol Station
Austin, TX 78711



Louis E. Gitomer
January 9, 2003

HISTORIC REPORT
(49 C.F.R. 1105.8)

Docket No. AB-364 (Sub-No. 5X)

**TEXAS NORTHEASTERN DIVISION, MID-MICHIGAN RAILROAD, INC.—
DISCONTINUANCE EXEMPTION—IN GRAYSON COUNTY, TX**

Dated: January 9, 2003

The Historic Report should contain the information required by 1105.7(e)(1) of the Environmental Report. The following is excerpted from the Environmental Report prepared for the proposed discontinuance of service:

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

The Texas Northeastern Division, Mid-Michigan Railroad, Inc. ("TNER") proposes to discontinue service over an 10.51-mile rail line between Denison, milepost 662.54, and Sherman, milepost 673.05, all in Grayson County, TX (the "Line"). Upon receipt of discontinuance authority, TNER will terminate its common carrier obligation to operate over the Line.

Prior to the TNER leasing the Line from the Missouri Pacific Railroad Company ("MP")¹, the Line had been abandoned. When the Missouri-Kansas-Texas Railroad Company (the "MKT") merged into MP,² MKT was authorized to abandon its 10.51-mile line between

¹ *Mid Michigan Railroad Company, Inc.—Lease and Operation Exemption—Missouri Pacific Railroad Company*, ICC Finance Docket No. 31646 (ICC served August 28, 1990).

² *Union Pacific Corp.—Cont.—MO-KS-TX Co. et al.*, 4 I.C.C.2d 409 (1988).

milepost P-662.54, at Denison, and milepost P-673.05, at Sherman.³ MKT consummated the abandonment prior to the Lease, but did not remove the track and materials from the Line.

There has been no traffic moving over the Line in local or overhead service for over two years, since at the latest March 3, 1986.

The only alternative to discontinuance of service would be to continue to maintain but not use the Line. TNER provides overhead service through trackage rights over the Burlington Northern and Santa Fe Railway Company.⁴ TNER has not provided local or overhead service on the Line since TNER leased the property from UP on October 23, 1990. TNER believes that there is not a sufficient volume of traffic available to the Line to justify the costs of maintaining and operating the Line. Making a capital investment in the Line would not be a prudent use of carrier resources. With no potential traffic, TNER has decided to seek to discontinue service over the Line.

A map of the proposed discontinuance of service is attached hereto as Exhibit 1.

HISTORIC REPORT

1. A U.S.G.S. topographic map (or alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;

U.S. Geological Survey Maps have been supplied to the Texas Historical Commission ("TXHC").

³ *Missouri-Kansas-Texas Railroad Company—Abandonment Exemption—in Grayson County, TX*, ICC Docket No. AB-102 (Sub-No. 21X), 4 I.C.C.2d 409, 488-489 (1988).

⁴ *Texas Northeastern Division, Mid-Michigan Railroad, Inc.—Trackage Rights Exemption—Burlington Northern Railroad Company*, ICC Finance Docket No. 32255 (ICC served March 9, 1993).

2. A written description of the right of way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;

The Line runs 10.51 miles in a north northeasterly direction from Sherman, TX to Denison, TX. TNER, as lessee of the Line, does not know the width of the right-of-way.

On leaving Sherman, the Line follows a gentle upward slope for about two miles and then follows a gently rolling downward slope into Denison. Outside of the urban areas of Sherman and Denison, the Line traverses rural areas. It crosses one major highway and several local roads. The Line is northwest of and nearly parallels U.S. Highway 75 between Sherman and Denison.

3. Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

There are no railroad structures on the Line that are 50 years old or older. Therefore, no photographs are enclosed.

4. The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known;

To the best of TNER's knowledge, there are no structures on the Line that are 50 years or older. Because of the topography of the Line, it was unnecessary to construct any structures.

TNER contacted TXHC. See Exhibit 2. No response has been received. A copy of this Report has been mailed to TXHC.

5. A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action;

There have been no operations on the Line since 1986. TNER has conducted operations between Sherman and Denison via trackage rights over the Burlington Northern and Santa Fe Railway Company.⁵

6. A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic;

Union Pacific Railroad Company ("UP"), the owner of the Line, possesses the valuation maps of the Line. TNER is not aware of any other documentation in its possession.

7. An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

TNER believes that neither the structures on the Line nor the Line itself are unusual or noteworthy for inclusion on the National Register of Historic Places. It is also TNER's opinion that there are no archeological resources or other railroad related historic properties in the project area.

8. A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic waste), and the surrounding terrain.

TNER believes that there are no existing records as to the nature of any known subsurface ground disturbance or fill, or environmental conditions that might affect the archeological recovery of any potential resources.

⁵ *Texas Northeastern Division, Mid-Michigan Railroad, Inc.—Trackage Rights Exemption—Burlington Northern Railroad Company*, ICC Finance Docket No. 32255 (ICC served March 9, 1993).

9. Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specific non railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (*i.e.* prehistoric or native American).

TNER does not foresee the likelihood that any additional information will need to be supplied in association with the proposed line discontinuance of service other than that information previously submitted. But, if any additional information is requested, TNER will promptly supply the necessary information.

EXHIBIT 1

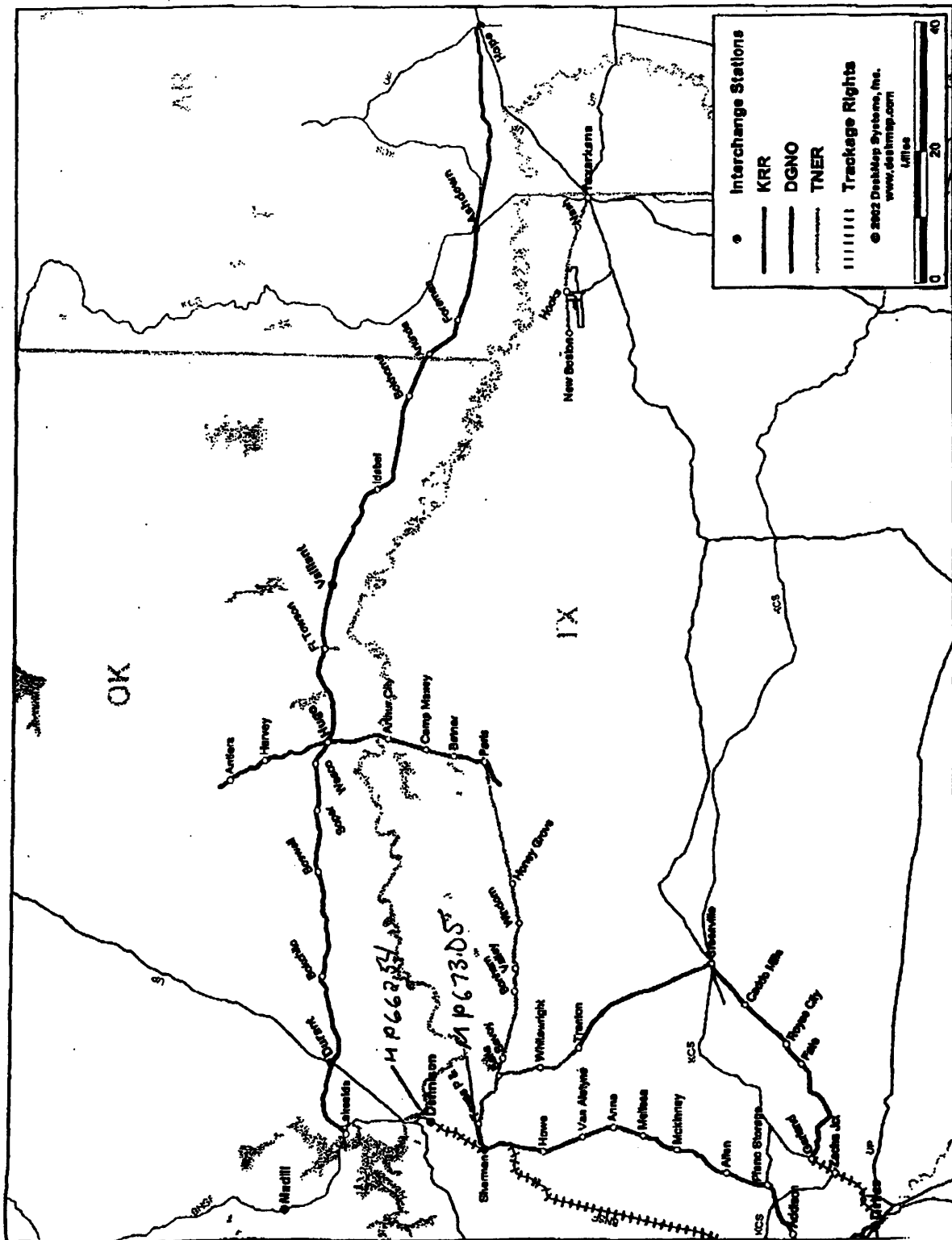


EXHIBIT 2

TEXAS NORTHEASTERN RAILROAD
5300 BROKEN SOUND BLVD., N.W. 2ND FLOOR
BOCA RATON, FL 33487
OFFICE (561) 994-6015
FAX (561) 994-4629

December 20, 2002

Texas Historical Commission
P.O. Box 12276, Capitol Station
Austin, TX 78711

RE: Docket No. AB-364 (Sub-No. 5X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance Exemption--In Grayson County, TX*

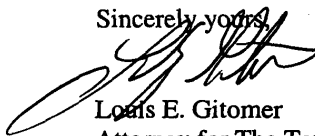
Dear Sir or Madam:

On or about January 9, 2003, we expect to be filing with the Surface Transportation Board ("STB") a notice of exemption seeking authority to discontinue service over The Texas Northeastern Division, Mid-Michigan Railroad, Inc.'s 10.51-mile rail line between Denison, milepost 662.54, and Sherman, milepost 673.05, all in Grayson County, TX.

Attached are Environmental and Historic Reports describing the proposed action and any expected environmental effects, as well as a map of the affected area. We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423, telephone 202-565-1538 and refer to the above Docket No. AB-364 (Sub-No. 5X).

Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to our representative) would be appreciated within 3 weeks. Your comments will be considered by the STB in evaluating the environmental impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. Our representative in this matter is Louis E. Gitomer who may be contacted by telephone at 202-638-3307, email at lgitomer@dc.bjllp.com, or mail at Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Sincerely yours,



Louis E. Gitomer
Attorney for The Texas Northeastern
Division, Mid-Michigan Railroad, Inc.

Enclosure