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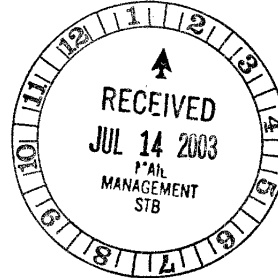
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JOHN H. BROADLEY
SURFACE
TRANSPORTATION BOARD July 14, 2003



Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street NW, Suite 700
Washington, D.C. 20423-0001

Re: AB No. 295 (Sub-No. 5X) The Indiana Rail Road Company -- Exemption --
Abandonment and Discontinuance of Trackage Rights in Monroe County,
Indiana

Dear Mr. Williams:

Enclosed please find an original and 11 copies of The Indiana Rail Road Company's Petition for Exemption for the abandonment of certain lines and the discontinuance of associated trackage right in Monroe County, Indiana. Please file stamp the extra copy and return it with our messenger.

I have also enclosed a check in the amount of \$4700.00 representing the filing fee for a petition for exemption for the abandonment of a line or discontinuance of trackage rights.

Should you have any questions concerning this matter, please do not hesitate to call me at the above number.

Yours very truly,

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BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.

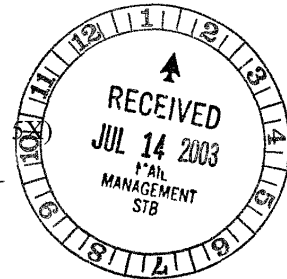
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The Indiana Rail Road Company -- Exemption --
Abandonment and Discontinuance of Trackage
Rights in Monroe County, Indiana

AB 295 (Sub-No. 208365)



**PETITION OF THE INDIANA RAIL ROAD COMPANY FOR EXEMPTION
OF THE ABANDONMENT OF CERTAIN LINES AND THE DISCONTINUANCE OF
TRackage RIGHTS IN MONROE COUNTY INDIANA
(CITY OF BLOOMINGTON, IN)**

The Indiana Rail Road Company (INRD) seeks exemption pursuant to 49 U.S.C. 10502 permitting INRD to abandon 0.97 miles of its line in Monroe County, IN from milepost B 1.71 in the north to milepost B 2.68 in the south. The line to be abandoned runs from Rogers Street in the north to Country Club Road in the south. The line to be abandoned will be referred to as the "Line."

INRD accesses the Line via trackage rights over a CSX Transportation, Inc. ("CSXT") line in Bloomington. Those trackage rights run from CSXT milepost 219.0 to CSXT milepost 221.87, a distance of approximately 2.87 miles and also extend over approximately 150 feet of CSXT's track no. 68 and approximately 285 feet of CSXT's track no. 21 in CSXT's McDoel Yard in Bloomington. The total length of the trackage rights is approximately 2.95 miles. INRD seeks exemption to discontinue those trackage rights. The trackage rights sought to be discontinued will be referred to as the "Trackage Rights."

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In a parallel proceeding CSX Transportation, Inc. ("CSXT") has filed a petition for exemption for the abandonment of its line in the City of Bloomington over which INRD's trackage rights run. The abandonment is being pursued with a view to sale of CSXT's line to the City of Bloomington for construction of a trail and the elimination of 13 highway-rail grade crossings in the City of Bloomington. *See* Docket No. AB-55 (Sub-No. 634X), *CSX Transportation, Inc. -- Abandonment Exemption -- In Monroe County, IN*, filed June 30, 2003. INRD also contemplates the sale of the Line to the City of Bloomington for the same purposes.

STATEMENT OF FACTS

There is only one shipper on the Line that has received rail service in the past three years, the Indiana Warehouse. The only commodities moved to or from the Indiana Warehouse by rail were refrigerators produced at the GE refrigerator plant in Bloomington. The refrigerators were moved to the Indiana Warehouse for temporary storage primarily in 2001. The GE's use of the Indiana Warehouse for temporary storage of refrigerators ended in 2002. This is reflected in the traffic figures. Traffic on the Line was 1748 cars in 2001, 279 cars in 2002, and 0 cars in the first four months of 2003. The refrigerators previously moved to and from the Indiana Warehouse on the Line for temporary storage continue to move by rail direct from the GE facility in Bloomington, but not through the Indiana Warehouse. Another warehouse on the Line, the Thompson Warehouse, potentially could use rail service. That warehouse, however, has not used rail service within the past three years and INRD is not aware of any interest on behalf of Thompson Warehouse in using rail service.

The Trackage Rights are the means by which INRD accesses the Line. This is illustrated in the schematic map attached as Exhibit No. 1. Thus, historic traffic moving over the

Trackage Rights has included refrigerator traffic moving to and from the Indiana Warehouse. In addition, INRD has a haulage agreement with CSXT under which it hauls CSXT traffic from Bloomington to Indianapolis. At present, INRD picks up the haulage traffic at McDoel Yard and moves it over the Trackage Rights to the INRD main line and then north to Bloomington. Again, this move is illustrated on the schematic map attached as Exhibit No. 1. The CSXT haulage traffic is primarily refrigerators originating at the GE refrigerator plant in Bloomington, though historically the haulage has also included a limited amount of other traffic as illustrated below:

Year	GE Refrigerators (cars)	Other (Lumber, Paper, Plastic) (cars)	Total (cars)
2001	3517	98	3615
2002	4152	328	4480
2003 (4 mo.)	1206	90	1296

After CSXT abandons its line and INRD discontinues its Trackage Rights, INRD will continue to haul CSXT's GE refrigerator traffic. However, instead of INRD picking up that haulage traffic at CSXT's McDoel Yard, in the future INRD will pick it up at a rehabilitated siding closer to the GE facility in north Bloomington. That siding is shown on the schematic map at Exhibit No. 1. INRD plans to lease the CSXT line necessary to move the GE refrigerator traffic from the new siding to its main line. INRD haulage service from the rehabilitated siding will not require use of the Trackage Rights. The only CSXT haulage traffic that will not continue to be handled by INRD is traffic that originates or terminates on the CSXT line over which the Trackage Rights run and which CSXT is seeking exemption to abandon.

STATUTORY STANDARD FOR EXEMPTIONS

49 U.S.C. 10502(a) provides in part that:

In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the Board, to the maximum extent consistent with this part, shall exempt a person, class of persons, or a transaction or service whenever the Board finds that the application in whole or in part of a provision of this part --

(1) is not necessary to carry out the transportation policy of section 10101 of this title; and

(2) either --

(A) the transaction or service is of limited scope; or

(B) the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.

49 U.S.C. 10502(g) provides that:

The Board may not exercise its authority under this section to relieve a rail carrier of its obligation to protect the interests of employees as required by this part.

ARGUMENT

Exemption in this case is warranted because regulation of the abandonment of the Line and the discontinuance of the Trackage Rights is not necessary to carry out the transportation policy of 49 U.S.C. 10101, nor is it necessary to protect shippers from the abuse of market power. Moreover, the proposed transaction is one of limited scope.

1. Regulation is not necessary to carry out the rail transportation policy.

In the absence of an exemption, INRD would have to file an application for a certificate of abandonment of the Line and for discontinuance of the Trackage Rights, all as provided by 49 U.S.C. 10903 and the Board's regulations in 49 CFR Part 1152. In a formal abandonment proceeding, the Board is required to determine whether the "public convenience and necessity" permits the abandonment and/or discontinuance requested. This term has been interpreted as requiring the Board to compare the cost to the carrier of being required to continue providing service over the line that it wants to abandon with the costs that the shippers and communities served by the

line will incur from the loss of railroad services. *Grand Prairie Coop, Inc. v. I.C.C.*, 16F.3d 789, 790 (7th cir. 1994) (citing *Colorado v. United States*, 271 U.S. 153, 168-70 (1926)). In this case, only one shipper served by the Line has used it in the past three years and that shipper's traffic terminated in 2002. There is little or no prospect that refrigerators will be moved through the Indiana Warehouse in the future. On the other hand, keeping the Line in service will require INRD to continue to maintain it and pay taxes on it. It will also impose on INRD significant opportunity costs as the City of Bloomington is prepared to purchase the Line for use as a trail and other recreation purposes. The shipper which has used the Indiana Warehouse in the past -- GE -- continues to move its refrigerators by rail as it will in the future. Requiring formal abandonment application for the abandonment of the Line is not necessary to carry out any of the aspects of the rail transportation policy identified in 49 U.S.C. 10101.

The same argument applies to the discontinuance of the Trackage Rights. INRD's use of the Trackage Rights to access the Line will, of course, be unnecessary if the Line is abandoned. The other use INRD makes of the Trackage Rights, movement of CSXT haulage traffic from McDoel Yard to the INRD main line for further movement to Indianapolis, will not be necessary when the pick-up point for the haulage traffic is changed to the rehabilitated siding shown on the schematic map at Exhibit No. 1. Again, with the exception of the haulage traffic that originates or terminates on the CSXT line which CSXT is seeking to abandon, the existing traffic will continue to move via INRD haulage. Requiring a formal discontinuance application for discontinuance of the Trackage Rights is not necessary to carry out any of the aspects of the rail transportation policy identified in 49 U.S.C. 10101.

Exempting the abandonment and discontinuance from regulation under 49 U.S.C. 10903, on the other hand, will promote the national rail transportation policy. By minimizing the administrative expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. 10101(7)]. An exemption will also foster sound economic conditions and encourage efficient management by relieving INRD from the cost of maintaining the Line and allowing it to realize the opportunity values in the Line and apply them more productively elsewhere on its rail system [49 U.S.C. 10101 [4] (5) and (9)]. Other aspects of the rail transportation policy will not be affected adversely.

2. Regulation is not necessary to protect shippers from the abuse of market power.

Regulation of the proposed transaction is not necessary to protect shippers from the abuse of market power because the Indiana Warehouse, the only facility served on the Line in the past three years, no longer receives refrigerators from GE by rail for temporary storage and there is no prospect of such traffic in the future. Those refrigerators now move direct by rail from the GE facility in Bloomington. The other potential shipper on the Line has not used rail service at all in the last three years.

3. The proposed transaction is of limited scope.

Because of the Line to be abandoned is short (0.97 mile) and there is presently no traffic on the Line or any prospect of traffic in the future, the Board should consider the abandonment transaction to be one of limited scope. Similarly, because the Trackage Rights will have no use once the Line is abandoned and INRD's pick-up point for its CSXT haulage traffic is changed as

described above, the Board should consider the discontinuance of the Trackage Rights as of limited scope.

INRD recognizes that the Board cannot exempt the transaction from the imposition of labor protective conditions and consents to the imposition of the labor protective conditions required by statute as interpreted by the Board.

Attached hereto as Exhibit No. 2 is an Environmental Report and a Historic Report as required by 49 CFR Part 1105. Petitioner certifies pursuant to 49 CFR 1105.7(c) that it sent copies of the Environmental Report and Historic Report to the persons listed in 49 CFR 1105.7(b) and to the state Historic Preservation Officer as required by 49 CFR 1105.8(c) on May 5, 2003 and that it has consulted with all appropriate agencies in preparation of this report. A copy of the letter of transmittal to such agencies is attached hereto as Exhibit No. 3. Copies of the comments received on the Draft Environmental and Historic Report are attached to the Environmental and Historic Report as Exhibit D to that Report.

Petitioner further certifies pursuant to 49 CFR 1105.7(c) that a notice will appear on July 15, 2003 in the Bloomington Herald-Times, a newspaper of general circulation in Bloomington, IN (Monroe County), giving notice of the proposed abandonment, of available reuse alternatives, and of how the public can participate in the STB proceeding.

A map as required by 49 CFR 1152.60(b) is attached as Exhibit A to the Environmental and Historic Report.

A copy of a draft Federal Register Notice as required by 49 CFR 1152.60(c) is attached hereto as Exhibit No. 4.

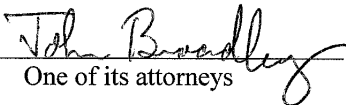
A verification by Thomas G. Hoback, President of INRD is attached as Exhibit No.

5.

Based on information in Petitioners' possession, the Line does not contain federally granted right-of-way. Any documentation in Petitioners' possession will be made available promptly to those requesting it.

Respectfully submitted,

THE INDIANA RAIL ROAD COMPANY

By: 
One of its attorneys

John Broadley
D.C. Bar No. 238089
John H. Broadley & Associates, P.C.
1054 31st Street NW, Suite 200
Washington, D.C. 20007
Tel. 202-333-6025
Fax 202-333-5685
E-Mail jbroadley@alum.mit.edu

Dated: July 14, 2003

Exhibit No. 1

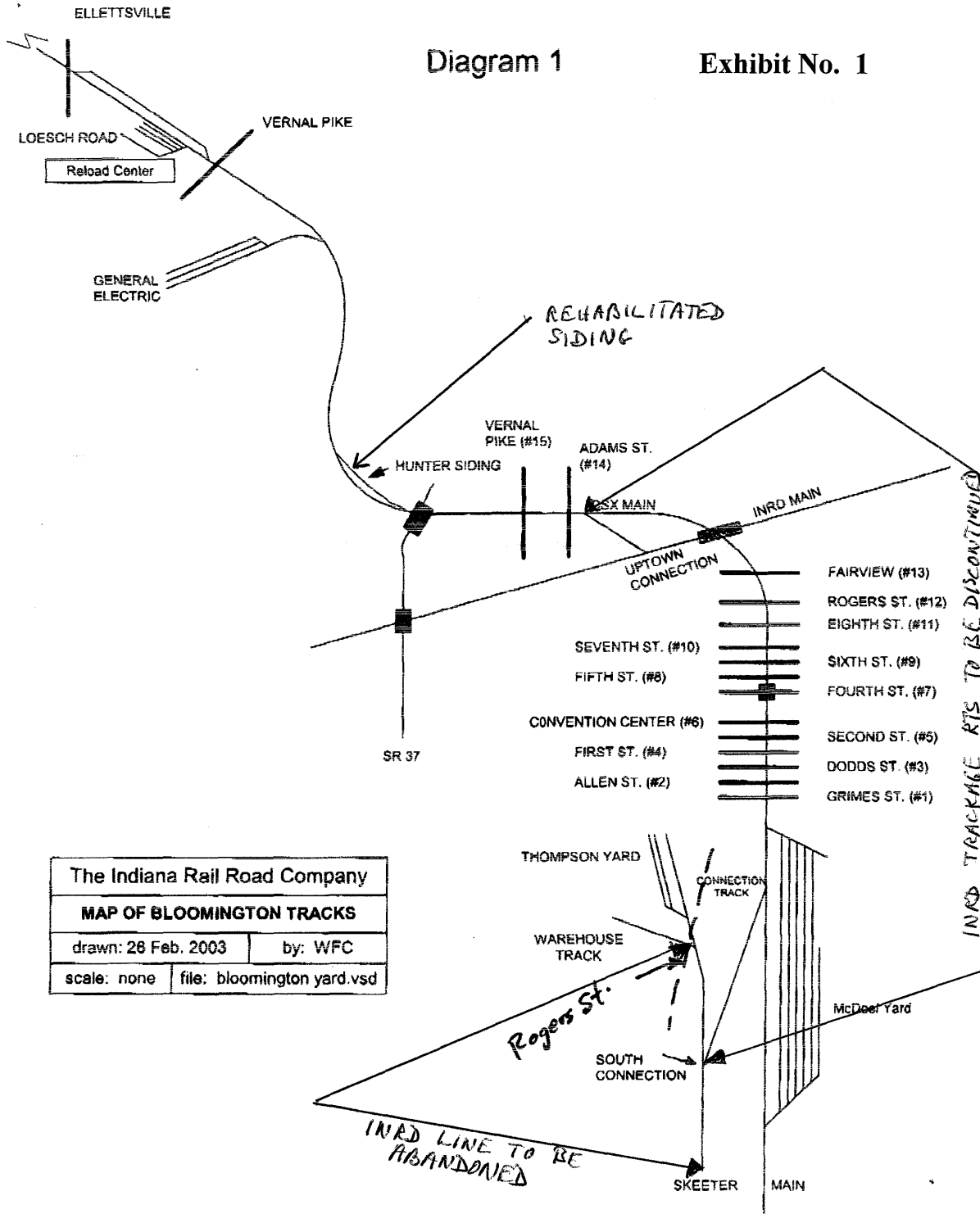


Exhibit No. 2

Exhibit No. 2

**BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.**

The Indiana Rail Road Company -- Exemption--
Abandonment of Line and Discontinuance
of Trackage Rights in Monroe County, Indiana

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AB 295 (Sub-No. 5X)

ENVIRONMENTAL REPORT

This environmental report is submitted to the Surface Transportation Board pursuant to 49 CFR Part 1105.

BACKGROUND

The Indiana Rail Road Company ("INRD") intends to petition the Surface Transportation Board for an exemption permitting it to abandon approximately one mile of its line in Bloomington, Indiana, and to discontinue trackage rights over a CSXT line that connects the line proposed to be abandoned to INRD's main line in the city of Bloomington. The trackage rights extend over approximately 2.87 miles.

49 CFR 1105.7(b) requires that at least 20 days before filing its petition for exemption for abandonment the petitioner must prepare and serve on specified agencies a copy of its environmental report. In its final Environmental Report filed with the Surface Transportation Board, the petitioner must certify that it has served the environmental report on the specified agencies and that it has consulted with all appropriate agencies in preparing the report. Comments of agencies served with this Environmental Report should be made as follows:

In writing to:

John Broadley
John H. Broadley & Associates, P.C.
1054 31st Street, N.W. Suite 200
Washington, D.C. 20007

By telephone to:

John Broadley
Tel. 202-333-6025

By e-mail to:

jbroadley@alum.mit.edu

REPORT

This Report follows the outline contained in 49 CFR 1105.7(e) and the paragraph numbers correspond to the paragraph numbers in that section.

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.*

INRD proposes to abandon that section of its rail line in Bloomington, Monroe County, Indiana that extends from milepost B1.71 south to milepost B 2.68, a distance of 0.97 miles (henceforth the "Line"). INRD also proposes to discontinue its trackage rights over CSXT's line in Bloomington between CSXT mileposts 221.87 and 219.0 and over approximately 150 feet of CSXT's track no. 68 and approximately 285 feet of CSXT's track no. 21 in CSXT's McDoel Yard in Bloomington which connect the Line to INRD's main line in Bloomington, IN.

The commodities transported on the Line in 2001, 2002, and in the first four months of 2003 were refrigerators being moved to or from the Indiana Warehouse.

Petitioner plans to sell the Line as is, with the rail, ties and other track materials in place, to the City of Bloomington upon the abandonment becoming effective. The right-of-way of the line to be abandoned is approximately 50' wide and is owned in fee simple by INRD.

The only customer served by INRD affected by this abandonment is the Indiana Warehouse. This facility will be served in the future by motor carrier deliveries. Other than the termination of service to the Indiana Warehouse there will be no affect on shippers from the proposed abandonment and discontinuance. Following abandonment of the Line (and discontinuance of the trackage rights) and abandonment of adjacent CSXT trackage, the Line will be conveyed to the City of Bloomington for use as a public park and trail.

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 .*

The proposed abandonment will have no effects on regional transportation systems and patterns. Its effect on local transportation systems and patterns will be *de minimis*. The traffic on the Line has steadily declined from 1748 cars in 2001 to 279 cars in 2002 and to 0 cars in the first four months of 2003. Because the Line is now handling 0 car per month the effect on traffic on other transportation modes will be minor to nonexistent. The refrigerators previously moved on the Line to and from the Indiana Warehouse will continue to move by rail from the GE facility in Bloomington, though not through the Indiana Warehouse.

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 inconsistency.*

The proposed abandonment is consistent with local land use plans.

(ii.) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

The proposed abandonment is in the City of Bloomington and has no impact on prime agricultural land.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by section 1105.9.

The proposed abandonment is not within a designated coastal zone.

(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. 10906 and explain why.

The right-of-way is suitable for alternative public uses. The city of Bloomington wants to purchase the property for public use and INRD is prepared to sell the property to the city. The right-of-way involved is short (approximately 1 mile), and is in a generally industrial and commercial section of Bloomington. INRD will voluntarily withhold sale of the Line to persons other than the city of Bloomington for 180 days after the effective date of the abandonment to permit a sale agreement to be negotiated between INRD and the city.

4. Energy: *(i) Describe the effect of the proposed action on transportation of energy resources.*

The proposed abandonment will have no effect on the transportation of energy resources.

(ii) Describe the effect of the proposed action on recyclable commodities.

The proposed abandonment will have no effect on recyclable commodities.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The proposed abandonment will have no effect on energy efficiency. The products previously moved on the Line will continue to move by rail though over routings that do not involve interim storage at the Indiana Warehouse.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1000 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 change in energy consumption and show the data and methodology used to arrive at the figure given.

The proposed abandonment would not meet either of the foregoing thresholds.

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. . . .

The proposed abandonment meets none of the three thresholds.

(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

The proposed abandonment meets none of the three thresholds.

(iii) If the 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.

The proposed abandonment does 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.

The proposed abandonment will not cause any increase in noise level.

7. Safety. *(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).*

The proposed abandonment will have no effect on public health and safety.

(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.

The proposed abandonment will not cause hazardous materials to be transported.

(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.

Petitioners are not aware of any hazardous waste sites where hazardous materials have been spilled on the right-of-way 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.*

The proposed abandonment will not affect endangered or threatened species or areas designated as a critical habitat.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

The proposed abandonment will not affect any wildlife sanctuary or refuge or any National or State parks or forests.

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.*

The proposed abandonment is consistent with Federal, State and local water quality standards.

(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.

The proposed abandonment does not require permits under section 404 of the Clean Water Act, and no designated wetlands or 100-year flood plains will be affected.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

The proposed abandonment does not require permits under section 402 of the Clean Water Act.

10. Proposed Mitigations: *Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.*

No actions are proposed to mitigate adverse environmental impacts as there are none.

11. Additional Information for Rail Constructions:

Not Applicable.

HISTORIC REPORT

This Historic Report is prepared in accordance with 49 CFR 1105.8(d). The information required by 49 CFR 1105.7(e)(1) is set forth above. Following is the information required by sections 1105.8(d)(1) -(8).

1. *A USGS topographical map (or an 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 dimension of railroad structures that are 50 years old or older and are part of the proposed action.*

A map is attached hereto as Exhibit A which shows the location of the Line in the city of Bloomington. . The only structures in the vicinity of the proposed abandonment are the Indiana Warehouse which lies to the east of the Line. The only railroad structure on the Line is a small bridge located at MP B-1.8. The last two photographs in Exhibit C to this report show the bridge.

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 right-of-way is approximately 50 feet wide. The general area is semi-urban, though the Line itself is not in a highly developed area. The only significant building on either side of the Line is the Indiana Warehouse.

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;*

Attached as Exhibit C are photographs of the Line showing the Line itself and the area adjacent on the west and east for the entire one mile length to be abandoned. As is apparent, there are no structures on the property that are 50 years old or older other than the small bridge located at MP B-1.8 which was likely built in 1928, and has been rebuilt several times since then.

The photographs are numbered (other than those of the Bridge) and keyed to the accompanying maps (Exhibits B-1 and B-2).

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.*

INRD believes the small bridge shown on photograph nos. 21 and 22 was built in approximately 1928. As noted above, it has been rebuilt several times since then, including in 1997.

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.*

The Line comprises approximately one mile of the former Illinois Central line. INRD acquired the Line as part of the IC line sale that resulted in the formation of INRD in 1986. The only business on the Line is the Indiana Warehouse. Upon abandonment, INRD anticipates selling the line to the city of Bloomington which will convert it to a trail.

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;*

Other than photographs 21 and 22 attached as part of Exhibit C, INRD has no documents that might be useful in documenting the small bridge located at MP B-1.8.

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 CFR 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.)*

Other than the small bridge described above, there are no structures on the Line. The petitioner has no information that would indicate that the right-of-way of the Line meets the criteria for listing on the National Register of Historic Places, nor is there any information suggesting that there is a likelihood of archeological resources or any previously unknown historic properties in the

right-of-way. Given the location of the Line and the nature of the surrounding area, applicants are of the opinion that there is no likelihood of either archeological resources or previously unknown historic properties in the right-of-way. In any event, the termination of operations and sale of the Line to the city of Bloomington for trail use is unlikely to disturb any subsurface archeological resources or previously unknown historic properties in the right-of-way.

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 man made) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.*

Petitioners are aware of no prior ground disturbances or fill or other environmental conditions that might affect the archeological recovery of resources. The surrounding terrain is dry and level and the ground well drained.

Respectfully submitted,

THE INDIANA RAIL ROAD COMPANY

By: John Broadley
One of its attorneys

John Broadley
DC Bar No. 238089
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Fax 202-333-5685
E-mail jbroadley@alum.mit.edu

Dated: July 14, 2003

Exhibit A
**(Map showing location of the Line to be
abandoned in the city of Bloomington, IN)**

Indiana University
Bloomington, IN 47405-1301

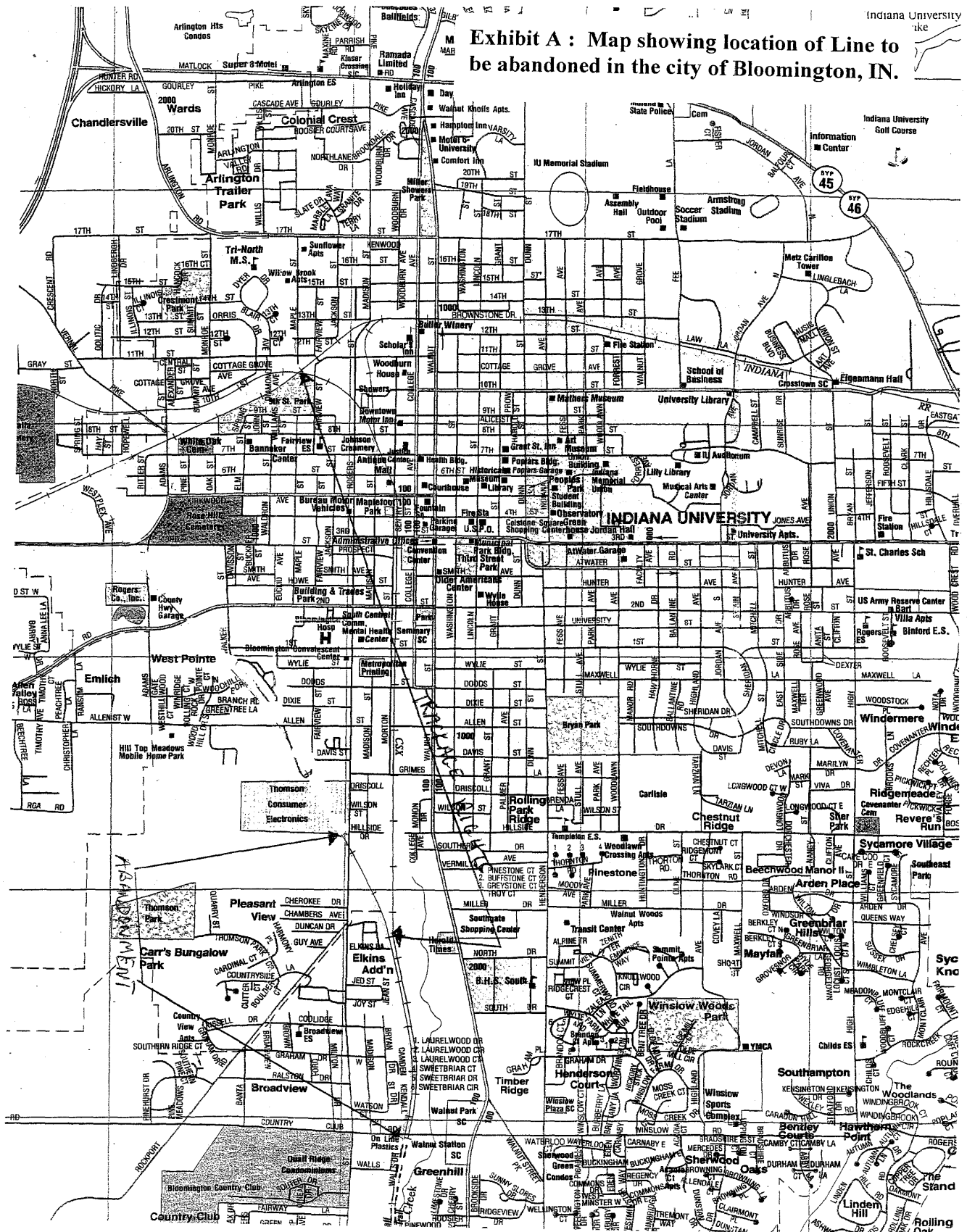


Exhibit B-1
**(Map of northern part of the Line to be
abandoned showing photo locations 1-11)**

Exhibit B-2

**(Map of southern part of the Line to be
abandoned showing photo locations 12-20)**

1. *Phragmites australis* (Cav.) Trin. ex Steud.



Exhibit C
(Photos of the Line Nos. 1-20 keyed to
Exhibits B-1 and B-2)

No. 1: At Rogers Street looking S.E. Indiana Warehouse is on the left of the photograph.



No. 2: At Rogers Street looking S.E. along the "Warehouse Track"



No. 3: At the switch to Indiana Warehouse looking north. Main is on the left.



No. 4: Looking west at the spur into Indiana Warehouse.



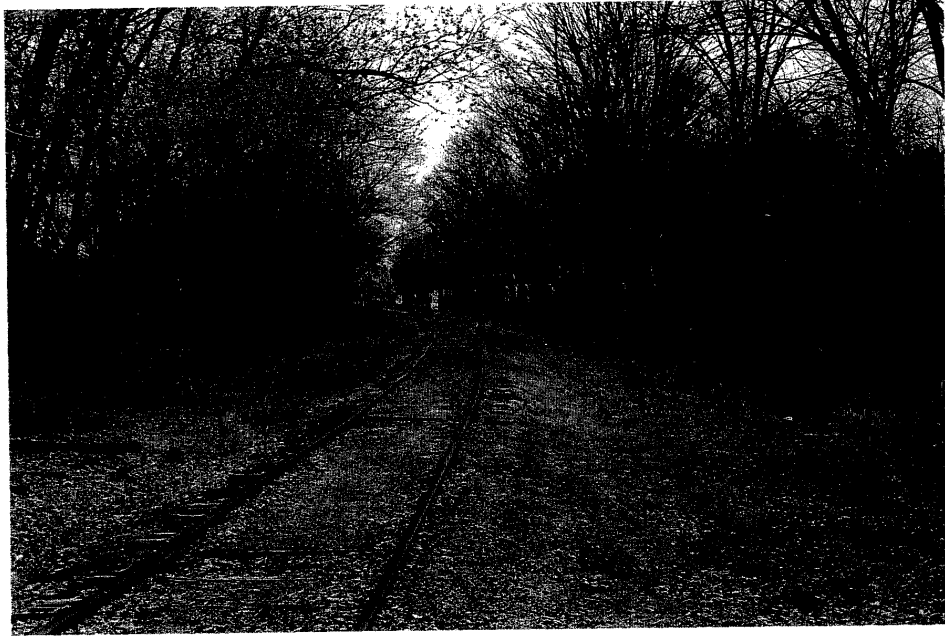
No. 5: Looking N.W. at the switch to Indiana Warehouse. Rogers Street is beyond.



No. 6: At Indiana Warehouse switch looking S.W. (perpendicular to track)



No. 7: Looking N.W. at Main Line



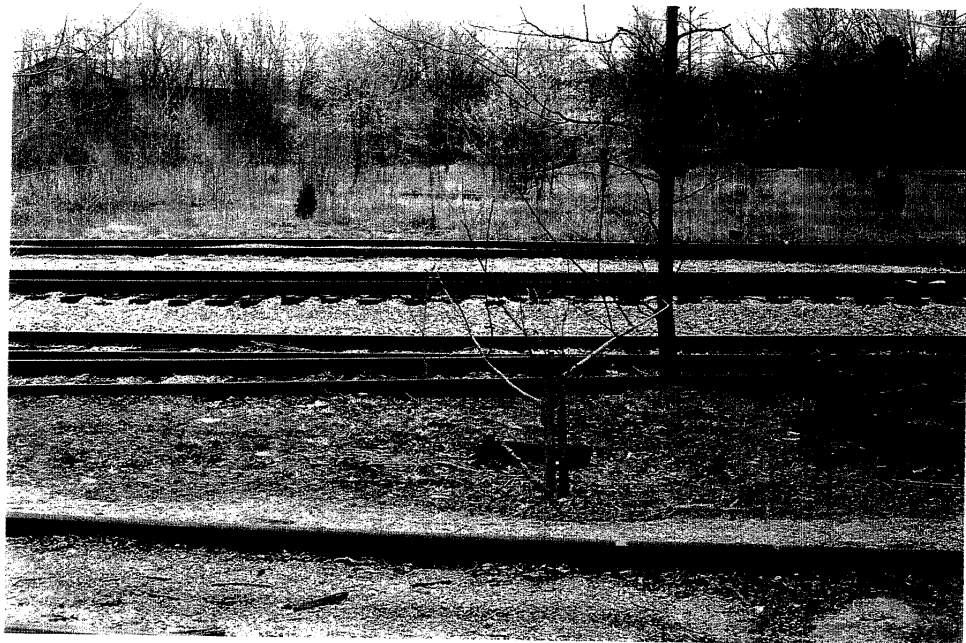
No. 8: At the connecting track switch with CSXT looking north



No. 9: At the switch to the connecting track with CSXT looking west perpendicular to track.



No. 10: At the switch to connecting track with CSXT, looking east at McDoel Yard.



No. 11: Looking south at the switch for the connecting track with CSXT. CSXT on the left. "Skeeter" line straight ahead. Country Club Road beyond.



No. 14: Looking south at Country Club Road and the beginning of the Clear Creek trail



No. 15: Looking west at Country Club Road



No. 16: Looking north at Country Club Road



No. 17: Looking west (residential area) 1000' north of Country Club Road



No. 18: Looking north 1000' north of Country Club Road



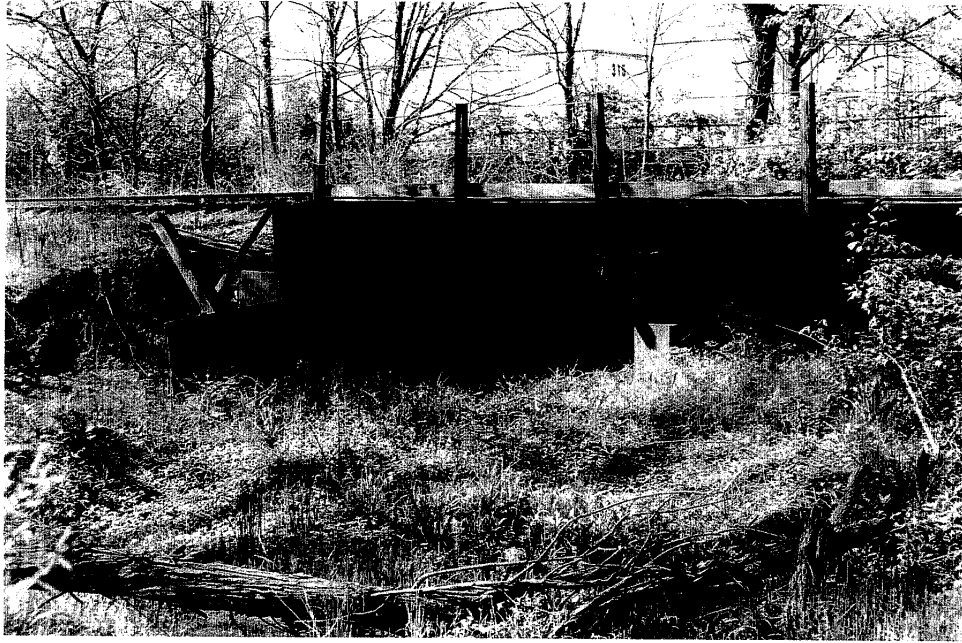
No. 19: Looking east at McDoel Yard 1000' north of Country Club Road



No. 20: Looking south towards Country Club Road from 1000' north of Country Club Road



No. 21: Bridge at XA-1.8 (Shown on Map attached as Exhibit B-1)



No. 22: Bridge at XA-1.8 (Shown on Map attached as Exhibit B-1)



Exhibit D

(Comments on Environmental and Historic Report)



Indiana Department of Natural Resources

Division of Historic Preservation & Archaeology • 402 W. Washington Street, W274 • Indianapolis, IN 46204-2739
Phone 317-232-1646 • Fax 317-232-0693 • dhpa@dnr.state.in.us

Frank O'Bannon, Governor
John Goss, Director



June 18, 2003

John Broadley
John H. Broadley & Associates, P.C.
Canal Square
1054 Thirty-first Street, Northwest
Washington, D.C. 20007

Federal Agency: Surface Transportation Board ("STB")

Re: Additional information regarding the abandonment of Indiana Rail Road Company's Skeeter line, between mileposts B1.71 and B2.68, and discontinuance of trackage rights over CSXT's lines, between Country Club Road (milepost 221.87 and ES 141+60) and Rogers Street (milepost 219.47 and ES 88+84) (AB-295 [Sub no. 5x])

Dear Mr. Broadley:

Pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO") has conducted an analysis of the materials dated May 5, 2003, and received on May 13, 2003, for the above indicated project in Bloomington, Bloomington and Perry townships, Monroe County, Indiana.

Based upon the documentation available at Indiana SHPO, we have not identified any archaeological resources listed in or eligible for inclusion in the National Register of Historic Places within the probable area of potential effects.

Be advised that if any archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days. In the event that artifacts or features are discovered during the implementation of the Federally assisted project, activity, or program and a plan has not been developed, it is the Federal agency's responsibility to make reasonable efforts to avoid, minimize or mitigate adverse effects in accordance with 36 C.F.R. § 800.13.

However, in regard to buildings and structures, we have identified the following properties within the probable area of potential effects, and we believe that they meet the criteria to be considered eligible for inclusion in the National Register of Historic Places due to their historical and architectural significance:

The Adams Brothers Houses and Carriage House at 431 - 441 South College Avenue is a work of a master Chicago architectural firm, Holabird and Roche.

The Henderson House at 748 South Morton Street is a good example of the five bay, central entrance, I house form.

Additionally, we have identified the following properties within the probable area of potential effects that are listed in the National Register:

The Courthouse Square Historic District was listed December 18, 1990.

The Near West Side Historic District was listed February 14, 1997.

The Cochran-Lindley House 405 North Rogers was listed June 20, 1979.

The Second Baptist Church at 321 North Rogers was listed September 14, 1995.

The Seminary Square Park at the intersection of College Avenue and East Second Street was listed September 19, 1977.

John Broadley
June 18, 2003
Page 2

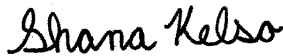
Based on the information provided to our office, we believe that there will not be any alterations to the characteristics of the above identified historic properties qualifying them for inclusion in or eligibility for the National Register (*see* 36 C.F.R. § 800.16[i]).

Upon completing its own identification and evaluation efforts, it would be appropriate for the STB to analyze the information that has been gathered from the Indiana SHPO, the general public, and any other consulting parties and make the necessary determinations and findings. Refer to the following comments for guidance:

- 1) If the STB believes that a determination of "no historic properties affected" accurately reflects its assessment, then it shall provide documentation of its finding as set forth in 36 C.F.R. § 800.11 to the Indiana SHPO, notify all consulting parties, and make the documentation available for public inspection (36 C.F.R. §§ 800.4[d][1] and 800.2[d][2]).
- 2) If, on the other hand, the STB finds that an historic property may be affected, then it shall notify the Indiana SHPO, the public and all consulting parties of its finding and seek views on effects in accordance with 36 C.F.R. §§ 800.4(d)(2) and 800.2(d)(2). Thereafter, the STB may proceed to apply the criteria of adverse effect and determine whether the project will result in a "no adverse effect" or an "adverse effect" in accordance with 36 C.F.R. § 800.5.

We look forward to receiving notice of the STB's findings. *A copy of the revised 36 C.F.R. Part 800 that went into effect on January 11, 2001, may be found on the Internet at www.achp.gov for your reference.* If you have questions about our comments, please call Shana Kelso at (317) 232-1646.

Very truly yours,



for: Jon C. Smith
Deputy State Historic Preservation Officer

JCS:SNK:WLM:snk

cc: Elaine K. Kaiser, Surface Transportation Board



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Bishop Henry Whipple Federal Building
1 Federal Drive
Fort Snelling, MN 55111-4056

IN REPLY REFER TO:

FWS/NWRS-RE - General
Railroad Abandonments

May 8, 2003

Mr. John Broadley
John H. Broadley &
Associates, P.C.
1054 31st Street NW
Suite 200
Washington, D.C. 20007

Dear Mr. Broadley:

Thank you for the opportunity to comment on the proposed abandonment of the rail line in Monroe County, Indiana: STB Docket No. AB 295 (Sub-No. 5X).

We have researched our ownership in the vicinity and have determined we do not own any lands or interests in land in the vicinity of the proposed rail line abandonment. We do not have any concerns regarding real estate matters in the abandonment.

Sincerely,

Patrick G. Carroll
Senior Realty Officer
Division of Realty



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V
77 West Jackson Boulevard
Chicago, IL 60604

Date: 5/19/03

Document: THE INDIANA RAILROAD COMPANY-ABANDONMENT AND DISCONTINUANCE
EXEMPTION- LINES AND TRACAGE RIGHTS, IN MONROE COUNTY, IN
STB DOCKET NO. AB 295 (Sub-No. 5X)

Dear Interested Party:

The Environmental Planning and Evaluation Branch has received the document listed above. Under the National Environmental Policy Act (NEPA), the Council on Environmental Quality regulations, and Section 309 of the Clean Air Act; U.S. EPA reviews and comments on major federal actions. Typically, these reviews focus on Environmental Impact Statements, but we also have the discretion to review and comment on other environmental documents prepared under NEPA if interest and resources permit.

We did not undertake a detailed review of the document you sent to this office, and will not be generating comments because of the reason selected below.

- ☐ The document was not prepared under NEPA.
- ☐ The document was given a cursory review, but other workload priorities precluded us from undertaking a detailed review and generating comments.
- ☒ The document was given a cursory review, and we determined that there were no significant concerns meriting comment.
- ☐ We opted to wait for the next level of documentation on this project before deciding whether or not to comment.

We reserve the right to reconsider undertaking a review at future planning stages, or if significant new data on the project is made available by the sponsoring agency or other interested parties. Thank you for providing information on the project.

Sincerely,

Kenneth A. Westlake, Chief
Environmental Planning and Evaluation Branch

Exhibit No. 3

LAW OFFICES

JOHN H. BROADLEY & ASSOCIATES, P.C.

CANAL SQUARE
1054 THIRTY-FIRST STREET, N.W.
WASHINGTON, D.C.
20007

(202) 333-6025
(202) 333-5685 FAX

INTERNET
JBROADLEY@ALUM.MIT.EDU

May 5, 2003

JOHN H. BROADLEY

Frank Sullivan, Budget Director
State Budget Agency
212 State House
Indianapolis, IN 46204

Department of Environmental Management
P.O. Box 6015
101 North Senate Avenue
Indianapolis, IN 46204

Monroe County Commissioners
County Court House
Bloomington, IN 47404

Environmental Protection Agency
Region 5
Metcalfe Building
77 West Jackson Blvd.
Chicago, IL 60604

U.S. Fish and Wildlife Service
Region 3
One Federal Drive
BHW Federal Building
Fort Snelling
Twin Cities, MN 55111

U.S. Army Corps of Engineers
U.S. Army Engineering Division, North Central
111 North Canal Street
Chicago, IL 60606-7206

May 5, 2003

Page No. 2

Regional Director
National Park Service
Midwest Region
1709 Jackson St.
Omaha, NE 68102

Natural Resources Conservation Service
Indiana State Office
6013 Lakeside Boulevard
Indianapolis, IN 46278-2933

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

Department of Natural Resources
Division of Historic Preservation and Archeology
402 West Washington Street
Indiana Government Center South, Room W256
Indianapolis, IN 46204

Re: The Indiana Rail Road Company -- Abandonment and Discontinuance
Exemption -- Lines and Trackage Rights in Monroe County, IN, STB Docket
No. AB 295 (Sub-No. 5X)

Dear Sir/Madam:

On or shortly after May 30, 2003 we expect to file with the Surface Transportation Board a petition for exemption seeking authority for The Indiana Rail Road Company to abandon a section of its line located in Monroe County, Indiana between mileposts B1.71 and B 2.68, a distance of 0.97 miles and for The Indiana Rail Road Company to discontinue its trackage rights operation over a section of CSXT's line in the city of Bloomington between CSXT mileposts 221.87 and 219.47 which connect the Line to be abandoned to The Indiana Rail Road Company's main line in Bloomington, IN. Attached is an Environmental Report and a Historic Report describing the proposed action and any expected environmental and historic effects, as well as maps 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 Board's environmental review process, please contact the Section of

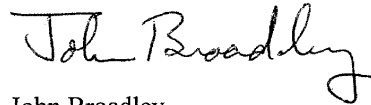
May 5, 2003

Page No. 3

Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street NW, Washington, D.C. 20423, telephone (202)565-1539, and refer to the above Docket No. AB 295 (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 the petitioners' representative, would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the environmental and historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact the petitioners' representative directly at the above address and telephone number.

Yours very truly,

A handwritten signature in cursive script that reads "John Broadley". The signature is written in dark ink and is positioned above the printed name and title.

John Broadley
Attorney for Petitioners

Enclosure

Exhibit No. 4

STB No. AB-295 (Sub-No. 5X)

Notice of Petition for Exemption to Abandon Line and
to Discontinue Trackage Rights

On July 14, 2003, The Indiana Rail Road Company filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment of a line of railroad known as the Bloomington Southern extending from Milepost B 1.71 south to Milepost B 2.68 in Bloomington, IN, which traverses through United States Postal Service Zip code 47403, a distance of 0.97 miles in Monroe County, Indiana and the discontinuance of overhead trackage rights over CSXT's line in Bloomington, IN extending from CSXT Milepost 219.0 to CSXT Milepost 221.87, a distance of approximately 2.87 miles and also extend over approximately 150 feet of CSXT's track no. 68 and approximately 285 feet of CSXT's track no. 21 in CSXT's McDoel Yard in Bloomington which traverses through United States Postal Zip codes 47403 and 47404. There are no stations on the line for which the abandonment exemption request was filed.

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.

The interest of railroad employees will be protected by Oregon Short Line conditions.

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during the preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Exhibit No. 5

VERIFICATION

I hereby verify under penalty of perjury that the facts stated in the foregoing Petition for Exemption are true and correct. I further certify that I am qualified and authorized to file this Petition for Exemption.

Thomas G. Hoback

Thomas G. Hoback

Dated: July 7, 2003

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of July 2003 I served a copy of the foregoing Petition for Exemption for Abandonment on the following:

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

National Park Service
Recreation Resources Division
P.O. Box 37127
Washington, D.C. 20013

National Park Service
Land Resources Division
P.O. Box 37127
Washington, D.C. 20013

U.S. Department of Agriculture
Chief of the Forest Service
P.O. Box 96090
Washington, D.C. 20050

Mr. E. Mayer Maloney, Jr.
The Herald Times
1900 South Walnut Street
P.O. Box 909
Bloomington, IN 47402

City of Bloomington
Office of the Mayor
401 N. Morton St.
Bloomington, IN 47402
Attn: Nathan Hadley

Dated: July 14, 2003

