

302520

BAKER & MILLER PLLC

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2401 PENNSYLVANIA AVENUE, NW
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ENTERED
Office of Proceedings
June 15, 2021
Part of
Public Record

CRYSTAL M. ZORBAUGH

(202) 663-7831 (Direct Dial)
E-Mail: czorbaugh@bakerandmiller.com

June 15, 2021

VIA E-FILING

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: Indiana Southwestern Railway Co. – Abandonment Exemption – In Posey and Vanderburgh Counties, IN, AB-1065 (Sub No. 4X)

Dear Ms. Brown:

Pursuant to 49 C.F.R. Part 1152, Subpart F – Exempt Abandonments and Discontinuances Indiana Southwestern Railway Co. is filing a verified notice of exemption to abandon rail service over approximately 20.367 miles of interconnecting rail lines as follows: (1) between milepost 227.5 (at Poseyville, IN) to milepost 243.2 (at the centerline of North. St. Josephs Ave near Evansville, Indiana), a total of approximately 15.7 miles; and (2) approximately 4.667 route miles from milepost 277.5 (at Poseyville, IN) to milepost 282.0 (at Cynthiana, IN) in Posey and Vanderburgh Counties, Indiana. A \$4,600.00 filing fee has been paid via Pay.gov. If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7831 or by e-mail: czorbaugh@bakerandmiller.com. If I am unavailable, you may contact William A. Mullins, who can be reached at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

FILED

June 15, 2021

SURFACE

TRANSPORTATION BOARD

Enclosures

cc: Kristin Bevil

Respectfully submitted,

/s/ *Crystal M. Zorbaugh*

Crystal M. Zorbaugh
Attorney for Indiana Southwestern Railway Co.

FEE RECEIVED

June 15, 2021

SURFACE

TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1065 (Sub. No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

**Kristin Bevil
General Counsel
PIONEER LINES, INC.
5619 DTC Parkway
Suite 650
Greenwood Village, CO 80111**

**William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7823
Fax: (202) 663-7849**

**Attorneys for Indiana Southwestern Railway
Co.**

June 15, 2021

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1065 (Sub No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

Indiana Southwestern Railway Co. (“ISW”) hereby submits a verified notice of exemption pursuant to 49 C.F.R Part 1152, Subpart F, Exempt Abandonments and Discontinuances of Service to abandon common carrier operations over approximately 20.367 miles of interconnecting rail lines (hereinafter, the “Lines”)¹ as follows: (1) between milepost 227.5 (at Poseyville, IN) to milepost 243.2 (at the centerline of North. St. Josephs Ave near Evansville, Indiana), a total of approximately 15.7 miles;² and (2) approximately 4.667 route miles from milepost 277.5 (at Poseyville, IN) to milepost 282.0 (at Cynthiana, IN) in Posey and Vanderburgh Counties, IN. The Lines remain out of service and no traffic has traversed the Lines in over a decade.

¹ The Lines were acquired in 2000. See Ind. Sw. Ry. Co.—Acquisition and Operation Exemption—Evansville Terminal Co., Inc. and AB Rail Inv., Inc., FD 33859 (S.T.B. served Mar. 28, 2000).

² ISW is keeping 1.5 miles of 10901 track beginning at milepost 243.2 and extending to milepost 244.7, which continues to be used to serve several customers located near Evansville, Indiana.

In accordance with the requirements of 49 CFR §§ 1152.50(b) and (d), ISW³ provides the following information in support of its abandonment notice of exemption:⁴

Certification: 49 CFR 1152.50(b)

ISW certifies that the Lines satisfy the criteria for abandonment under the exemption in 49 CFR Part 1152, Subpart F. See Verification of Thomas Hurlbut, Chief Financial Officer for Indiana Southwestern Railway Co. During the past two years, ISW has provided no local or overhead traffic over the Lines; overhead traffic, if there were any, could be rerouted over other lines; and no formal complaint has been filed by a user of rail service on the Lines or a state or local government entity acting on behalf of such user regarding cessation of service over the Lines is either pending before the Surface Transportation Board or any U.S. District Court or has been decided in favor of the complainant within the two-year-period. See Exhibit A – Combined Verification and Certification.

Proposed Consummation Date: 49 CFR 1152.50(d)(2)

The abandonment will be consummated on or after August 4, 2021 (50 days after filing the notice of exemption).

³ ISW is among 15 Class III railroads commonly controlled by Pioneer Railcorp, which on May 3, 2021, changed its legal name to Pioneer Lines, Inc.

⁴ ISW previously filed a verified notice of exemption to abandon 17.2 miles of the interconnecting rail lines in October 2010. After a trails' proponent filed a notice of interim trails use ("NITU"), the Surface Transportation Board ("Board") served a NITU on April 8, 2011. Ultimately, ISW was unable to reach an interim trail use/banking agreement with the Indiana Trails Fund, Inc. and the NITU expired on November 8, 2013. ISW did not file a notice of consummation of abandonment under 49 C.F.R. § 1152.29(e)(2) after the NITU expired. See Landowners—Mot. for Declaratory Order & Injunctive Relief, AB 1065 (Sub-No. 1X), slip op. at 2, 5 (S.T.B. served Jan. 27, 2020). Because ISW did not file a notice of consummation by the January 7, 2014, deadline, ISW's authority to abandon the Lines automatically expired and the Lines have remained within the Board's jurisdiction. *Id.*

Additional Information Required: 49 CFR 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

Exact name of applicant (49 CFR 1152.22(a)(1)):

Indiana Southwestern Railway Co.

Whether applicant is a common carrier by railroad (49 CFR 1152.22(a)(2)):

ISW is a Class III common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV.

Relief sought (49 CFR 1152.22(a)(3)):

ISW is invoking the Board's two-year-out-of-service class exemption procedures to abandon approximately 20.367 miles of interconnecting rail lines as follows: (1) between milepost 227.5 (at Poseyville, IN) to milepost 243.2 (at the centerline of North. St. Josephs Ave near Evansville, Indiana), a total of approximately 15.7 miles; and (2) approximately 4.667 route miles from milepost 277.5 (at Poseyville, IN) to milepost 282.0 (at Cynthiana, IN).

Map (49 CFR 1152.22(a)(4)):

A detailed map showing the location of the Lines is attached hereto as Exhibit B.

Applicant's representative (1152.22(a)(7)):

ISW's representatives to whom correspondence regarding this abandonment should be sent is:

William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7823
Fax: (202) 663-7849

USPS ZIP codes (49 CFR 1152.22(a)(8)):

The Lines traverse through United States Postal Service ZIP Code territories 47720, 47633, and 47612.

Suitability of the Lines for Other Public Purposes (49 C.F.R. § 1152.22(e)(4)):

The Lines have been dormant for over a decade. For the right-of-way underlying the Lines proposed for abandonment, ISW has a mix of fee simple and easement interests; thus, ISW may have certain corridors available for redeployment for alternative public use(s). The Lines does not contain any federally granted right-of-way. As appropriate, ISW is willing promptly to make available any information in its possession to anyone so requesting it.

Labor Protection

Because the Lines have been inactive for over a decade, no railroad employees will be adversely affected by the exercise of abandonment authority. Nevertheless, the interests of ISW's employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions set forth in Oregon Short Line R. Co – Abandonment – Goshen, 360 I.C.C. 91 (1979).

Certifications

Attached hereto as Exhibit C are Certificates of Service and Publication certifying that ISW has complied with the notice and newspaper publication requirements of 49 CFR 1152.50(d)(1) and 49 CFR 1105.12, respectively. Attached as Exhibit D is a certification of compliance with the advance notice requirements for Environmental and Historic Reports as set forth at 49 CFR 1105.11.

Environmental and Historic Report

As is reflected in the certificate of compliance with the provisions of 49 C.F.R. § 1105.11 (see Exhibit D), ISW has prepared a combined Environmental and Historic Report (“E&HR”) in anticipation of the proposed abandonment portion of the proceeding, which conforms to the requirements of 49 C.F.R. §§ 1105.7 and 1105.8. A copy of the E&HR is attached hereto as Attachment 1 to Exhibit D (§ 1105.11 certification).

Respectfully submitted,

/s/ ***Kristin Bevil***

Kristin Bevil
General Counsel
MISSISSIPPI CENTRAL RAILROAD CO.
5619 DTC Parkway
Suite 650
Greenwood Village, CO 80111

June 15, 2021

/s/ ***Crystal M. Zorbaugh***

William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
Suite 300
2401 Pennsylvania Ave, N.W.
Washington, D.C. 20037
Telephone: (202) 663-7823
Facsimile: (202) 663-7849

Attorneys for Indiana Southwestern Railway
Co.

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1065 (Sub. No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT A

**COMBINED VERIFICATION AND
CERTIFICATION**

COMBINED VERIFICATION AND CERTIFICATION

I, Thomas Hurlbut, Chief Financial Officer for Indiana Southwestern Railway Co. ("ISW") for the Indiana Southwestern Railway Co. ("ISW"), hereby verify and certify that no local traffic has moved over the approximately 20.367 miles of interconnecting ISW rail lines proposed for abandonment extending (1) between milepost 227.5 (at Poseyville, IN) to milepost 243.2 (at the centerline of North. St. Josephs Ave near Evansville, Indiana), a total of approximately 15.7 miles; and (2) approximately 4.667 route miles from milepost 277.5 (at Poseyville, IN) to milepost 282.0 (at Cynthiana, IN) in Posey and Vanderburgh Counties, Indiana for well over two years. I also hereby verify and certify that there is no overhead traffic on the Lines that have been, or would need to be, rerouted as a result of the proposed abandonment. I further verify and certify that no formal complaint filed by a user of rail service on the Lines (or filed by a state or local government entity acting on behalf of such user) regarding cessation of service over the Lines either is pending with this Board or any U.S. District Court or has been decided in favor of the complainant within the said two-year period. Lastly, I certify that I am duly authorized to make this verification pursuant to 28 U.S.C. 1746 and that the information contained in the foregoing abandonment notice of exemption is true and correct to the best of my information and belief.

Dated: June 14, 2021

A handwritten signature in black ink, appearing to read "Thomas Hurlbut", is written over a horizontal line.

Thomas Hurlbut
Chief Financial Officer for Indiana Southwestern
Railway Co.

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1065 (Sub. No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT B

MAP

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1065 (Sub. No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT C

**CERTIFICATIONS OF
SERVICE/PUBLICATION**

Certificate of Service

49 CFR 1152.50(d)(1) – Notice

I certify that, on May 19, 2021, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with the written notice of the intent of Indiana Southwestern Railway Co. to use the Board's notice of exemption procedures to abandon approximately 20.367 miles of rail Lines located in Posey and Vanderburgh, IN. I further certify that the Line does not contain any federally granted right of way.

Public Service Commission, et al.

Indiana Utility Regulatory Commission
PNC Center
101 W. Washington Street
Suite 1500E,
Indianapolis, IN 46204

DOT/PUC

Venetta Keefe
Rail Program Manager
Indiana Department of Transportation
100 North Senate Ave., IGCN N758-MM
Indianapolis, IN 46204

Department of Defense (Military Traffic Management Command, Transportation Engineering Agency, Railroads for National Defense Program)

David Dorfman
Headquarters Military Surface Deployment and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA
Railroads for National Defense Program
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

The National Park Service, Recreation Resources Assistance Division

Stephen Nofield
National Park Service
Rivers, Trails, and Conservation Assistance Program
1849 C. Street NW, Room 1344
Washington, DC 20240

Bert Frost
Regional Director, Regions 3,4, and 5
National Park Service
601 Riverfront Drive
Omaha, NE 68102-4226

U.S. Department of Agriculture, Chief of the Forest Service

Vicki Christiansen
Chief of the Forest Service
Sidney R. Yates Federal Building
201 14th Street SW
Washington, DC 20024

June 15, 2021

/s/ ***Crystal M. Zorbaugh***
Crystal M. Zorbaugh
Attorney for Indiana Southwestern Railway Co.

Certificate of Publication

49 CFR 1105.12 – Newspaper Notice

I certify that a “Notice of Intent to Abandon” was published in the form prescribed by the Board for a Notice of Exemption (49 CFR 1105.12). The notice was published one time on May 25, 2021, in the Posey County News, a newspaper of general circulation in Posey and Vanderburgh Counties, where the Lines are located. See Attachment 1 – Proof of Publication.

June 15, 2021

/s/ *Crystal M. Zorbaugh*

Crystal M. Zorbaugh

Attorney for Indiana Southwestern Railway Co.

NOTICE OF INTENT TO ABANDON RAIL SERVICE

AB-1065 (Sub-No. 4x)

Indiana Southwestern Railway Co. ("ISW") gives notice that on or about June 10, 2021, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 - Exempt Abandonments and Discontinuances of Service permitting ISW to abandon approximately 20.367 miles of interconnecting rail lines (hereinafter, the "Lines") as follows: (1) between milepost 227.5 (at Poseyville, IN) to milepost 243.2 (at the centerline of North. St. Josephs Ave near Evansville, Indiana), a total of approximately 15.7 miles; and (2) approximately 4.667 route miles from milepost 277.5 (at Poseyville, IN) to milepost 282.0 (at Cynthiana, IN in Posey and Vanderburgh, Counties, IN. The subject rail lines traverse through United States Postal Service ZIP Code territories 47720, 47633, and 47612. The proceeding will be docketed as AB-1065X (Sub-No. 4x).

The proposed action entails the abandonment of rail service over the Line. For abandonments, the Board's Office of Environmental Analysis ("OEA") generally will prepare an Environmental Assessment ("EA"), which normally will be available 25 days after the filing of the abandonment notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public. Such comments will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to OEA, Surface Transportation Board, 395 E Street, SW, Washington, D.C. 20423, or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance ("OFA") to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails public use, and OFA) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR § 1104.12(a)]. Questions regarding OFAs, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on the applicant's representative: Crystal M. Zorbaugh, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037; phone: 202-663-7820; fax 202-663-7849.

Published in the Posey County News on May 25, 2021 - hspaxlp

.....
(Governmental Unit)

To.....

.....County, Indiana.....

PUBLISHER'S CLAIM**LINE COUNT**

Display Master (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) -- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

27 lines, 3 columns wide equals equivalent lines at 1.3286 cents per line

\$ 35.87

Additional charges for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

TOTAL AMOUNT OF CLAIM

\$ 35.87

DATA FOR COMPUTING COST

Width of single column in picas.....

Size of type...7...point.

Number of insertions.....1.....

Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper1..... times. The dates of publication being as follows:

May 25, 2021

Additionally, the statement checked below is true and correct:

..... Newspaper does not have a Web site.

..X.. Newspaper has a Web site and this public notice was posted on the same day as it was published in the newspaper.

..... Newspaper has a Web site, but due to technical problem or error, public notice was posted on

..... Newspaper has a Web site but refuses to post the public notice.

David L. Pearce

Date May 25 2021

Title Sally Denning, Office Manager

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1065 (Sub. No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT D

**CERTIFICATION OF COMPLIANCE
WITH ENVIRONMENTAL AND
HISTORIC REPORT REQUIREMENTS**

Certificate of Compliance

49 CFR 1105.11 – Advance Distribution of Environmental and Historic Report

I certify that, on May 10, 2021, a copy of Indiana Southwestern Railway Co.'s consolidated Environmental and Historic Report for the proposed abandonment encompassed by AB-1065 (Sub No. 4X) (appended hereto as Attachment 1), accompanied by a transmittal letter conforming to the requirements of 49 CFR 1105.11, was served upon the following entities as prescribed by 49 CFR 1105.7(b) and 1105.8(c) (copies of the transmittal letters are also appended hereto as part of Attachment 1):

STATE HISTORIC PRESERVATION
OFFICE
Beth McCord
Deputy State Historic Preservation Officer
402 W. Washington Street, W274
Indianapolis, IN 46204

Bruno L. Pigott
Indiana Department of Environmental
Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251

STATE DOT
Venetta Keefe
Rail Programs Manager
Indiana Department of Transportation
100 North Senate Ave., IGCN N758-MM
Indianapolis, IN. 46204

CITY/TOWNSHIP

Thomas McClanahan
Trustee
German Township
51755 Portage Road
South Bend, IN. 46628

US ENVIRONMENTAL PROTECTION
AGENCY
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Randy Kent
Armstrong Township Trustee
2720 West Baseline Rd
Evansville, IN 47720

REGIONAL/STATE EPA
Cheryl L. Newton
Deputy Regional Administrator and
Acting Regional Administrator
US EPA Region 5
77 W. Jackson Blvd.
Mail Code RE-19J
Chicago, IL 60604-3590 Commissioner

City of Evansville Common Council
1 NW Martin Luther King Jr. Blvd.
Room 314
Evansville, IN 47708

Bruce Baker, Michael Baehl, Justin Collins
Town Council
Town Hall
PO Box 194,
Poseyville, IN 47633

Troy “Todd Kennedy, Carolyn Price,
Patricia Wilson
Town Council of Cynthiana
Cynthiana Town Hall
10765 Main Street
PO Box 95
Cynthiana, IN 47612

COUNTIES

Vanderburgh County Council 1 NW Martin
Luther King Jr Blvd
Civic Center Complex, Room 303
Evansville, IN 47708

Posey County Government
126 E. 3rd Street,
Mt Vernon, IN 47620

US ARMY CORPS OF ENGINEERS

Amy S. Babey, PMP
Chief, Civil Works - Planning, Programs
and Project Management Branch at
U.S. Army Corps of Engineers, Louisville
District
U.S. Army Corps of Engineers
Louisville District
P.O. Box 59
Louisville, KY 40201-0059

STATE COASTAL ZONE MANAGEMENT

Jenny Orsburn
Program Manager
Lake Michigan Coastal Program
402 W. Washington St., Room W267
Indianapolis, IN 46204

Rita Becker-Forler
Evansville Service Center
921 North Park DR
Evansville, IN 47710

U.S. FISH AND WILDLIFE SERVICE
Amanda Wuestefeld
Division of Fish and Wildlife
Indiana Department of Natural Resources
402 W. Washington St. RM W273
Indianapolis, IN 46204

NATIONAL PARK SERVICE

Mr. Stephan Nofield
National Park Service
Rivers, Trails, and Conservation Assistance
Program
1849 C. Street NW, Room 1344
Washington, DC 20240

Bert Frost, Regional Director
Regions 3, 4, and 5
National Park Service
601 Riverfront Drive
Omaha, NE 68102-4226

NATIONAL GEODETIC SURVEY

Communications and Outreach Branch,
NOAA, N/NGS12
National Geodetic Survey, SSMC3 #9340
1315 East West Highway
Silver Spring, MD 20910-3282

NATURAL RESOURCES CONSERVATION SERVICE

Jessica Harig
Mount Vernon Service Center
1805 Main ST
Mount Vernon, IN 47620-1209

June 15, 2021

/s/ **Crystal M. Zorbaugh**

Crystal M. Zorbaugh
Attorney for Indiana Southwestern Railway Co.

ATTACHMENT 1
ENVIRONMENTAL AND HISTORIC REPORT
INCLUDING SAMPLE TRANSMITTAL LETTER

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1065 (Sub-No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

ENVIRONMENTAL AND HISTORIC REPORT

**Kristin Bevil
General Counsel
Pioneer Lines, Inc.
5619 DTC Parkway, Suite 650
Greenwood Village, CO 80111**

May 10, 2021

**William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849
wmullins@bakerandmiller.com**

**Attorneys for Indiana Southwestern
Railway Co.**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1065 (Sub-No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

ENVIRONMENTAL AND HISTORIC REPORT

Pursuant to the above-captioned proceeding, Indiana Southwestern Railway Co. (“ISW”) intends to abandon a total of approximately 20.367 miles of interconnecting rail lines (hereinafter, the “Lines”)¹ as follows: (1) between milepost 227.5 (at Poseyville, IN) to milepost 243.2 (at the centerline of North. St. Josephs Ave near Evansville, Indiana), a total of approximately 15.7 miles;² and (2) approximately 4.667 route miles from milepost 277.5 (at Poseyville, IN) to milepost 282.0 (at Cynthiana, IN). The Lines are in Posey and Vanderburgh Counties, IN. In accordance with the procedures set forth in 49 CFR 1105.7 and 1105.8, ISW is required to submit the following consolidated Environmental and Historic Report (“E&HR”).

ENVIRONMENTAL REPORT

(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.

ISW³ proposes to abandon approximately 20.367 miles of interconnecting rail lines as follows: (1) between milepost 227.5 (at Poseyville, IN) to milepost 243.2 (at the centerline of North. St. Josephs Ave near Evansville, Indiana), a total of approximately 15.7 miles; and (2) approximately 4.667 route miles from milepost 277.5 (at Poseyville, IN) to milepost 282.0 (at

¹ The Lines were acquired in 2000. See Ind. Sw. Ry. Co.—Acquisition and Operation Exemption—Evansville Terminal Co., Inc. and AB Rail Investments, Inc., FD 33859 (STB served March 28, 2000).

² ISW is keeping 1.5 miles of 10901 track beginning at milepost 243.2 and extending to milepost 244.7, which continues to be used to serve several customers located near Evansville, Indiana.

³ ISW is among 15 Class III railroads commonly controlled by Pioneer Railcorp, which on May 3, 2021, changed its legal name to Pioneer Lines, Inc. (“Pioneer”).

Cynthiana, IN). The two interconnecting line segments intersect at Poseyville, IN. A map delineating the proposed project is attached as Exhibit 1. Upon obtaining authority to abandon the Lines⁴, ISW will salvage the Lines' track and track material and will dispose of the real estate. ISW intends to sell the salvaged track to an affiliate to be used for track improvements elsewhere on the Pioneer system.

The Lines have been out of service for over a decade.

As indicated above, upon obtaining abandonment authority, ISW plans to remove the Lines' rail and salvageable track material (such as tie plates, fasteners, crossties, and, possibly, the upper layer of ballast). ISW does not intend to disturb the sub-grade or sub-grade structures, and it will not engage in any excavation activity. Abandonment and the resultant salvage of the line of the Lines will eliminate 48 at-grade rail-highway crossings – 24 private crossings, and 24 public crossings.

The only alternative to abandonment would be for ISW not to abandon the Lines, and to continue to incur losses associated with the ownership of unused rail assets. The no-action alternative, in which the rail assets would remain in place, would frustrate ISW's and, by extension, Pioneer's plans to re-deploy the Lines' rail assets to an affiliate.

(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 Lines have been inactive for over a decade, and, for this simple reason, the proposed abandonment will have no impact on regional or local transportation systems and patterns. No passenger or freight traffic would be diverted to other systems or modes as a result of the proposed abandonment.

⁴ ISW previously filed a verified notice of exemption to abandon 17.2 miles of the interconnecting rail lines in October 2010. After a trails' proponent filed a notice of interim trails use ("NITU"), the Surface Transportation Board ("Board") served a NITU on April 8, 2011. Ultimately, ISW was unable to reach an interim trail use/banking agreement with the Indiana Trails Fund, Inc. and the NITU expired on November 8, 2013. ISW did not file a notice of consummation of abandonment under 49 C.F.R. § 1152.29(e)(2) after the NITU expired. See Landowners—Mot. for Declaratory Order & Injunctive Relief, AB 1065 (Sub-No. 1X), slip op. at 2, 5 (STB served Jan. 27, 2020). Because ISW did not file a notice of consummation by the January 7, 2014 deadline, ISW's authority to abandon the Lines automatically expired and the Lines have remained within the Board's jurisdiction. Id.

The current abandonment proposed by ISW includes the track proposed for abandonment in 2010, as well as an additional 3.167 miles of track.

(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.**

ISW believes that the proposed abandonment is consistent with, and would promote, existing land use plans. The land adjoining the Lines consists of a combination of rural farmland, residential areas, and some forested lands.

By letters dated May 10, 2021, copies of this consolidated E&HR have been mailed to the appropriate local and state contacts, including to representatives of German Township, Armstrong Township, Vanderburgh County, the City of Evansville, the City of Poseyville, Posey County, and the Town of Cynthiana for their information and comment. See Exhibit 2.

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

ISW does not believe that there is any prime agricultural land that would be adversely affected by the proposed abandonment. As indicated above, the land through which the Lines traverse includes some farmland, in addition to residential and forested lands. Furthermore, the proposed rail line abandonment should not in any way contribute to farmland loss, and could, in fact, permit the abandoned right-of-way to be converted, wherever practicable, to farmland use. Nevertheless, ISW has notified the United States Department of Agriculture's Natural Resources Conservation Service ("NRCS") of the proposed abandonment by letter dated May 10 2021 (to which letter this consolidated E&HR was appended) and has requested assistance in identifying any potential effects on prime agricultural land. See Exhibit 2.

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

ISW has consulted with the Indiana Department of Natural Resources Division of Nature Preserves – Lake Michigan Coastal Program ("IDNR-CP"), and, on the basis of such consultation, understands that no part of the Lines traverses a designated coastal zone in Indiana, that there are no designated coastal zones in Posey County or Vanderburgh County, and that the proposed abandonment would not be subject to review under any coastal zone management plan. Nevertheless, to assure compliance with the requirements of section 49 C.F.R. 1105.9, ISW has served a copy of this report on IDNR-CP by letter dated May 10 2021.

- (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.**

ISW believes that portions of the Lines might be suitable for alternate public use.

(4) ENERGY

- (i) Describe the effect of the proposed action on transportation of energy resources.**

There has been no traffic on the Lines for over a decade, and, for this reason, the proposed abandonment will have no effect on the transportation of energy resources.

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

Because no shipper will lose rail service as a result of the proposed action, the abandonment should have no effect on the movement and/or recovery of recyclable commodities.

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

Because the proposed abandonment involves long-out-of-use rail lines, the abandonment should not affect overall energy usage.

- (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.**

The Lines are inactive and have been for over a decade. There will be no diversion of rail traffic to motor carriage, and, by extension, no traffic diversions that would exceed the thresholds stated above.

(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.**

The above thresholds will not be exceeded.

- (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 or 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, the state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction 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.**

Based upon 40 CFR 81.325, ISW believes that Posey and Vanderburgh Counties are *not* designated non-attainment areas and that the above-stated thresholds are therefore inapplicable.⁵ Nevertheless, the above thresholds will not be exceeded.

- (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.**

Not applicable.

(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.**

⁵ ISW understands, however, that Vanderburgh County had at one time been designated as an air quality non-attainment area, but that it is now an air quality "maintenance" area.

None of the thresholds in item 5(i) of this section will be exceeded.

(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 of long out-of-service rail lines should have no material impact on public health and safety. If the abandonment is granted and the Lines are salvaged, ISW will close permanently 24 public road crossings and 24 private crossings, thereby enhancing safety by eliminating distractions to vehicular traffic crossing the Lines.

- (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.**

No hazardous materials are expected to be transported, and, indeed, no traffic of any kind has moved over the Lines in over a decade.

- (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.**

ISW has no knowledge of hazardous waste sites or sites where there have been known hazardous materials spills on the Lines' rights-of-way or on adjacent sites.

(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.**

ISW does not believe that the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat. ISW has notified the U.S. Fish and Wildlife Service ("USF&W") and the Indiana Department of Natural Resources – Division of Fish & Wildlife ("IDFW") of the proposed abandonment by letters dated May 10 2021 and has requested assistance in determining whether the proposed abandonment will adversely affect endangered or threatened species or areas designated as critical habitat. A copy of this report was attached to the letters sent to USF&W and IDFW. See Exhibit 2.

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

Having consulted local maps, ISW is unaware of any wildlife sanctuaries or refuges,

National or State parks, or forests that would be adversely affected by the proposed abandonment. Nevertheless, ISW has notified the National Park Service (“NPS”) of the proposed abandonment by letter dated May 10 2021. A copy of this report was attached to the letter sent to NPS. See Exhibit 2.

(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.**

ISW is confident that the proposed abandonment will be consistent with applicable water quality standards. In connection with this issue, ISW has contacted the Indiana Department of Environmental Management (“IDEM”) and the United States Environmental Protection Agency (“USEPA”) by letters dated May 10 2021. A copy of this report was attached to each of the letters. See Exhibit 2.

- (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.**

ISW believes that – (1) no permits under section 404 of the Clean Water Act will be required for the proposed abandonment, and (2) no designated wetlands or 100-year flood plains will be affected. Upon receiving abandonment authority, removal of track material will be accomplished by use of the right-of-way for access, along with access via existing public and private crossings as necessary. No new access roads are contemplated. ISW does not intend to disturb any of the underlying roadbed or to perform any activities that would cause sedimentation or erosion of the soil and does not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris, if removed, will be transported away from the Lines, and will not be discarded along the rights-of-way; they will not be placed or left in streams or wetlands, or along the banks of such waterways. Also, during track removal, appropriate measures will be implemented to prevent or control spills from fuels, lubricants, or any other pollutant materials from entering any waterways. For these reasons, ISW believes that a permit under Section 404 of the Clean Water Act will not be required.

ISW has contacted the U.S. Army Corps of Engineers – Louisville Field Office by letter dated May 10 2021. A copy of this report was attached to the letter. See Exhibit 2.

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

ISW believes that no permit under section 402 of the Clean Water Act would be required for the abandonment. (See discussion in section 9(ii) above.) Nevertheless, ISW has contacted the IDEM and the USEPA regarding this item by letter dated May 10, 2021 and has requested guidance in identifying any potential water quality impacts (based on applicable water quality standards) and in determining whether the proposed abandonment is consistent with such federal, state, or local standards. A copy of this report was attached to the letter. See Exhibit 2.

(10) PROPOSED MITIGATION

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

ISW does not expect any adverse environmental impact from the proposed abandonment and, therefore, is of the opinion that mitigating action is unnecessary. ISW will, of course, cooperate in any further evaluation of proposed remedial/mitigation actions which interested federal, state, and/or local agencies may recommend to the Board.

(11) ADDITIONAL INFORMATION FOR RAIL CONSTRUCTIONS

Not applicable.

HISTORIC REPORT

49 CFR 1105.8(d):

- (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.G.S. topographic maps depicting the location of the proposed abandonment and the location of structures that are 50 years old or older and that are located along the Lines are attached as Exhibit 3. These maps are being supplied to the Indiana Department of Natural Resources – Division of Historic Preservation and Archaeology (“IDNR-DHPA”) as part of a complete copy of this report. ISW believes that there are 18 railroad structures on the line that are believed to be 50 years old or older, each of them a 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;**

According to ISW data and valuation maps, the Lines’ right-of-way ranges in width from approximately 66 feet to approximately 100 feet (with a few sections running somewhat narrower and some stretches widening to as much as 130 feet). The rights of way are located in Posey and Vanderburgh Counties, IN. The Lines run adjacent to lands of varying uses, ranging from forested open land and rural farmland to developed and residential areas. The topography is generally flat, with some rolling hills.

- (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;**

ISW has determined that there are 18 structures along the Lines – all of them wooden trestles – that may be 50 years old or older, and the location of each such structure is shown on the U.S.G.S. maps attached as Exhibit 3. ISW has photographed and documented each of these 18 structures and has supplied original photographs of each such structure to IDNR-DHPA for evaluation. Aside from the photographic documentation of these structures in their current states, ISW does not have any additional information in its possession (such as engineering diagrams or other records) that it believes would be of usefulness in aiding in any historical structures’ analysis.

As additional information, ISW does not anticipate removing or dismantling any of the 18 bridges along the Lines.

- (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;**

According to the limited information in ISW’s possession, the 18 bridges along the Lines

are believed to have been built at least 50 years ago. Many of these structures probably have been improved over time, although ISW has not undertaken any major improvements to these bridges during the time that ISW has owned the Lines.

(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;

ISW has no historical records of its own relating to the Lines. Based on research, however, ISW understands that the Lines may have been constructed in the early 1880s by the Evansville and Peoria Railroad, which thereafter became the Peoria, Decatur & Evansville Railway (“PD&E”). The Lines, particularly the segment between Poseyville and German Township, appear to have at one time been part of a longer through route extending between Evansville, IN, and Newton, IL. ISW’s research also indicates that the PD&E, including the Lines that are the subject of the proposed abandonment, became part of the Illinois Central Railroad (“IC”) in 1900.

ISW believes that the Lines were part of a larger transaction, pursuant to which Indiana Hi-Rail Corporation (and an apparent affiliate, Garden Spot & Ohio) acquired a series of rail lines from IC. See Indiana Hi-Rail – Exemption, 51 FR 15075 (Apr. 22, 1986). The Lines subsequently went through a series of operators, the last of which, prior to ISW, was Evansville Terminal Company, Inc. (“EVTC”).⁶

In March of 2000, ISW, then a non-carrier subsidiary of Pioneer, acquired the Lines from EVTC and ABR. See Ind. Sw. Ry. Co. – Acquisition and Operation Exemption – Evansville Terminal Co., Inc. and AB Rail Inv., Inc., FD 33859 (S.T.B. served Mar. 28, 2000). ISW became a carrier upon acquisition of the Lines.

ISW intends, upon the effectiveness of the class exemption, to terminate its rail common carrier obligation over and to abandon the Lines. ISW would salvage the rail and track material that possesses positive net salvage value, and reuse them elsewhere on its system. However, ISW does not intend to dismantle or remove any bridges along the Lines.

(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;

As indicated above, the Lines appear to have been built in the late 1800s, but ISW is one of many subsequent owners of these rail assets. ISW was not supplied with and does not have, engineering drawings of the structures discussed above.

⁶ At the time that EVTC operated the Lines, AB Rail Investments, Inc. (“ABR”) owned the Poseyville-Cynthiana line segment.

- (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);**

As indicated above, ISW's records indicate that there are 18 structures (bridges) on or adjacent to the Lines that are believed to be 50 years old or older. In the opinion of ISW, these structures would not meet the criteria for listing on the National Register of Historic Places. As the photographs supplied to IDNR-DHPA would suggest, none of the subject structures has unique or otherwise significant design characteristics. Moreover, none of these structures is linked to events or historic significance. ISW understands that many, if not all, of the structures in question could remain in use if the Lines' rights-of-way were to be converted into a recreational trail.

ISW is unaware of any archeological resources or any other previously unknown historic properties on the Lines' rights-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 manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic waste), and the surrounding terrain.**

ISW has no records of, and is unaware of, any known subsurface ground disturbance or fill, or environmental conditions that might affect the recovery of archeological resources. Undoubtedly, track work and/or construction has occurred regularly over the many years that the Lines have been in operation. Such work may have affected the potential for recovery of archeological resources.

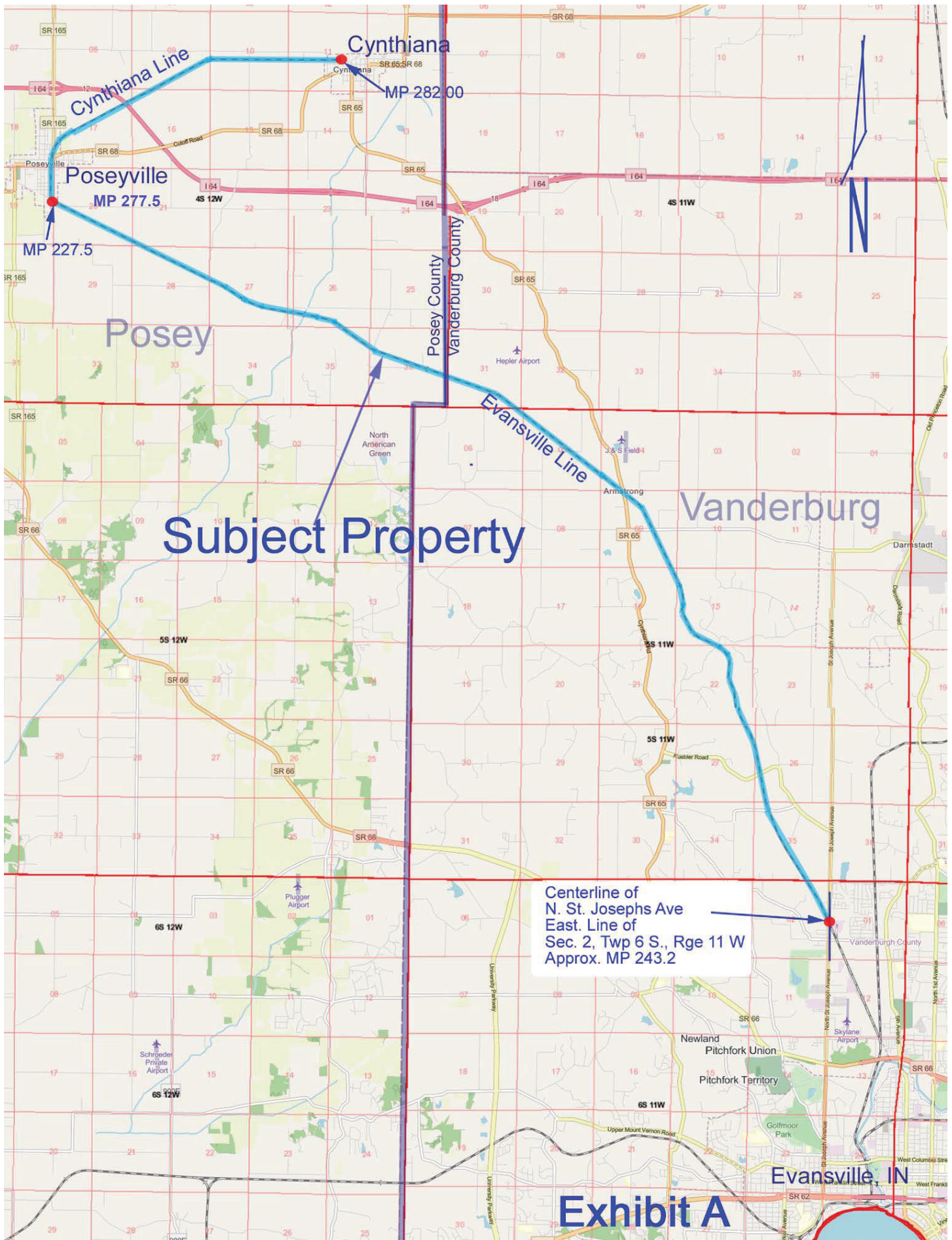
**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1065 (Sub-No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

ENVIRONMENTAL AND HISTORIC REPORT

EXHIBIT 1 – LOCATION MAP



**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

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– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

ENVIRONMENTAL AND HISTORIC REPORT

EXHIBIT 2 – SAMPLE CONSULTATION LETTER & RECIPIENT LIST

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037
TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849

Crystal M. Zorbaugh

Direct Dial: (202) 663-7831
E-Mail: czorbaugh@bakerandmiller.com

May 10, 2021

[Insert Consulting Party]

Dear Sir or Madam,

RE: Indiana Southwestern Railway Co. – Proposed Abandonment – In Posey and Vanderburgh Counties, IN, AB-1065 (Sub-No. 4X)

Dear Sir or Madam:

On or after June 10, 2021, Indiana Southwestern Railway Co. (“ISW”) expects to file with the Surface Transportation Board (“STB”), a notice of exemption pursuant to 49 C.F.R. Part 1152, Exempt Abandonments and Discontinuances of Services, seeking authority for ISW to abandon approximately 20.367 miles of interconnecting rail lines (hereinafter, the “Lines”)⁷ as follows: (1) between milepost 227.5 (at Poseyville, IN) to milepost 243.2 (at the centerline of North. St. Josephs Ave near Evansville, Indiana), a total of approximately 15.7 miles;⁸ and (2) approximately 4.667 route miles from milepost 277.5 (at Poseyville, IN) to milepost 282.0 (at Cynthiana, IN). The Lines are in Posey and Vanderburgh Counties, IN. In accordance with the procedures set forth in 49 CFR 1105.7 and 1105.8, ISW is required to submit the following consolidated Environmental and Historic Report (“E&HR”).

Attached is a combined Environmental and Historic Report (“E&HR”), which includes a map of the affected area, and describes the proposed action and any expected environmental and historic effects. If you wish to address any of the information contained in the attached E&HR, or if you have any questions about the Board’s environmental review process, please contact the Board’s Office of Environmental Analysis, Surface Transportation Board, 395 E Street, SW, Washington, DC 20423-0001; TEL: (202) 245-0295, and refer to AB-1065 (Sub-No. 4X). You may also contact the undersigned counsel for ISW.

⁷ The interconnecting lines were acquired in 2000. See Indiana Southwestern Railway Co.—Acquisition and Operation Exemption—Evansville Terminal Company, Inc. and AB Rail Investments, Inc., FD 33859 (STB served March 28, 2000).

⁸ ISW is keeping 1.5 miles of 10901 track beginning at milepost 243.2 and extending to milepost 244.7, which continues to be used to serve several customers located near Evansville, Indiana.

Questions regarding the abandonment process generally, offers of financial assistance, and/or public use or trail use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Based on information in our possession, the Line does not contain federally granted rights-of-way. However, any documentation in ISW's possession will be made available promptly to those requesting it.

If there are any questions concerning this notice of intent, please contact me, ISW's representative, by mail: Crystal Zorbaugh, Baker & Miller, PLLC, 2401 Pennsylvania Avenue, NW, Suite 300, Washington, DC 20037; by FAX: (202) 663-7849; by e-mail: czorbaugh@bakerandmiller.com; or by telephone: (202) 663-7831. If I am not available, you may also contact William Mullins, who can be reached at (202) 663-7820 or by e-mail at wmullins@bakerandmiller.com.

Sincerely,

Crystal M. Zorbaugh
Counsel for Indiana Southwestern Railway Co.

Enclosure

RECIPIENT LIST - AB-1065 (Sub-No. 4X)

Proposed Abandonment of approximately 20.367 miles of rail lines located in Posey and Vanderburgh Counties, Indiana.

STATE HISTORIC PRESERVATION
OFFICE
Beth McCord
Deputy State Historic Preservation Officer
402 W. Washington Street, W274
Indianapolis, IN 46204

STATE DOT
Venetta Keefe
Rail Programs Manager
Indiana Department of Transportation
100 North Senate Ave., IGCN N758-MM
Indianapolis, IN. 46204

US ENVIRONMENTAL PROTECTION
AGENCY
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

REGIONAL/STATE EPA
Cheryl L. Newton
Deputy Regional Administrator and
Acting Regional Administrator
US EPA Region 5
77 W. Jackson Blvd.
Mail Code RE-19J
Chicago, IL 60604-3590

Bruno L. Pigott
Indiana Department of Environmental
Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251

CITY/TOWNSHIP

Thomas McClanahan
Trustee
German Township
51755 Portage Road
South Bend, IN. 46628

Randy Kent
Armstrong Township Trustee
2720 West Baseline Rd
Evansville, IN 47720

City of Evansville Common Council
1 NW Martin Luther King Jr. Blvd.
Room 314
Evansville, IN 47708

Bruce Baker, Michael Baehl, Justin Collins
Town Council
Town Hall
PO Box 194,
Poseyville, IN 47633

Troy "Todd Kennedy, Carolyn Price,
Patricia Wilson
Town Council of Cynthiana
Cynthiana Town Hall
10765 Main Street
PO Box 95
Cynthiana, IN 47612

COUNTIES

Vanderburgh County Council
1 NW Martin Luther King Jr Blvd
Civic Center Complex, Room 303
Evansville, IN 47708

Posey County Government
126 E. 3rd Street,
Mt Vernon, IN 47620

US ARMY CORPS OF ENGINEERS
Amy S. Babey, PMP
Chief, Civil Works - Planning, Programs
and Project Management Branch at
U.S. Army Corps of Engineers, Louisville
District
U.S. Army Corps of Engineers
Louisville District
P.O. Box 59
Louisville, KY 40201-0059

STATE COASTAL ZONE
MANAGEMENT

Jenny Orsburn
Program Manager
Lake Michigan Coastal Program
402 W. Washington St., Room W267
Indianapolis, IN 46204

U.S. FISH AND WILDLIFE SERVICE

Amanda Wuestefeld
Division of Fish and Wildlife
Indiana Department of Natural Resources
402 W. Washington St. RM W273
Indianapolis, IN 46204

NATIONAL PARK SERVICE

Rita Becker-Forler
Evansville Service Center
921 North Park DR
Evansville, IN 47710

Mr. Stephan Nofield
National Park Service
Rivers, Trails, and Conservation Assistance
Program
1849 C. Street NW, Room 1344
Washington, DC 20240

Bert Frost, Regional Director
Regions 3, 4, and 5
National Park Service
601 Riverfront Drive
Omaha, NE 68102-4226

NATIONAL GEODETIC SURVEY

Communications and Outreach Branch,
NOAA, N/NGS12
National Geodetic Survey, SSMC3 #9340
1315 East West Highway
Silver Spring, MD 20910-3282

NATURAL RESOURCES
CONSERVATION SERVICE
Jessica Harig
Mount Vernon Service Center
1805 Main ST
Mount Vernon, IN 47620-1209

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No. AB-1065 (Sub-No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

ENVIRONMENTAL AND HISTORIC REPORT

EXHIBIT 3 – U.S.G.S TOPOGRAPHIC MAPS

**[SUPPLIED TO Indiana Department of Natural Resources – Division of Historic
Preservation and Archaeology]**

Pages 21-25 were supplied to the
STATE HISTORIC PRESERVATION OFFICE

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No. AB-1065 (Sub-No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

ENVIRONMENTAL AND HISTORIC REPORT

EXHIBIT 4 – COLOR PHOTOGRAPHS (STRUCTURES)

**[SUPPLIED TO Indiana Department of Natural Resources – Division of Historic
Preservation and Archaeology]**



B-MP 242.6



B-MP 241.5



B-MP 280.1

2nd Bridge going towards Cynthiana





B-MP 280.4

1ST Bridge to Cynthiana



B-MP 280.4

1ST Bridge on Poseyville to Cynthiana
under I-64 Overpass



B-MP 228.9



B-MP 228.9

Last Bridge at P&O Turnout



B-MP 231.3





B-MP 232.0





B-MP 232.1





B-MP 232.4





B-MP 233.8





B-MP 234.5





B-MP 235.0





B-MP 235.6





B-MP 237.9





B-MP 238.6





B-MP 240.2





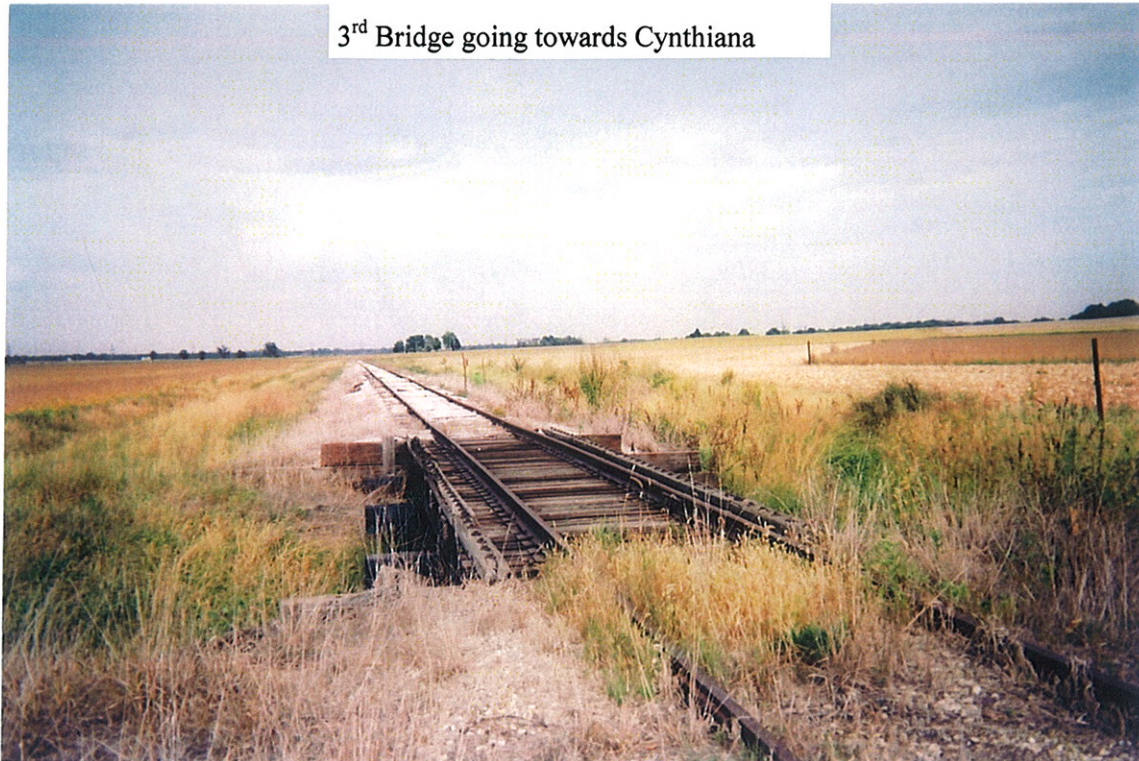
B-MP 278.5

4th Bridge going towards Cynthiana

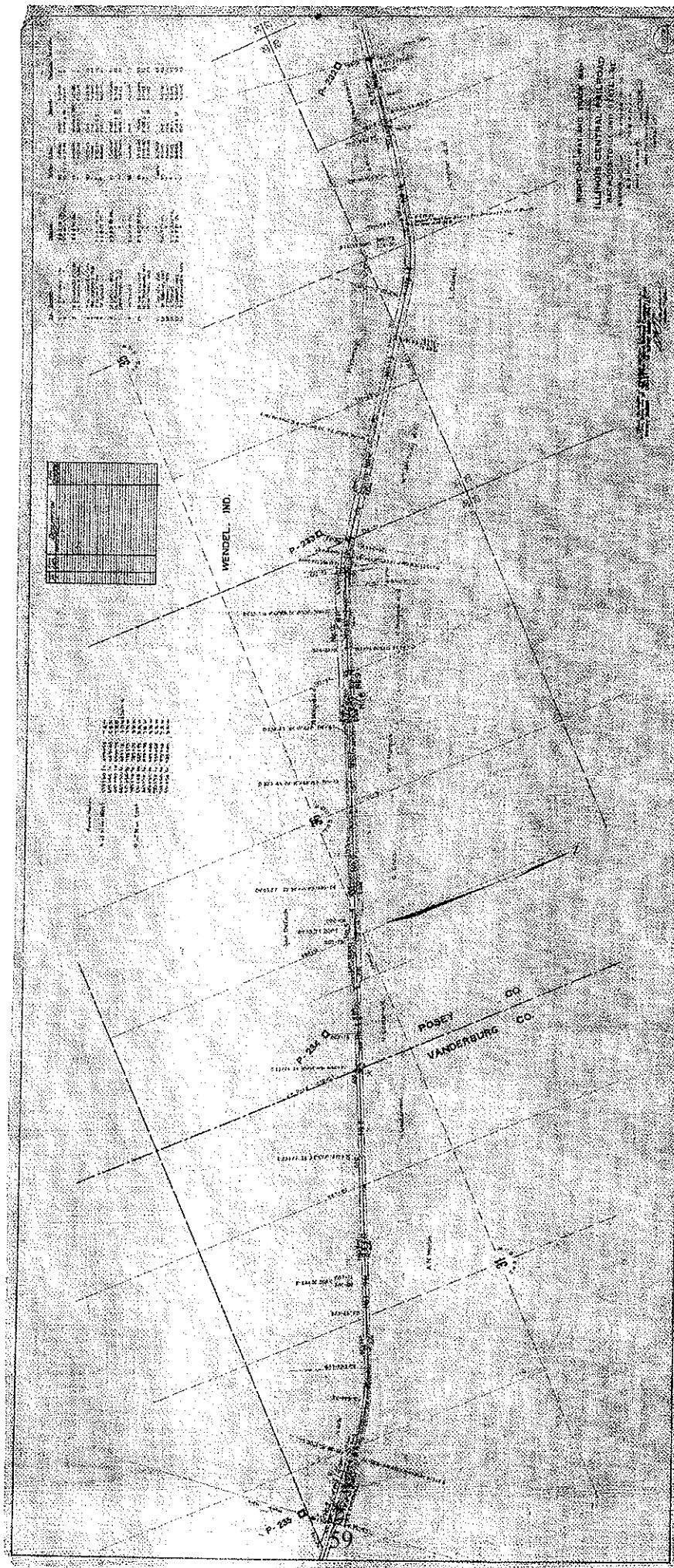


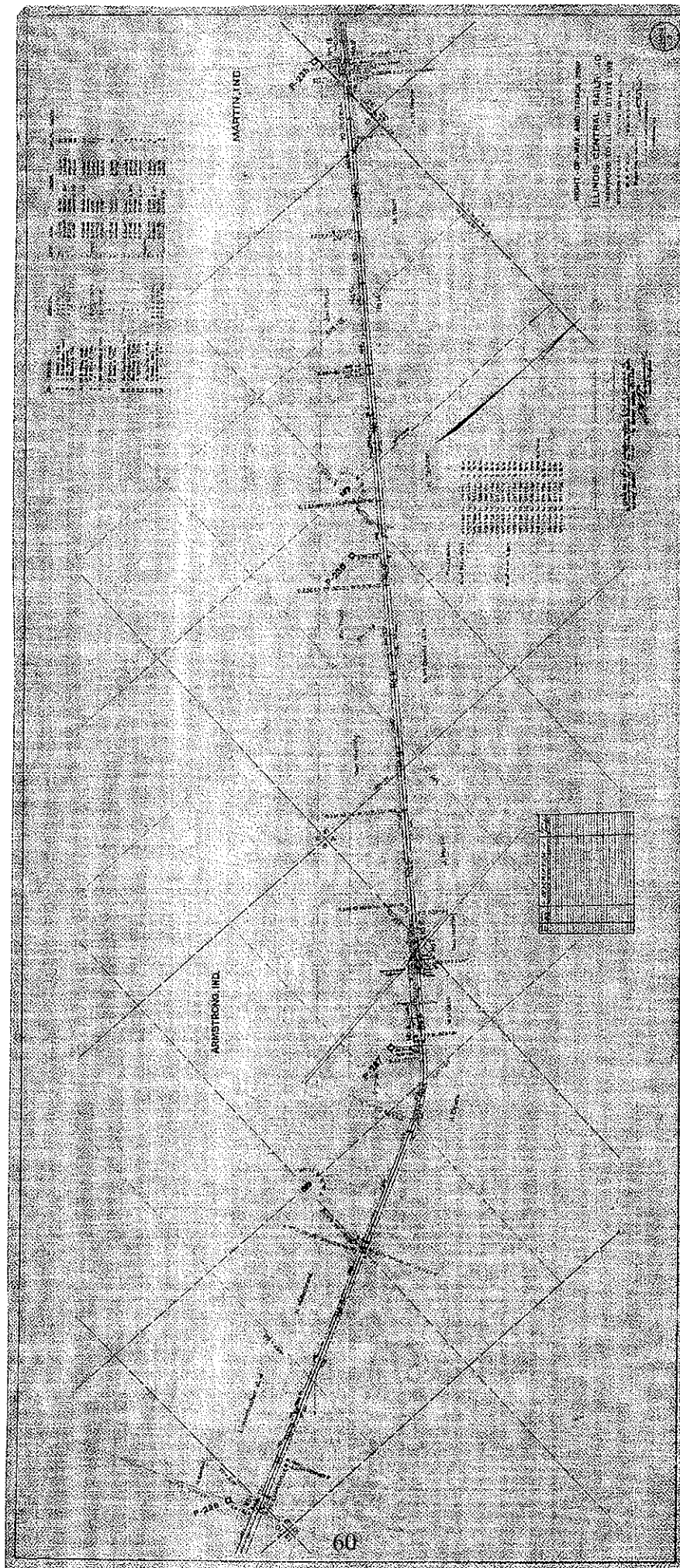


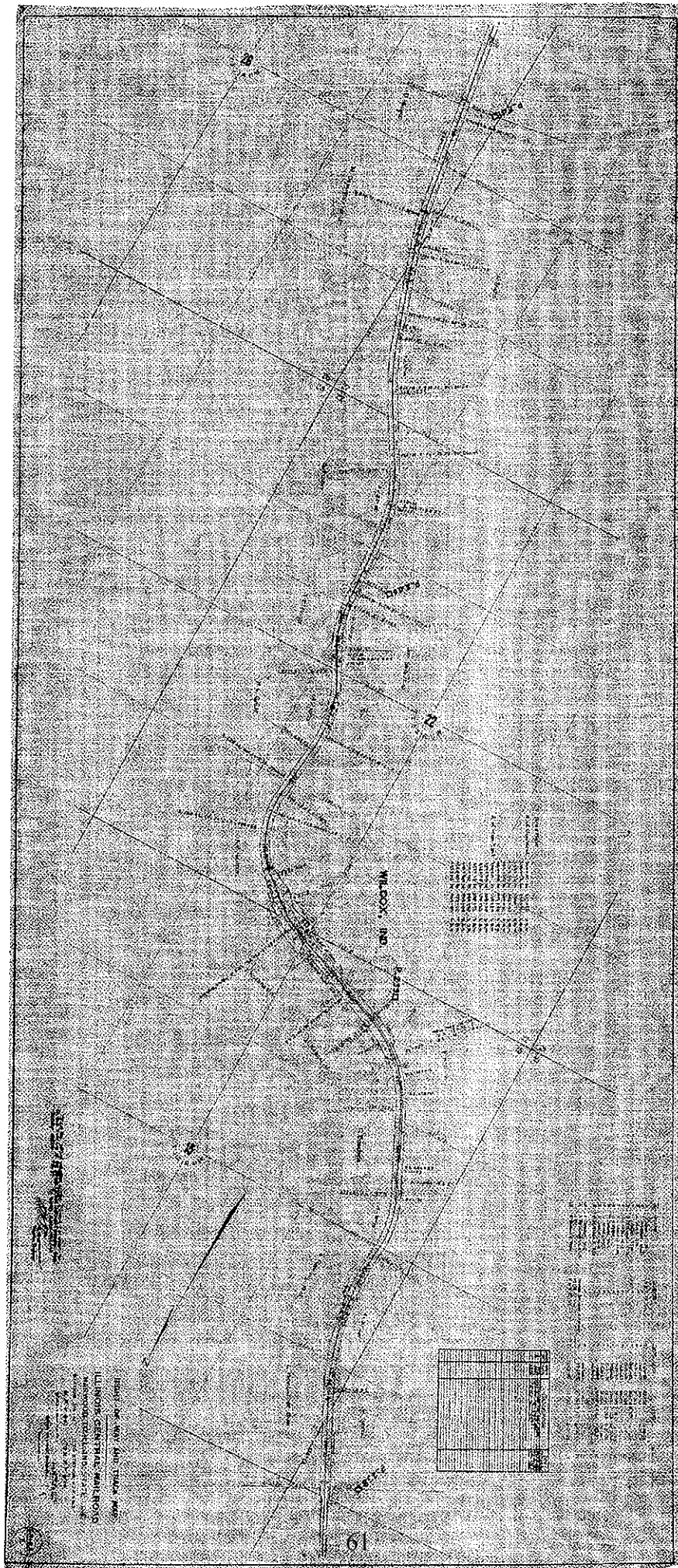
B-MP 279.16

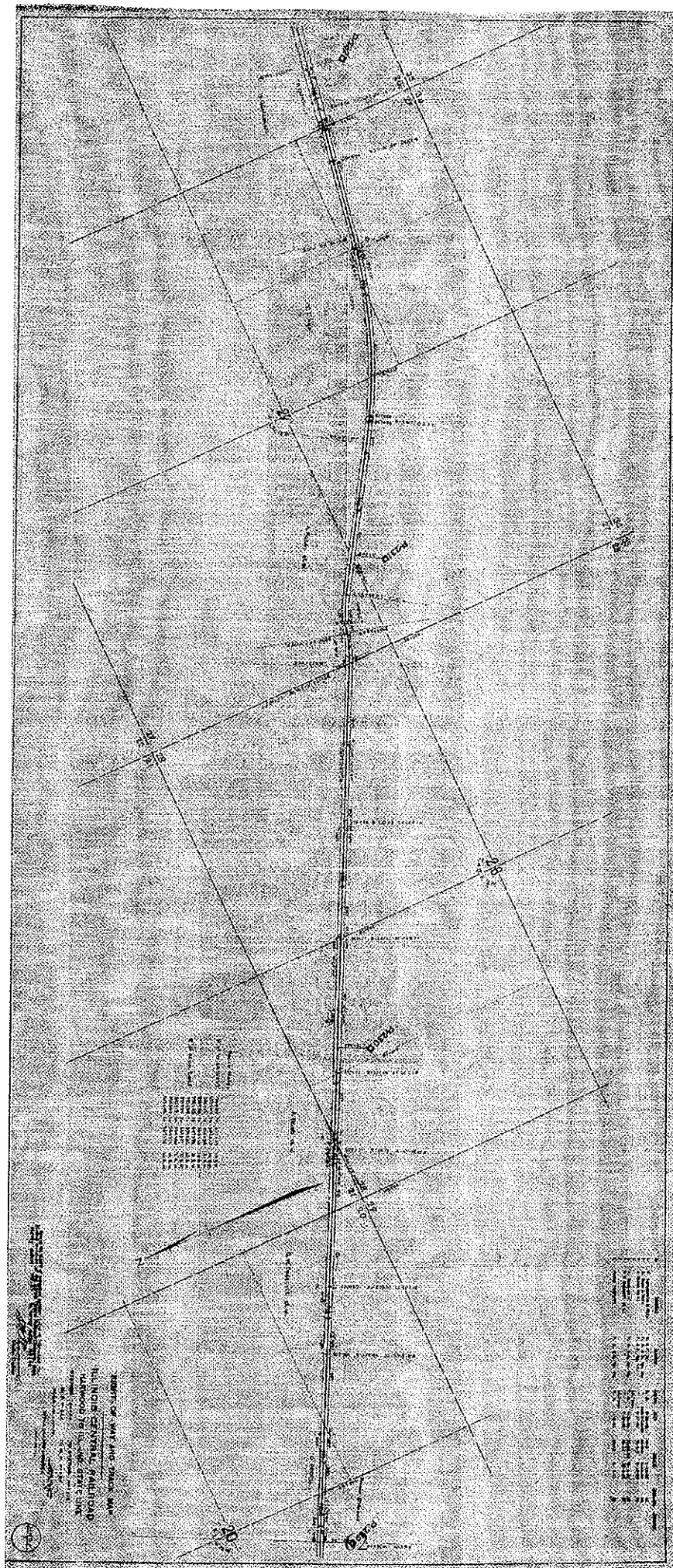


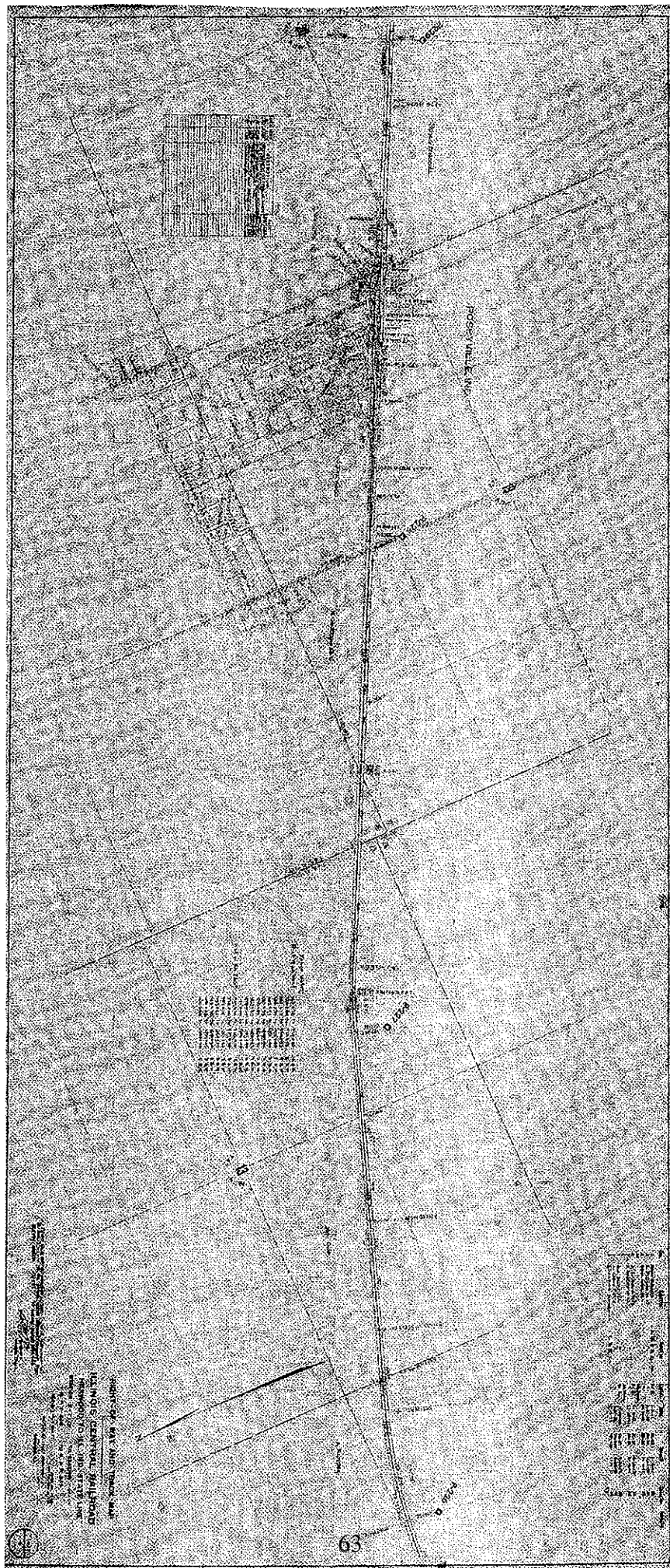
3rd Bridge going towards Cynthiana

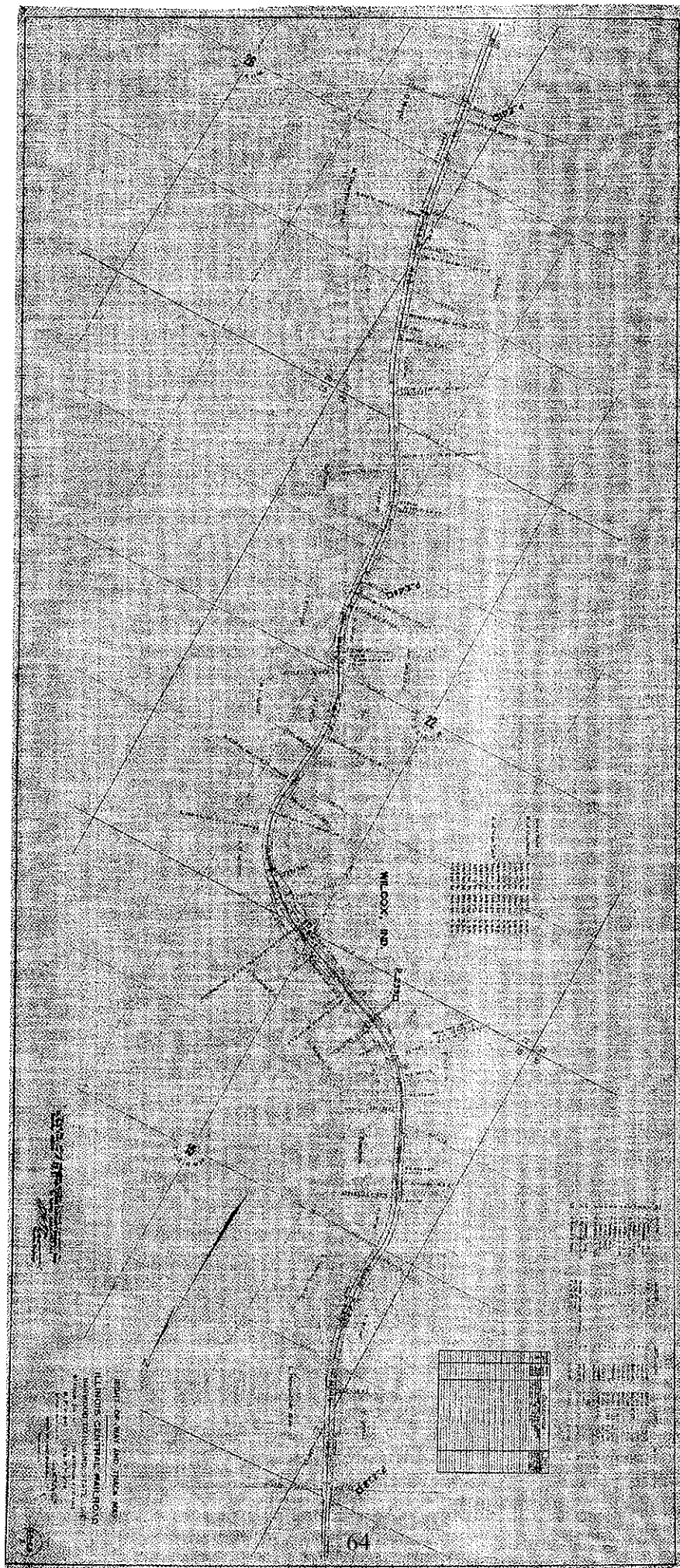


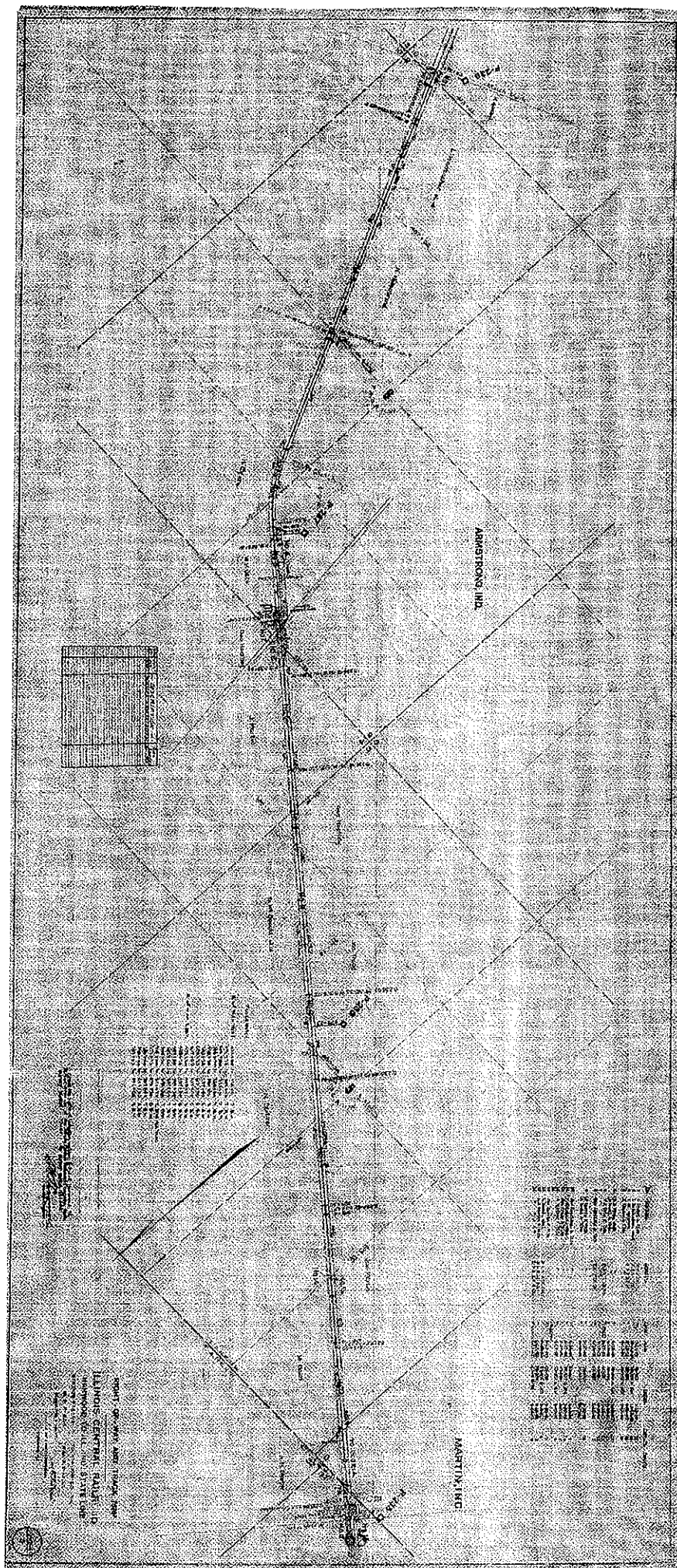


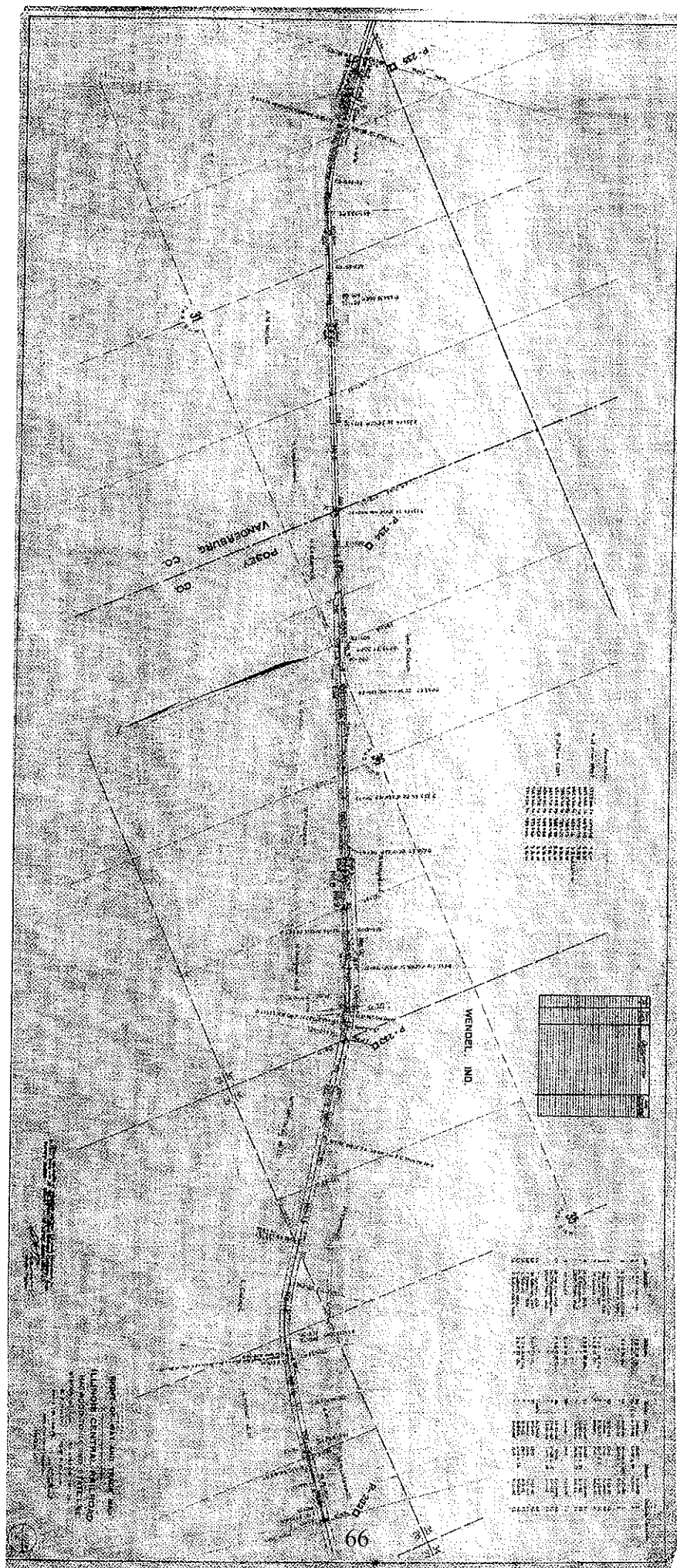


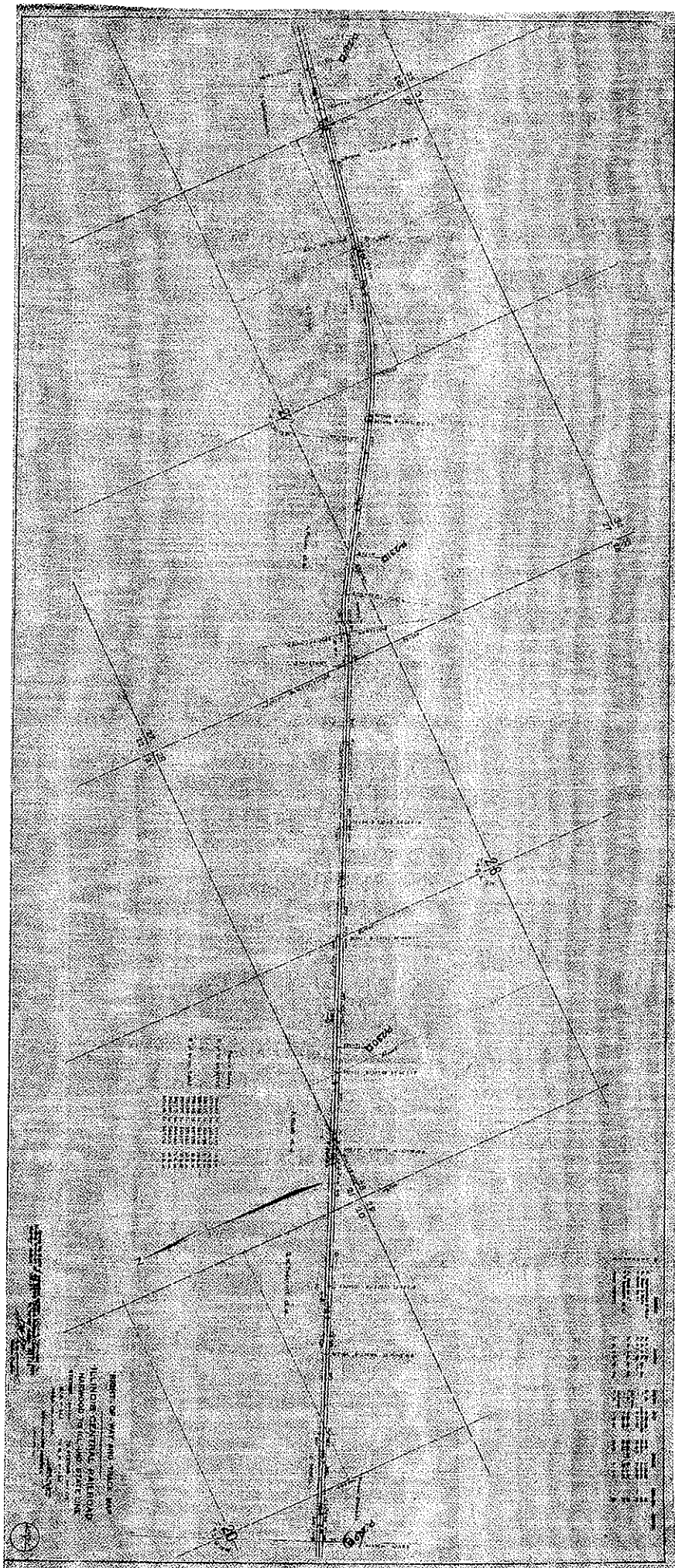


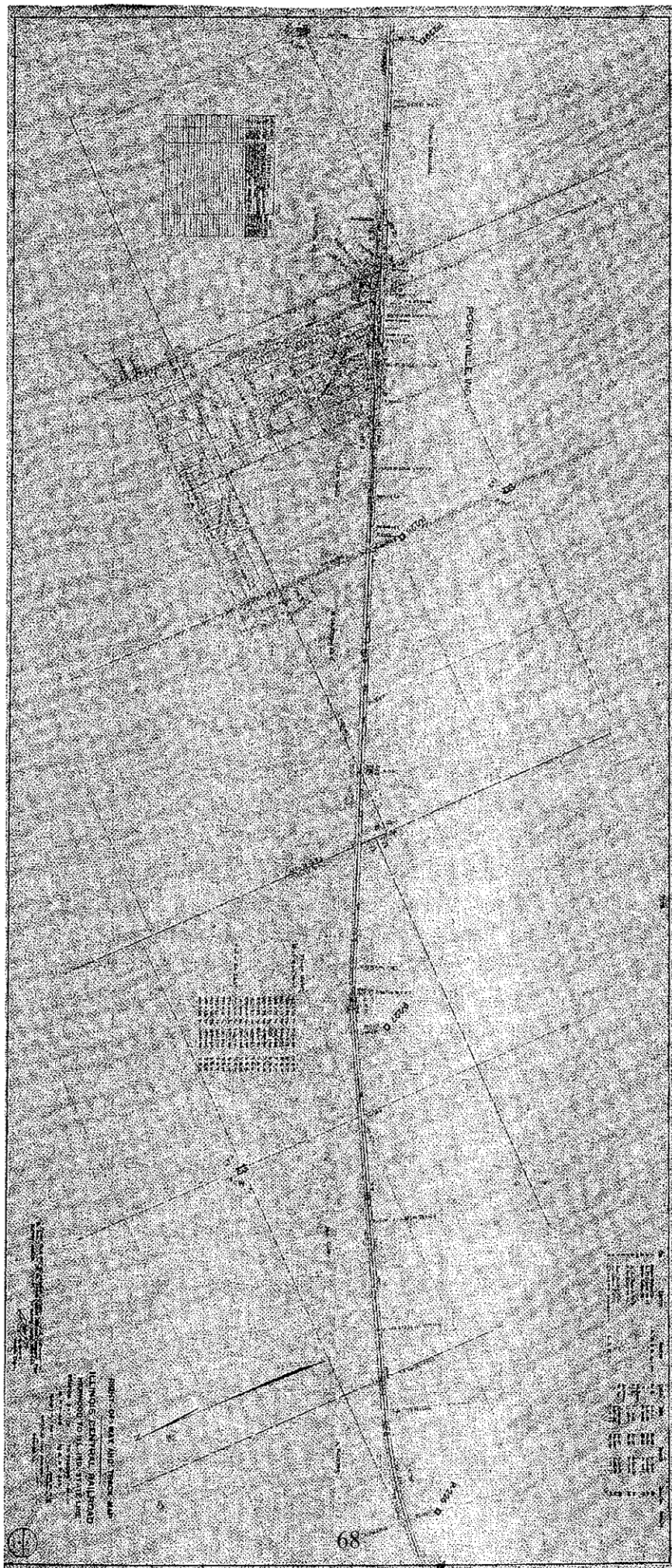












**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-1065 (Sub. No. 4X)

**INDIANA SOUTHWESTERN RAILWAY CO.
– ABANDONMENT EXEMPTION –
IN POSEY AND VANDERBURGH COUNTIES, IN**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

**DRAFT NOTICE OF EXEMPTION
[CAPTION SUMMARY]**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[AB-1065 (Sub-No. 4X)]

Indiana Southwestern Railway Co. – Proposed Abandonment – In Posey and Vanderburgh
Counties, IN

Indiana Southwestern Railway Co. has filed on June 15, 2021, a verified notice of exemption under 49 C.F.R. part 1152 subpart F–Exempt Abandonments to abandon rail service over approximately 20.367 miles of interconnecting rail lines (hereinafter, the “Lines”) as follows: (1) between milepost 227.5 (at Poseyville, IN) to milepost 243.2 (at the centerline of North. St. Josephs Ave near Evansville, Indiana), a total of approximately 15.7 miles; and (2) approximately 4.667 route miles from milepost 277.5 (at Poseyville, IN) to milepost 282.0 (at Cynthiana, IN) in Posey and Vanderburgh Counties, Indiana. The subject rail lines traverse through United States Postal Service ZIP Code territories 47720, 47633, and 47612. There are no customers served on the Line, which has been out of service and has not provided service to any shippers in over a decade.

ISW has certified that: (1) no local NSR traffic has moved over the Line for over two years; (2) that no overhead NSR traffic has moved over the Line for over two years and that overhead traffic if there were any, could be rerouted over other lines (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year-period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12

(newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad – Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (“OFA”) has been received, this exemption will be effective on August 4, 2021, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,⁵ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),⁶ and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by _____, 2021. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by _____, 2021, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR’s representative: Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

⁵ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board’s Office of Environmental Analysis (“OEA”) in its independent investigation) cannot be made before the exemption’s effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption’s effective date.

⁶ Each OFA must be accompanied by the filing fee, which is currently set at \$2,000.00. See 49 C.F.R. § 1002.2(f)(25).

NSR has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by _____, 2021. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by _____, 2022, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: _____, 2021.

By the Board, _____, Director, Office of Proceedings