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SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS

POST ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN STB DOCKET NO. AB-295 (Sub No. 7X)

May 24, 2010

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

☐ Notice of Exemption ☒ Petition for Exemption ☐ Regulated Abandonment

☐ **NO NEW COMMENTS WERE RECEIVED**

☒ **NEW COMMENTS WERE RECEIVED**

RECOMMENDATION: Remove Section 106 Condition in AB-295 (Sub-No. 7X) – The Indiana Rail Road Company - Abandonment Exemption - In Martin and Lawrence Counties, IN

By decision served on March 26, 2010, the Board imposed the following condition:

The Indiana Rail Road Company shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. The Indiana Railroad Company shall report back to the Section of Environmental Analysis regarding any consultations with the Indiana Department of Natural Resources, Division of Historic Preservation & Archaeology and the public. The Indiana Railroad Company may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

Comments on the EA

By letter dated May 18, 2010, the Indiana State Historic Preservation Officer (SHPO) concurred with the Board's **No Adverse Effect** determination, which was made pursuant to the Section 106 regulations of the NHPA at 36 CFR 800.5(b) following consultation with the SHPO and the public. The Board made this determination based on an agreement made by the Indiana Rail Road Company (INDR) with the SHPO in a series of letters and e-mails dated from February to May 2010 (attached). The terms of INDR's agreement with the SHPO are set forth below:

1. The portion of the Bedford Industrial Track adjacent to the Milwaukee Road Depot will remain intact.
2. The ballast along the section of rail line going through archaeological sites 12Lr275, 12Lr457 and 12Mn693 (tunnel in Martin County) will not be removed.
3. In the event that archaeological artifacts or human remains are uncovered, the discovery must be reported to the Department of Natural Resources within 2 business days (317.232.1646).

The Board's determination of **No Adverse Effect** is supported by the following documentation, which we have listed pursuant to 36 CFR 800.11(e):

- INDR's Historic Report,
- letters from the SHPO dated February 23, 2010 and May 3, 2010,
- e-mail correspondence from INDR agreeing to the three conditions, and
- SEA's February 4, 2010 Environmental Assessment.

Each of these documents has been provided to the SHPO and made available to the public through posting on the Board's Web site at <http://www.stb.dot.gov>.

Accordingly, we recommend that the Section 106 condition imposed in the Board's March 26, 2010 Decision be removed.

SEA CONTACT: Troy Brady – (202) 245-0301 or Troy.Brady@stb.dot.gov

Email Letter sent to IN-SHPO

May 14, 2010 at 3:26 PM

Dear Mr. Glass:

Attached please find a letter on behalf of The Indiana Rail Road Company agreeing to the conditions the STB has imposed under Section 106 with respect to INRD's abandonment of the Crane-Bedford line in Indiana. The letter is self-explanatory and accepts the DNR's conditions without reservation.

I would like to emphasize INRD's urgent need to begin salvaging the rail and ties on the line for redeployment to other parts of INRD's rail system in Indiana for use during this construction season, which is now well under way.

Accordingly, if you find INRD's acceptance of the conditions satisfactory, we ask you to expedite your response to the STB so the STB can remove the Section 106 condition which is preventing the salvage work.

John Broadley

John Broadley

John H. Broadley & Associates, P.C.

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SURFACE TRANSPORTATION BOARD
Washington, DC 20423

OFFICE OF ECONOMICS, ENVIRONMENTAL ANALYSIS, AND ADMINISTRATION

May 14, 2010

James A. Glass, Ph.D.
Deputy State Historic Preservation Officer
State Historic Preservation Office
Division of Historic Preservation & Archaeology
402 W. Washington Street, W274
Indianapolis, IN 46203-2739

Re: **Finding of No Adverse of Effect**, STB Docket No. AB 295 (Sub-No. 7X), the Indiana Railroad Company - Abandonment Exemption - In Martin and Lawrence Counties, IN

Dear Dr. Glass:

The Surface Transportation Board (Board's) has determined, in consultation with your office and with the Indiana Railroad Company (INRD), that the Board's approval of the above railroad abandonment would not result in adverse effects to National Register of Historic Places (National Register) listed or eligible historic properties pursuant to 36 C.F.R Part 800 of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA). The Board's approval of this railroad abandonment action is considered an undertaking under Section 106 of NHPA. Our determination of **No Adverse Effect** has been made pursuant to Section 36 C.F.R 800.5(b) with the proviso that INRD comply with certain conditions to ensure that no adverse effects would occur as a result of any post abandonment activities. I will explain those conditions in more detail below. I begin with a brief background of this case.

On December 7, 2009, INRD filed a petition with the Board to abandon 22.8 miles of rail line in Martin and Lawrence Counties, IN. In a decision served on March 26, 2010, the Board imposed a historic preservation condition. The condition was recommended by the Board's Section of Environmental Analysis (SEA) in an environmental assessment that was served to the public for review and comment on February 4th, 2010. The condition states the following:

The Indiana Railroad Company, shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. The Indiana Railroad Company shall report back to the Section of

Environmental Analysis (SEA) regarding any consultations with the Indiana Department of Natural Resources, Division of Historic Preservation & Archaeology and the public. The Indiana Railroad Company may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

The above condition was imposed in order to stay the abandonment proceeding pending resolution of the Section 106 process. Since then, SEA has consulted with your office and INRD and we believe we have come to an agreement on how to proceed. Upon reviewing letters (February 23, 2010 and May 3, 2010) that you provided to the INRD, and in follow-up discussions with your office, we have determined that the following National Register eligible historic properties are located within the Area of Potential Effect for the proposed action:

- 1) The Bedford Industrial Track adjacent to the Milwaukee Railroad Depot (#093-038-27082).
- 2) Archaeological Site 12Mn693 (19th century tunnel) in Martin County.
- 3) Archaeological sites 12Lr275 and 12 Lr457.

In your February 23, 2010 letter to INRD, you stated that the above historic properties would not be adversely affected as a result of the proposed action as long as INRD complies with the following conditions:

- 1) The portion of the Bedford Industrial Track adjacent to the Milwaukee Road Depot will remain intact.
- 2) The ballast along the section of rail line going through archaeological sites 12Lr275, 12Lr457 and 12Mn693 (tunnel in Martin County) will not be removed.
- 3) In the event that archaeological artifacts or human remains are uncovered, the discovery must be reported to the Department of Natural Resources within 2 business days (317.232.1646).

We have discussed your concerns regarding the above historic properties with INRD and they have agreed to comply with the three conditions. INRD has also agreed to provide your office with a letter indicating that they will comply with the above conditions to confirm the agreement. Once you have received the requisite letter from INRD and indicate to me that you are satisfied with its content, we will recommend that the Board reopen the proceeding and remove the Section 106 condition imposed in this case. Once the condition is removed by a decision of the Board, INRD will be able to move forward with the abandonment of the rail line.

Thank you for your timely and helpful assistance with this abandonment proceeding. If you would like to discuss any of the above in further detail do not hesitate to call me at (202) 245-0295, or Troy Brady, SEA's environmental manager in this case, at (610) 793-4301.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

Victoria Rutson
Chief
Section of Environmental Analysis

Cc: John Broadley, INRD



Indiana Department of Natural Resources

Mitchell E. Daniels, Jr., Governor
Robert E. Carter, Jr., Director

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



May 18, 2010

John H. Broadley
John H. Broadley & Associates, P.C.
Canal Square
1054 Thirty-First Street, N.W.
Washington, D.C. 20007

Federal Agency: Surface Transportation Board

Re: Notification of Surface Transportation Board's "No Adverse Effect" finding regarding the abandonment of a rail line from milepost 241.35 at Crane to milepost 262.5 in Bedford and abandonment of the Bedford Industrial Track from milepost 0.00 to milepost 1.65 (Docket No. AB 295 [Sub-No. 7X]; DHPA #7321)

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 and received on May 14, 2010 for the above indicated project from Crane to Bedford, Martin and Lawrence counties, Indiana.

We concur with the Surface Transportation Boards' May 14, 2010 finding that there are no historic buildings, structures, districts, objects, or archaeological resources within the area of potential effects that will be adversely affected by the above indicated project provided the conditions stated in the above letter are adhered to.

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 that event, please call (317) 232-1646. Be advised that adherence to Indiana Code 14-21-1-27 and 29 does not obviate the need to adhere to applicable federal statutes and regulations.

If you have questions about archaeological issues please contact Cathy Draeger-Williams at (317) 234-3791 or cdraeger-williams@dnr.IN.gov. If you have questions about buildings or structures please contact Chad Slider at (317) 234-5366 or cslider@dnr.IN.gov. Additionally, in all future correspondence regarding the above indicated project, please refer to DHPA #7321.

Very truly yours,

James A. Glass, Ph.D.
Deputy State Historic Preservation Officer

JAG:CDW:cdw

cc: David C. Navecky, Environmental Protection Specialist, Surface Transportation Board
emc: Norm West, EPA Chicago Office
Troy Brady, Surface Transportation Board



Division of Historic Preservation & Archaeology • 402 W. Washington Street, W274 • Indianapolis, IN 46204-2739
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May 3, 2010

John H. Broadley
John H. Broadley & Associates, P.C.
Canal Square
1054 Thirty-First Street, N.W.
Washington, D.C. 20007

Federal Agency: Surface Transportation Board

Re: Response to request for additional project information regarding the abandonment of a rail line from milepost 241.35 at Crane to milepost 262.5 in Bedford and abandonment of the Bedford Industrial Track from milepost 0.00 to milepost 1.65 (Docket No. AB 295 [Sub-No. 7X]; DHPA #7321)

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 April 8, 2010 and received on April 12, 2010 for the above indicated project from Crane to Bedford, Martin and Lawrence counties, Indiana.

Thank you for submitting the requested information concerning the proposed abandonment and salvage of the old Chicago, Milwaukee, St. Paul and Pacific Railroad line between Crane and Bedford by the Indiana Railroad Company. Based on the information provided to our office, the rails and ties in the tunnel are not historic and may be removed provided that the other components of archaeological site 12Mn693 (19th century tunnel) are avoided. Please refer to our letter dated February 23, 2010 regarding other conditions and comments.

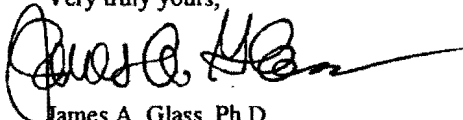
If any archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days. In that event, please call (317) 232-1646. Be advised that adherence to Indiana Code 14-21-1-27 and 29 does not obviate the need to adhere to applicable federal statutes and regulations.

Upon completing its own identification and evaluation efforts, it would be appropriate for the Surface Transportation Board 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 Surface Transportation Board believes that a finding of "no adverse effect" accurately reflects its assessment, then it shall provide documentation of its finding as set forth in 36 C.F.R. § 800.11(e) to the Indiana SHPO, notify all consulting parties, and make the documentation available for public inspection (36 C.F.R. §§ 800.5[b-c] and 800.2[d][2]).
- 2) If, on the other hand, the Surface Transportation Board believes that a finding of "adverse effect" accurately reflects its assessment, then it shall provide notification to the Advisory Council on Historic Preservation by providing the documentation in 36 C.F.R. § 800.11(e) as stated in 36 C.F.R. § 800.6(a)(1). Additionally, the Surface Transportation Board may proceed to provide documentation of its finding as set forth in 36 C.F.R. § 800.11(e) to the Indiana SHPO, all consulting parties, and make the documentation available for public inspection and proceed to seek ways to avoid, reduce and mitigate effects as stated in 36 C.F.R. § 800.6(a)(2-5).

A copy of the revised 36 C.F.R. Part 800 that went into effect on August 5, 2004, may be found on the Internet at www.achp.gov for your reference. If you have questions about archaeological issues please contact Cathy Draeger-Williams at (317) 234-3791 or cdraeger-williams@dnr.IN.gov. If you have questions about buildings or structures please contact Chad Slider at (317) 234-5366 or cslider@dnr.IN.gov. Additionally, in all future correspondence regarding the above indicated project, please refer to DHPA #7321.

Very truly yours,



James A. Glass, Ph.D.
Deputy State Historic Preservation Officer

JAG:CWS:CDW:cdw

cc: David C. Navecky, Environmental Protection Specialist, Surface Transportation Board
cmc: Nancy Albertson, Cultural Resource Program Manager
Norm West, EPA Chicago Office
Troy Brady, Surface Transportation Board