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OEA

SERVICE DATE – NOVEMBER 19, 2010

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 1065X

**Indiana Southwestern Railway Company – Abandonment Exemption –
In Posey and Vanderburgh Counties, Ind.**

BACKGROUND

In this proceeding, the Indiana Southwestern Railway Company (ISW) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 to abandon approximately 17.2 miles of interconnecting rail lines located in Posey and Vanderburgh Counties, Ind. The line extends from milepost 227.5 in Poseyville to milepost 240.2 near German Township, a distance of 12.7 miles; and from milepost 277.5 at Cynthiana to milepost 282.0 at Poseyville, a distance of 4.5 miles. ISW certifies that no rail cars have used the line for at least 2 years and there is no overhead traffic to be rerouted. If the notice becomes effective, the railroad would be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way. ISW believes that the rail line would be suitable for alternative public use, such as a recreational trail. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA).

DESCRIPTION OF THE LINE

ISW indicates that it has no historical records of its own on the rail line proposed for abandonment, but based on research, understands that the line was constructed in the 1880s by the Evansville & Peoria Railway. Following construction, the rail line became the Peoria, Decatur & Evansville Railway. Later, it was purchased by the Illinois Central Railroad and then the Indiana Hi-Rail Corporation. ISW purchased the rail line in 2000. The rail line proposed for abandonment follows a number of different land uses that are both urban and rural and the topography is generally flat to hilly. ISW states that the right-of-way ranges from 66 feet to 130 feet wide and traverses U.S. Postal Service Zip Codes 47612, 47620, 47633, 47708, 47720, and 47725.

ENVIRONMENTAL REVIEW

ISW submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. ISW served the

environmental report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules (49 C.F.R. § 1105.7(b)).¹ The Board's Office of Environmental Analysis (OEA)² has reviewed and investigated the record in this proceeding.

Diversion of Traffic

ISW states that no local traffic has moved over the line for at least 2 years and no overhead traffic would be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. Following abandonment, ISW intends to salvage the rail, ties and track material but leave the roadbed and bridges intact. ISW does not intend to perform any activities that would cause erosion and sedimentation, and dredging or the use of fill material is not anticipated. No new roads are contemplated. Crossties and other debris would be transported away from the line and not discarded in the right-of-way. ISW intends to take appropriate measures to prevent or control spills from fuels, lubricants or any other pollutants from entering into neighboring waterways. ISW plans to use the salvaged rail material in yard expansion and track improvement projects elsewhere in its system.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area. ISW indicates that the proposed abandonment would eliminate 42 (21 private and 21 public) at-grade crossings. Accordingly, OEA believes that these closures would improve public safety.

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 1065X.

² OEA was formerly known as the Board's Section of Environmental Analysis (SEA). The name change from SEA to OEA became effective on September 1, 2010.

ISW consulted with the German Township, Armstrong Township, Vanderburgh County, the City of Evansville, the City of Poseyville, Posey County, and the Town of Cynthiana to determine if the proposed abandonment is consistent with existing land use plans, but has not received any responses. The rail line travels through urban and rural lands that are a combination of commercial use, residential use, and agricultural use and ISW believes that the proposed abandonment is consistent with existing land use plans.

ISW consulted with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) but to date, has not received a response. ISW believes that no prime agricultural land would be affected because the proposed abandonment would not contribute to farm loss. Rather, ISW indicates that the proposed abandonment could contribute to an increase in farm land if the portions of right-of-way abutting agricultural land were converted back to farm use, where practicable.

ISW consulted with the Indiana Department of Natural Resources' (IDNR) Coastal Program, but to date, has not received a response. ISW states that the line proposed for abandonment does not travel through any designated coastal zones. ISW therefore believes that the proposed abandonment would not be subject to any coastal zone review.

ISW consulted with the U.S. Fish and Wildlife Service (USFWS) and IDNR to determine if the proposed abandonment would result in adverse impacts to endangered or threatened species or areas designated as a critical habitat. ISW also notified the National Park Service (NPS) and the U.S. Forest Service (USFS) to determine if the proposed abandonment would impact any wildlife sanctuaries or refuges, national or state parks or forests, but has not received responses from any of these agencies.

ISW contacted the U.S. Environmental Protection Agency (USEPA), the U.S. Army Corps of Engineers (USACE), and the Indiana Department of Environmental Management (IDEM) to determine if the proposed abandonment would be consistent with all water quality standards and permits requirements under Sections 402 and 404 of the Clean Water Act, but has not received any responses. ISW believes that permits would not be required from these agencies because no ground would be disturbed during the salvage process. ISW states that it would use the existing right-of-way to remove the track material during the salvage process but does not intend to disturb any of the underlying roadbed or perform any activities that would cause sedimentation or erosion of the soil. Further, ISW does not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris, if removed, would be transported away from the rail lines proposed for abandonment, and would not be discarded along the rights-of-way, left in streams or wetlands, or placed along the banks of such waterways. ISW further states that it would ensure that appropriate measures are implemented during salvage activities to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any waterways. For these reasons, ISW believes that Section 402 and 404 permits under the Clean Water Act would not be required.

ISW consulted with the National Geodetic Survey (NGS) to determine if salvage activities would disturb or destroy any geodetic station markers, but has not received a response.

Based on the information provided by ISW, OEA believes that the proposed abandonment would not cause significant environmental impacts, but is providing a copy of this EA to the following agencies for review and comment: NRCS, USFWS, NPS, USFS, USEPA, USACE, NGS, IDNR, IDEM, Indiana Department of Transportation, German Township, Armstrong Township, Vanderburgh County, the City of Evansville, the City of Poseyville, Posey County, and the Town of Cynthiana. Pending comments received from other agencies, OEA may recommend conditions that would require ISW to consult further with any of the above referenced agencies, as necessary, prior to commencement of salvage activities.

HISTORIC REVIEW

ISW states that there are 16 structures, each a bridge, that are 50 years or older located along the rail line proposed for abandonment. ISW believes that none of these structures would be eligible for inclusion on the National Register of Historic Places because they do not have any unique or otherwise significant design characteristics. However, if the abandonment is approved, ISW plans to leave all bridges in place in order to accommodate for any future actions, such as its conversion to a recreational trail. ISW is not aware of any archeological resources in the area of the proposed abandonment.

ISW served the historic Report on the IDNR Division of Historic Preservation (State Historic Preservation Officer or SHPO) pursuant to 49 C.F.R. §1105.8(c). OEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, we are recommending a condition requiring the railroad to 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) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify any federally recognized tribes that may have ancestral connections to the project.³ The database indicated that the following tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the Area of Potential Effect). The tribes are: the Delaware Nation and the Peoria Tribe

³ Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited November 5, 2010).

of Indians of Oklahoma. Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

CONDITION

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. The Indiana Southwestern Railway Company (ISW) 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. ISW shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Indiana Department of Natural Resources' Division of Historic Preservation (State Historic Preservation Officer or SHPO) and the public. ISW 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.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and if the recommended mitigation is imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in

a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 1065X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: November 19, 2010.

Comment due date: December 6, 2010.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment