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SERVICE DATE - JULY 23, 1997

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-336 (Sub-No. 6)]

Indiana Hi-Rail Corporation, Debtor--Abandonment--in Putman and Van Wert Counties, OH, and Adams County, IN

On July 8, 1997, the Trustee of Indiana Hi-Rail Corporation, Debtor (IHRC) filed with the Surface Transportation Board, Washington, DC 20423, an application under the Bankruptcy Code, 11 U.S.C. 1170(b), to abandon two segments of a line of railroad known as the St. Mary's District Line. The line segments extend: (1) from milepost TS 65.5 near Douglas, OH, to milepost TS 73.7 at Delphos, OH (the Douglas Line Segment); and (2) from milepost TS 77.5 near Landeck, OH, to milepost TS 117.8 near Craigsville, IN (the Landeck Line Segment), a total distance of 48.5 miles, located in Putnam and Van Wert Counties, OH, and Adams County, IN. The line includes the stations of Wilshire, OH (milepost TS 99.5), Ohio City, OH (milepost TS 90.0), Ft. Jennings, OH (milepost TS 68.7), Douglas, OH (milepost TS 66.0) and Decatur, IN (milepost TS 108.0), and traverses U.S. Postal Service ZIP Codes 46731, 46733, 46780, 45898, 45874, 45894, 45833, 45844 and 45876.

Pursuant to 49 CFR 1152.24(e)(5), IHRC requests waiver of some or all of the requirements contained in: 49 CFR 1152.20(a)(3) and (4) (posting and publication requirements); 49 CFR 1152.20(b)(1) (time limits for service of the notice of intent); 49

CFR 1152.22(d) (revenue and cost data),<sup>1</sup> 49 CFR 1152.22(i) (Board's 20-day time frame for publication of notice in *Federal Register*); and 49 CFR 1152.26 (procedural schedule governing abandonment applications).

IHRC is a bankrupt rail carrier. The application contains sufficient information for the Board to make a recommendation report to the Bankruptcy Court.<sup>2</sup> Requiring IHRC to comply with these cited regulations would serve no useful purpose, but would impose an unnecessary burden on IHRC. Therefore, the waiver request will be granted.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. This line of railroad has appeared on the applicant's system diagram map (SDM) or has been included in its narrative in category 1 since July 8, 1997. Despite the fact that the line was not previously identified on an SDM filed by the applicant as would normally be required by the Board's regulations, the application will not be rejected under these circumstances in which a bankrupt carrier has submitted to the Board an abandonment application pursuant to an order of the Bankruptcy Court. *See* 49 CFR 1152.24(e)(1).

The interest of railroad employees will be protected by *Oregon Short Line R. Co.--Abandonment--Goshen*, 360 I.C.C. 91 (1979).

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<sup>1</sup> While not adhering to the strict financial requirements of 49 CFR 1152.22(d), IHRC did calculate its avoidable costs to the extent that the financial data were available.

<sup>2</sup> Because the Board's role in the abandonment is advisory, IHRC is not obligated to file environmental or historic information. *See* 49 CFR 1105.5(c).

By order dated June 26, 1997,<sup>3</sup> the United States Bankruptcy Court, Southern District of Indiana, Indianapolis Division, directed the Board to respond and issue an advisory opinion on the proposed abandonment application by August 18, 1997. The Board's rules anticipate that protests or comments on an abandonment application would be due 45 days after the filing of the application. In this case, the court's deadline is August 18, 1997 (only 41 days after the July 8, 1997 filing). In order to be in a position to make a recommendation to the court as soon as possible, a shortened procedural schedule will be adopted here. Any interested person may file with the Board written comments concerning the proposed abandonment or protests (including the protestant's entire opposition case). Written comments and protests must indicate the proceeding designation STB Docket No. AB-336 (Sub-No. 6) and should be filed with the Secretary, Surface Transportation Board, Washington, DC 20423-0001, by August 7, 1997. Applicant's reply to opposition case must be filed by August 12, 1997. If the record that is developed permits it, the Board will be able to issue its advisory opinion by August 18, 1997, or shortly thereafter. A copy of each written comment or protest shall be served upon the representative of the applicant: Charles H. White, Jr., Galland, Kharasch & Garfinkle, P.C., Canal Square, 1054 Thirty-First Street, N.W., Washington, DC 20007-4492. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in 49 CFR part 1152, every document filed with the Board must be

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<sup>3</sup> Case No. 94-08502-B-V-11, *In re Sagamore National Corporation a/k/a Indiana Hi Rail Corporation a/k/a Sagnant, Debtor*.

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served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. [TDD for the hearing impaired is available at (202) 565-1695.]

A copy of this notice will be mailed to the Bankruptcy Court at this address:

The Honorable Larry Lessen  
United States Bankruptcy Court, Southern District  
of Indiana, Indianapolis Division  
Room 116  
U.S. Courthouse  
46 East Ohio Street  
Indianapolis, IN 46204

Decided: July 17, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary