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SEC

SERVICE DATE - FEBRUARY 27, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-459 (Sub-No. 2X)

CENTRAL RAILROAD COMPANY OF INDIANA--ABANDONMENT EXEMPTION--
IN DEARBORN, DECATUR, FRANKLIN, RIPLEY, AND SHELBY COUNTIES, IN

Decided: February 26, 1998

On January 14, 1998, Central Railroad Company of Indiana (CIND) filed a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Shelbyville Line, extending from approximately milepost 23.0, near Thatcher station and the town of Greendale, to approximately milepost 81.0, near Shelbyville, a distance of approximately 58 miles in Dearborn, Decatur, Franklin, Ripley, and Shelby Counties, IN. Notice of the petition was served and published (63 FR 5418) on February 2, 1998.

On February 19, 1998, CIND filed a motion seeking an order denying discovery requests filed by certain persons who ship goods over the line or who otherwise have an interest in the proceeding, and who purportedly intend to oppose the petition (hereafter "protestants"). These persons are the complainants in the pending related proceeding in STB Finance Docket No. 33386, Decatur County Commissioners, et al. v. Central Railroad Company of Indiana (the complaint proceeding).

CIND complains that protestants have submitted five sets of discovery requests in the complaint proceeding and two more in this proceeding.¹ The railroad asserts that, despite the burdensome nature of the discovery requests in the complaint proceeding, it responded to each of them. CIND argues that protestants are burdening it with seriatum discovery requests in the abandonment proceeding. CIND states that protestants can effectively use the material it provided through discovery in the related proceeding. The railroad asserts that much of the additional information protestants seek in this proceeding either is irrelevant or concerns operations of the entire CIND system, which is beyond the scope of the proceeding. As to the major issues the Board would consider in the instant proceeding, CIND argues, no further discovery is necessary or warranted.

The motion must be denied as a premature, overbroad request that is inconsistent with the Board's rules of procedure. A party cannot be permitted to "preempt" discovery. Rather, a party may object to discovery requests, leaving the party seeking discovery the option of applying for an

¹ The parties have been submitting copies of discovery materials to the Board. Parties should comply with the Board's discovery rules at 49 CFR 1114.21(f) and refrain from submitting such copies. The submissions serve no purpose and create administrative burdens for the Board.

order compelling replies under the procedures set forth at 49 CFR 1114.31.

Denial of CIND's motion does not constitute or suggest Board approval of discovery in this case. In an abandonment exemption proceeding, discovery is generally dilatory, typically not productive, and consequently disfavored. See SWKR Operating Co.--Abandonment Exemption--In Cochise County, AZ, STB Docket No. AB-441 (Sub-No. 2X) (STB served Feb. 14, 1997).

It is ordered:

1. CIND's motion for an order denying discovery is denied.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary