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SERVICE DATE – JUNE 9, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 295 (Sub-No. 7X)

THE INDIANA RAIL ROAD COMPANY—ABANDONMENT EXEMPTION—
IN MARTIN AND LAWRENCE COUNTIES, IND.

Decided: June 9, 2010

On December 7, 2009, The Indiana Rail Road Company (INRD) filed an exemption under 49 U.S.C. § 10502, from the prior approval requirements of 49 U.S.C. § 10903, to abandon 22.80 miles of rail line (Line) in Martin and Lawrence Counties, Ind. The Line is comprised of a 21.15-mile line of railroad extending from milepost 241.35 east of Crane, Ind., to milepost 262.50 in Bedford, Ind. (Crane-Bedford Line), and a track extending from the Crane-Bedford Line at approximately milepost 262.40 and proceeding in an open counter-clockwise loop (east-north-west-south) for approximately 1.65 miles. Pursuant to 49 U.S.C. § 10502(b), the Board served and published in the Federal Register (74 Fed. Reg. 68,300-01) on December 23, 2009, a notice instituting an exemption proceeding.

The Board's Section of Environmental Analysis (SEA), in an Environmental Assessment (EA) served on February 4, 2010, considered the potential environmental impacts of the proposed abandonment and found that it would not significantly affect the quality of the human environment. In the EA, SEA recommended that INRD be required 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) that are eligible for listing or are listed in the National Register of Historic Places until the section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, had been completed, be required to report back to SEA regarding any consultations with the Indiana Department of Natural Resources' Division of Historic Preservation & Archaeology (SHPO) and the public, and be prohibited from filing its consummation notice or initiating any salvage activities related to abandonment (including removal of tracks and ties) until completion of the section 106 process and removal of this condition. By decision served on March 26, 2010 (March 2010 decision), the Board granted INRD's petition for abandonment, subject to trail use, public use, standard employee protective conditions, and the 4 conditions recommended by SEA in the EA.¹

According to SEA, correspondence between INRD and the SHPO documented an agreement between the parties on matters related to the section 106 historic preservation

¹ The other 3 environmental conditions imposed in the March 2010 decision remain in effect, but are self-executing and are not a barrier to consummation by INRD of this abandonment.

condition. Based on this agreement, SEA determined that past abandonment activities would have no adverse effect pursuant to 36 C.F.R. § 800.5(b). SEA states that, by letter dated May 18, 2010, the SHPO concurred with this determination. Therefore, based on the information provided, SEA recommends that the section 106 historic preservation condition imposed in the March 2010 decision be removed. Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition imposed in the March 2010 decision is removed.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.