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THOMAS F. MCFARLAND

May 28, 2010

State Clearinghouse

Indiana Department of Transportation
Railroad Section
100 N. Senate Avenue
1GC-N, Room N901
Indianapolis, IN 46204

State Coastal Zone Management

Indiana Department of Natural Resources
Division of Water
402 West Washington Street, Rm. W2615
Indianapolis, IN 46204

City Planner:

City of Rochester
Planning & Development Department
320 Main Street
P.O. Box 110
Rochester, IN 46975

U.S. Fish & Wildlife Service:

U.S. Fish & Wildlife Service - Region 3
One Federal Drive
BHW Federal Building
Fort Snelling, MN 55111-4056

National Park Service:

Nick Chevance, Environmental Coordinator
Planning and Compliance Office
National Park Service - Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

National Oceanic & Atmospheric Admin.:

NGS Information Services, NOAA, N/NGS12
National Geodetic Survey SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

State Environmental Protection Agency

Indiana Dept. of Environmental Management
Indiana Government Center
100 N. Senate Avenue
Indianapolis, IN 46206-6015

County Commissioners:

Fulton County Commissioners
125 East 9th Street
Rochester, IN 46975-1500

Environmental Protection Agency

(regional office):

Environmental Protection Agency - Region 5
Metcalf Building
Office of Strategic Environmental Analysis
77 West Jackson Boulevard, Mailcode B-19J
Chicago, IL 60604

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers
Louisville District
P.O. Box 59
Louisville, KY 40201-0059

Natural Resources Conservation Service:

Natural Resources Conservation Service
USDA
6013 Lakeside Boulevard
Indianapolis, IN 46278

Indiana Historical Preservation Office:

Mr. James Glass, Deputy State Historic Preserv. Off.
Indiana Department of Natural Resources
Division of Historic Preservation & Archeology
402 West Washington Street, Rm. W274
Indianapolis, IN 46204-2739

Re: STB Docket No. AB-1064X, *Fulton County, LLC -- Abandonment Exemption -- in Rochester, Fulton County, Indiana*

THOMAS F. MCFARLAND

May 28, 2010
Page 2

Dear Agency or Governmental Representative:

Hereby transmitted is a Draft Environmental and Historic Report prepared by Fulton County, LLC in conjunction with the captioned matter. Your comments are solicited in regard to content of the Report that is within your jurisdiction.

Very truly yours,



Thomas F. McFarland
Attorney for Fulton County, LLC

TMcF:kl.wp8.0\1432\ltrDEHR1

cc: (by e-mail)
Mr. Jeff Zent, *wilsonroch@rtcol.com*
Mr. Terry Lee, *fultoncountywellness@rtcol.com*
Mr. John Cory, *jcory@prairiemills.com*
Carl Miller, Esq., *cmiller1@choiceonemail.com*
Daniel LaKemper, Esq., *lakemper@mtco.com*

BEFORE THE
SURFACE TRANSPORTATION BOARD

FULTON COUNTY, LLC --)
ABANDONMENT EXEMPTION -- IN) DOCKET NO. AB-1064X
ROCHESTER, FULTON COUNTY, IN)

DRAFT ENVIRONMENTAL AND HISTORIC REPORT

FULTON COUNTY, LLC
1827 East Lucas Street
Rochester, IN 46975

Applicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 fax
mcfarland@aol.com

Attorney for Applicant

Date Submitted: May 28, 2010

The Rail Line proposed for abandonment is at the south end of FC's 13-mile rail line between Argos, IN and Rochester, IN. Abandonment of the Rail Line is exempt from the application and approval requirements of 49 U.S.C. § 10903 because it has not been used for the provision of rail service for more than two years.

In the event of abandonment, the track materials in the Line would be removed and sold for reuse, rerolling, or scrap, and the land in the right-of-way would be conveyed for railbanking and interim recreational trail use.

Minimal maintenance of the Line currently being performed would cease in the event of abandonment.

There is no reasonable alternative to abandonment inasmuch as FC would incur substantial opportunity costs associated with nonrail use of the Line's assets unless the Line were to be abandoned.

A map of the Line is attached to this Report as Appendix 1.

(2) Transportation system. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

FC believes that abandonment of the Line will have a minimal effect on regional or local transportation systems and patterns. No rail traffic is currently moving over the Line, so there would be no diversion of rail traffic to other modes of transportation.

(3) Land use. (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

FC believes that abandonment of the Line would be consistent with existing land use plans. Railbanking of the right-of-way would be consistent with current industrial zoning. FC is consulting by letter with planning agencies for the City of Rochester and Fulton County in order to obtain any contrary views. See Appendix 2 attached to this Report.

(3)(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

The proposed abandonment would have no effect on prime agricultural land. The Line is in an entirely suburban setting in the Rochester area. Therefore, removal of trackage from the Line should not have any effect on prime agricultural land. In accordance with this regulation, FC is consulting by letter with the Natural Resources Conservation Service (Appendix 2 hereto).

(3)(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by §1105.9.

The proposed abandonment does not affect land or water uses in a designated coastal zone.

(3)(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.

In FC's opinion, the right-of-way in the Line would be appropriate for alternative public use as a recreational trail. In the event of abandonment, the right-of-way would be conveyed for railbanking and interim recreational trail use.

(4) Energy. (i) Describe the effect of the proposed action on transportation of energy resources.

The proposed abandonment will have no effect on transportation of energy resources.

(4)(ii) Describe the effect of the proposed action on recyclable commodities.

The proposed abandonment will have no effect on recyclable commodities.

(4)(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The proposed abandonment will not result in a change in overall energy efficiency because no rail traffic would be diverted to truck transportation.

(4)(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year; or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in §§1105.7(e)(4)(iii) need not be supplied if the more detailed information in §§1105.7(e)(4)(iv) is required.

Not applicable, as no such diversions will occur.

(5) Air. (i) If the proposed action will result in either:

(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

Not applicable, as no such increases will occur.

(5)(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10502), or a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

Not applicable, as no such increases will occur.

(5)(iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

Not applicable, as no such transportation will occur.

(6) Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more; or

(ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

Not applicable, as no such thresholds will be surpassed.

(7) Safety. (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

The proposed exemption and the resulting abandonment will have a minimal effect on public health and safety because existing rail crossings of public streets and private driveways would continue to be used for recreational purposes.

(7)(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

Not applicable, as hazardous materials will not be transported.

(7)(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

Not applicable, as no such sites will be affected.

(8) Biological resources. (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

The proposed exemption is unlikely to adversely affect endangered or threatened species or areas designated as critical habitat. In accordance with this regulation, FC is consulting by letter with the U.S. Fish and Wildlife Service (Appendix 2). A response from that Service, dated May 19, 2010, is attached to this Report as Appendix 4.

(8)(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

The proposed exemption will not affect wildlife sanctuaries or refuges, nor National or state parks or forests.

(9) Water. (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

The proposed exemption will be consistent with applicable Federal, State or local water quality standards. In accordance with this regulation, FC is consulting by letter with local water quality officials (Appendix 2).

(9)(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

FC believes that permits under section 404 of the Clean Water Act are not required for the proposed exemption. The proposed exemption will not affect any designated wetlands or 100-year flood plains. In accordance with this regulation, FC is consulting by letter with the U.S. Army Corps of Engineers (Appendix 2).

(9)(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

FC believes that permits under section 402 of the Clean Water Act are not required for the proposed exemption. In accordance with this regulation, FC is consulting by letter with the U.S. Environmental Protection Agency (Appendix 2).

(10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Not applicable, as there will be no adverse environmental impacts to mitigate.

II. Historic Report

FC hereby submits the following information required by 49 C.F.R. § 1105.8(d):

(d)(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;

The required topographic map is attached to this Report as Appendix 3.

(d)(2) A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;

The right-of-way in the Line is 100 feet wide for approximately one-half of its 1.3-mile length and 66.5 feet wide for the other one-half. The surrounding area is suburban in nature.

(d)(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

There are no bridges or structures in the Line.

(d)(4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known;

Not applicable.

(d)(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action;

For many years in the past, the Rail Line was part of a main line of the New York, Chicago & St. Louis Railroad Company, commonly known as the Nickle Plate Road, between Indianapolis and Michigan City, Indiana. As a result of merger, the Rail Line came under the ownership of Norfolk and Western Railway Company (N&W). N&W sold the Rail Line to FC in 1996.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic;

Not applicable, as no historic structures are involved.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

Not applicable. There are no such structures. In accordance with this regulation, FC is consulting by letter with the Historical Preservation Office (Appendix 2 hereto).

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

FC has no knowledge of any prior subsurface ground disturbance or fill, or environmental conditions that might affect the archeological recovery of resources and the surrounding terrain.

Respectfully submitted,

FULTON COUNTY LLC
1827 East Lucas Street
Rochester, IN 46975

Applicant

Thomas F. McFarland

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 fax
mcfarland@aol.com
Attorney for Applicant

Date Submitted: May 28, 2010

DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 1

Map of Rail Line pursuant to 49 C.F.R. § 1105.7(e)(1)

DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 2

Letter dated May 14, 2010 to agencies
pursuant to 49 C.F.R. § 1105.7(b)(1)-(11)

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CHICAGO, ILLINOIS 60604-1112
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FAX (312) 201-9695
mcfarland@aol.com

THOMAS F. MCFARLAND

May 14, 2010

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Nick Chevance, Environmental Coordinator
Planning and Compliance Office
National Park Service - Midwest Region
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Omaha, NE 68102-4226

National Oceanic & Atmospheric Admin.:

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National Geodetic Survey SSMC-3, #9202
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Fulton County Commissioners
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Rochester, IN 46975-1500

Environmental Protection Agency

(regional office):

Environmental Protection Agency - Region 5
Metcalf Building
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77 West Jackson Boulevard, Mailcode B-19J
Chicago, IL 60604

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers
Louisville District
P.O. Box 59
Louisville, KY 40201-0059

Natural Resources Conservation Service:

Natural Resources Conservation Service
USDA
6013 Lakeside Boulevard
Indianapolis, IN 46278

Indiana Historical Preservation Office:

Indiana Department of Natural Resources
Division of Historic Preservation & Archeology
402 West Washington Street
Indiana Government Center South, Rm. W256
Indianapolis, IN 46204

Re: STB Docket No. AB-1064X, *Fulton County, LLC -- Abandonment Exemption -- in Rochester, Fulton County, Indiana*

THOMAS F. MCFARLAND

May 14, 2010

Page 2

Dear Agency or Governmental Representative:

Fulton County, LLC (FC) is a privately-owned common carrier by railroad whose address is 1827 East Lucas Street, Rochester, Indiana 46975. In the near future, FC intends to file with the Surface Transportation Board (STB) a Notice of Exemption from 49 U.S.C. § 10903 for abandonment of a 1.3-mile rail line at Rochester, Fulton County, Indiana, more particularly identified as extending between a point 200 feet north of East 18th Street (Milepost 96.9) and the end of track at the northwest property line of Wabash Road (Milepost 95.6) (the Rail Line). The Rail Line is shaded in yellow on a print that is attached to this letter as Appendix 1.

The Rail Line proposed for abandonment is the southern-most segment of FC's 13-mile rail line between Argos, IN and Rochester, IN. Abandonment of the Rail Line is exempt from the application and approval requirements of 49 U.S.C. § 10903 because it has not been used for the provision of rail service for more than two years.

Before filing a Notice of Exemption for abandonment of the Rail Line, FC is required to prepare and circulate to appropriate local government agencies a Draft Environmental and Historic Report that will be reviewed by the STB in conjunction with its determination of whether or not the proposed abandonment would have a significant adverse effect on the human environment or on historic resources. This letter is intended to consult with your agency in regard to the environmental and historic effects of the proposed abandonment.

Pursuant to STB regulations at 49 C.F.R. § 1105.7, this letter is to request your assistance in identifying potential environmental and historic effects of that proposed abandonment. FC does not anticipate any adverse environmental or historic impacts; however, if you identify any such adverse impacts, please describe any action that could be taken to mitigate such adverse impacts. Please provide a written response to this letter as soon as possible so that your response can be included in a Draft Environmental and Historic Report that FC will prepare, file with the STB, and serve on interested agencies.

COUNTY AND CITY PLANNING AGENCIES. Please state whether the proposed abandonment would be consistent with existing land-use plans. Describe any inconsistencies.

US SOIL CONSERVATION SERVICE. Please state the effect of the proposed abandonment on any prime agricultural land.

US FISH AND WILDLIFE SERVICE. Please state (1) whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat and, if

THOMAS F. MCFARLAND

May 14, 2010

Page 3

so, please describe such effects; and (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected and, if so, please describe such effects.

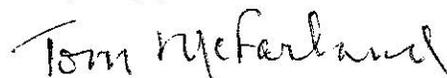
STATE WATER QUALITY OFFICIALS. Please state whether the proposed abandonment would be consistent with applicable Federal, State or Local water quality standards. Please describe any inconsistencies.

US AND STATE ENVIRONMENTAL PROTECTION AGENCIES (OR EQUIVALENT AGENCY). Please (1) identify any potential adverse environmental effects of the proposed abandonment on the surrounding area, and (2) identify the location of any known hazardous materials spills on the right-of-way of the Rail Line, and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed abandonment.

STATE HISTORICAL PRESERVATION OFFICE. There are no bridges or structures on the Rail Line proposed for abandonment. The Rail Line was originally part of a line of the New York, St. Louis & Chicago Railroad Company (Nickel Plate) between Michigan City and Indianapolis, IN. It came under the ownership of Fulton County, LLC in 1996. The Rail Line is not thought to be of unusual historic significance.

Please send your reply to me as FC's attorney to: Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 606040-1112. You may reach me by telephone at (312) 236-0204 if you have any questions or need further information. FC appreciates your assistance in furnishing a reply to this letter.

Very truly yours,



Thomas F. McFarland
Attorney for Fulton County, LLC

THOMAS F. MCFARLAND

May 14, 2010

Page 4

cc: *(by e-mail)*
Mr. Jeff Zent, *wilsonroch@rtcol.com*
Mr. Terry Lee, *fultoncountywellness@rtcol.com*
Mr. John Cory, *jcory@prairiemills.com*
Carl Miller, Esq., *cmiller1@choiceonemail.com*
Daniel LaKemper, Esq., *lakemper@mtco.com*

DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 3

Topographic map pursuant to 49 C.F.R. § 1105.8(d)(1)

DRAFT ENVIRONMENTAL & HISTORIC REPORT

APPENDIX 4

Response to letter dated May 14, 2010 to U.S. Fish & Wildlife Service



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Bishop Henry Whipple Federal Building
1 Federal Drive
Fort Snelling, MN 55111-4056

IN REPLY REFER TO:

FWS/NWRS-RE - General
Railroad Abandonments

May 19, 2010

Mr. Thomas F. McFarland, P.C.
Law Office
208 South LaSalle Street
Suite 1890
Chicago, Illinois 60604-0204

Dear Mr. McFarland:

Thank you for the opportunity to comment on the proposed abandonment of service on 1.3 miles of railroad line between Milepost 96.9 and Milepost 95.6 in Grimes, Fulton County, Indiana, STB Docket No. AB-1064X.

We have researched our ownerships in the vicinity and have determined we do not own any lands or interests in land in the vicinity of the proposed rail line abandonments. We do not have any concerns regarding real estate matters in the abandonments.

Sincerely,

Patrick G. Carroll
Senior Realty Officer
Division of Realty

CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2010, I served the foregoing document, Draft Environmental and Historic Report, by first-class, U.S. mail, postage prepaid, on the following:

State Clearinghouse

Indiana Department of Transportation
Railroad Section
100 N. Senate Avenue
1GC-N, Room N901
Indianapolis, IN 46204

State Environmental Protection Agency

Indiana Dept. of Environmental Management
Indiana Government Center
100 N. Senate Avenue
Indianapolis, IN 46206-6015

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U.S. Fish & Wildlife Service - Region 3
One Federal Drive
BHW Federal Building
Fort Snelling, MN 55111-4056

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers
Louisville District
P.O. Box 59
Louisville, KY 40201-0059

National Park Service:

Nick Chevance, Environmental Coordinator
Planning and Compliance Office
National Park Service - Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

Natural Resources Conservation Service:

Natural Resources Conservation Service
USDA
6013 Lakeside Boulevard
Indianapolis, IN 46278

National Oceanic & Atmospheric Admin.:

NGS Information Services, NOAA, N/NGS12
National Geodetic Survey SSMC-3, #9202
1315 East-West Highway
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Mr. James Glass, Deputy State Historic Pres. Off.
Indiana Department of Natural Resources
Division of Historic Preservation & Archeology
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Thomas F. McFarland