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# BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS  
2401 PENNSYLVANIA AVENUE NW  
SUITE 300  
WASHINGTON DC 20037  
  
TELEPHONE (202) 663-7820  
FACSIMILE (202) 663 7849

WILLIAM A. MULLINS

(202) 663-7823 (Direct Dial)  
E-Mail [wmullins@bakerandmiller.com](mailto:wmullins@bakerandmiller.com)

September 2, 2011

**ENTERED**  
**Office of Proceedings**

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**VIA E-FILING**

Cynthia T. Brown, Chief  
Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington DC 20423-0001

Re: *Indiana Southwestern Railway Co. – Abandonment Exemption – In Posey and Vanderburgh Counties, IN, STB Docket No. AB-1065X*

Dear Ms. Brown:

Indiana Southwestern Railway Company (“ISW”) hereby replies to the September 1, 2011 letter filing of the Town of Poseyville (the “Town”). The Town once again has filed another untimely and legally deficient request that the abandonment authority granted in this proceeding be “held in abeyance” to allow it yet another chance to try and acquire the subject rail line. The Board should reject the Town’s request.

Throughout this proceeding, the Board has given the Town numerous opportunities to acquire ISW’s rail property through the Offer of Financial Assistance (“OFA”) process (a process, which in reality amounts to a forced taking of ISW’s rail property). Yet, every time the Board gave the Town an opportunity to acquire the line under this forced sale process, the Town failed to “pony up.” A prime example of this is the Board’s April 8 Decision, which was quite clear. It gave the Town time to seek reopening of the decision authorizing the abandonment authority to become effective, and instructed the Town to file, by May 23, its request to ask the Board to set the terms and conditions by which the Board would order the forced sale of the line to the Town. The Town did neither.

Indeed, if it were not for the Board’s extreme patience and several decisions favorable to the Town, ISW would have been able to abandon the line a half a year ago. Between then and now, the Town has been given every opportunity to buy the line but has failed to do so. Not only did the Board provide the Town with several chances to acquire the line through the Board’s

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process, but ISW itself offered several times to sell the line to the Town through private negotiation. ISW's only requirement was that the Town pay the same value as ISW would realize through a liquidation. The Town rejected ISW's offers every time, refusing even to enter into a confidentiality agreement so as to be able to conduct private negotiations outside the scope of the STB process.

Having failed to exercise its legal rights or enter into good faith private negotiations, the Town wants yet another chance, and this time through a "secret briefing" presumably between the Board and the Town. The Town's efforts to once again delay ISW's legal right to abandon and liquidate its property should be rejected. There are no active shippers, there has been no rail service on the line for years, and the Town has refused to buy the line through either the public or private process. It is time for the line to be abandoned, and to permit ISW to realize the value of its property.

Sincerely,



William A. Mullins

Enclosures

cc: J. Michael Carr  
Parties of Record  
Honorable Senator Richard Lugar  
Honorable Senator Dan Coats  
Honorable Representative Larry Bucshon  
Ms. Venetta Keefe, Indiana Department of Transportation