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DEC 18 2012

**SURFACE
TRANSPORTATION BOARD**

**INDIANA TRAILS FUND, INC.
217 West 10th Street, #120
P. O. Box 402
Indianapolis, Indiana 46206-0402**



November 16, 2012

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

233533

RE: STB Docket AB-295 (Sub-No. 6X)
The Indiana Rail Road Company
Abandonment Exemption in Monroe County, IN
Substitution of Trail User

ENTERED
Office of Proceedings

DEC 18 2012

Part of
Public Record

Dear Ms Brown:

The Indiana Trails Fund ("Trails") which currently holds the Interim Trail Use ("Use") on the corridor in the above captioned proceeding, asks to reopen this case.

Trails has been involved with this case since September 29, 2006 (ID#47423), including holding the Use for the Monroe County, Indiana, Parks and Recreation Department ("Parks")

The Monroe County Board of Commissioners, on behalf of Monroe County, including the Parks Department, (collectively referenced as "Monroe County"), has requested that the Trails transfer the Use to Monroe County. Monroe County is including herewith our joint petition, including a Statement of Willingness to Assume Financial Responsibility, requesting that the Surface Transportation Board ("STB") vacate the Notice of Interim Trail Use ("NITU-1") issued to the Indiana Trails Fund and reissue a Notice of Interim Trail Use ("NITU-2") to Monroe County.

Also included with said joint petition is a statement of concurrence from the Indiana Rail Road Company ("INRD"), the holder of the Rail Reactivation ("Rights"). Monroe County will also serve the joint motion for the issuance of a NITU-2, and their Statement of Willingness to Assume Financial Responsibility upon the INRD contemporaneously with this filing.

Should you, or anyone at the STB, have questions about, Rights, and/or this request to transfer Use, please feel free to contact myself of Trails, below, and Mr Kevin W. Dogan, of Monroe County, whose appearance in this proceeding is included herewith.

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2012

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FILED

DEC 18 2012

**SURFACE
TRANSPORTATION BOARD**

C. Brown
November 16, 2012
Page 2

Also included are the original and ten copies of this letter, Kevin W. Dogan's appearance, the Joint Petition, and a check in the amount of \$250 to pay the fee for this filing.

Thank you,



Richard Vonnegut
President
The Indiana Trails Fund, Inc.
Wk: 317-237-9348
trails@indianatrails.com
www.indianatrails.com

RV, encl , cc: K. Dogan, INRD, files

BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.



The Indiana Rail Road Company – Abandonment
Exemption – Monroe County, IN

AB 295 (Sub-No. 6X)

JOINT PETITION TO VACATE AND REISSUE NITU

Pursuant to 49 C.F.R. § 1152.29(f), the Indiana Trails Fund, Incorporated (“ITF”) and the Monroe County Board of Commissioners on behalf of Monroe County (“Monroe County”) submit this joint petition to the Surface Transportation Board (“STB”) requesting that the STB reopen these abandonment exemption proceedings, vacate the existing Notice of Interim Trail Use (“NITU”) and issue an appropriate replacement NITU to the new trail user, Monroe County, effective December 28, 2012. In support of this joint petition the ITF and Monroe County set forth and state the following:

1. By decision and notice of interim trail use or abandonment (“Extant NITU”, attached hereto as Exhibit A) on Service Date, October 18, 2006, the STB vacated a NITU issued to the Monroe County Parks and Recreation Department, and reissued the Extant NITU to ITF for the right-of-way involved in this proceeding: a 2.44 mile portion of the Indiana Rail Road Company’s (“INRD”) Ellettsville Branch in Monroe County from milepost Q216.13 near Loesch Road to the end of the line at Ellettsville, milepost Q213.69, in Monroe County, Indiana. A map depicting the right-of-way subject to this proceeding is attached with Exhibits A and C.

2. After subsequent extensions of time, the ITF and INRD notified by filing with the STB on October 9, 2007 that the two parties had reached a trail use agreement.

3. Subsequently, the ITF and Monroe County have entered into negotiations to transfer the trail manager status to Monroe County, which has led to this joint filing.

4. The substitution of Monroe County as the interim trail manager will not have any adverse affects upon the INRD because Monroe County has agreed to be bound by the trail use agreement reached by the ITF and INRD, has similarly agreed to be comply with all provisions of railbanking under 16 U.S.C. § 1247(d), and the ITF and Monroe County have obtained a letter of no objection from the INRD (attached hereto as Exhibit B). Monroe County therefore acknowledges that the interim trail use is subject to possible future reconstruction and reactivation of the right-of-way for rail service

5. Attached hereto as Exhibit C is Monroe County's statement of willingness to assume financial responsibility.

6. The date for the transition of total responsibility as the new interim trail manager to Monroe County will be December 28, 2012

WHEREFORE the ITF and Monroe County respectfully request that the Surface Transportation Board reopen the above captioned cause, vacate the Extant NITU issue to the ITF, and issue an appropriate NITU to Monroe County as the new interim Trail Manager.


Richard Vonnegut, President
Indiana Trails Fund, Inc.
2012 Dec 6


Iris Kiesling, Vice President
Board of Commissioners, Monroe
County

Exhibit A

37423
DO

SERVICE DATE - OCTOBER 18, 2006

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-295 (Sub-No. 6X)

THE INDIANA RAIL ROAD COMPANY—ABANDONMENT EXEMPTION—
IN MONROE COUNTY, IN

Decided: October 17, 2006

The Indiana Rail Road Company (INRD) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 2.44-mile portion of its Ellettsville Branch from milepost Q216.13 near Loesch Road to the end of the line at Ellettsville, milepost Q213.69, in Monroe County, IN. Notice of the exemption was served and published in the Federal Register on April 15, 2005 (70 FR 19987-88). By decision and notice of interim trail use or abandonment (NITU) served on May 17, 2005, the proceeding was reopened and a 180-day period was authorized for the Monroe County Parks and Recreation Department (the County) to negotiate an interim trail use/rail banking agreement with INRD for the right-of-way involved in this proceeding.¹ By decisions served on November 8, 2005, and May 9, 2006, the NITU negotiating period was extended until November 9, 2006.

On September 29, 2006, Indiana Trails Fund, Inc. (ITF), and the Monroe County (IN) Parks and Recreation Board, on behalf of the County, jointly filed a request, pursuant to 49 CFR 1152.29(f), for the substitution of ITF as the interim trail user. ITF has submitted the required statement of willingness to assume financial responsibility for any period of interim trail use and has indicated the date of transfer of responsibility for the right-of-way. Although the parties did not submit a copy of the extant NITU, their submission substantially meets the requirements of 49 CFR 1152.29(f). Accordingly, the request will be granted.

This decision 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. The NITU served on May 17, 2005, is vacated.

¹ The decision and notice also made the exemption subject to several environmental conditions.



STB Docket No. AB-295 (Sub-No. 6X)

3. A replacement NITU applicable to ITF as interim trail user is issued, effective on the service date of this decision and notice

4. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.

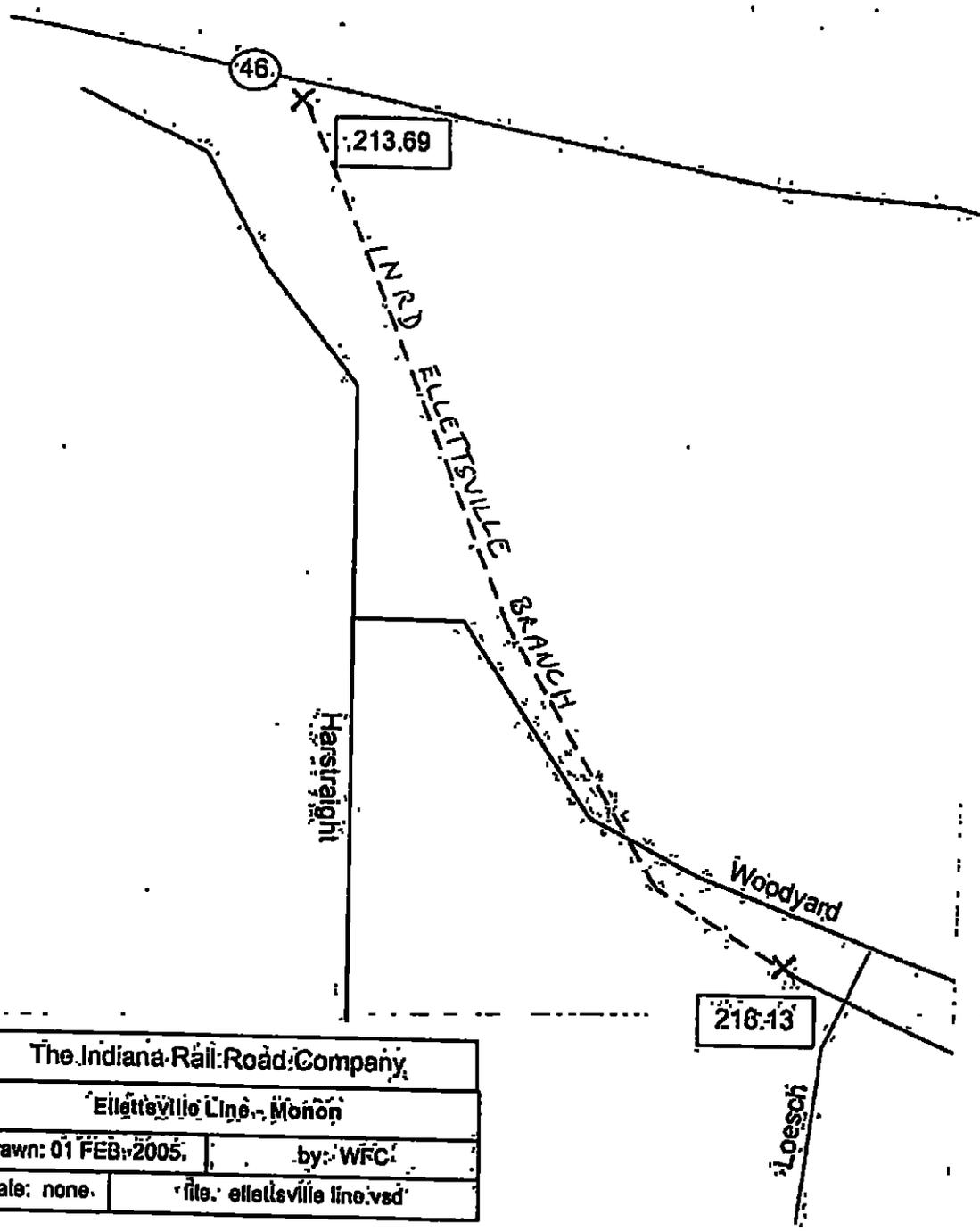
5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user's continuing to meet the financial obligations for the right-of-way.

6. If the new trail user enters into a trail use agreement with INRD and subsequently intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

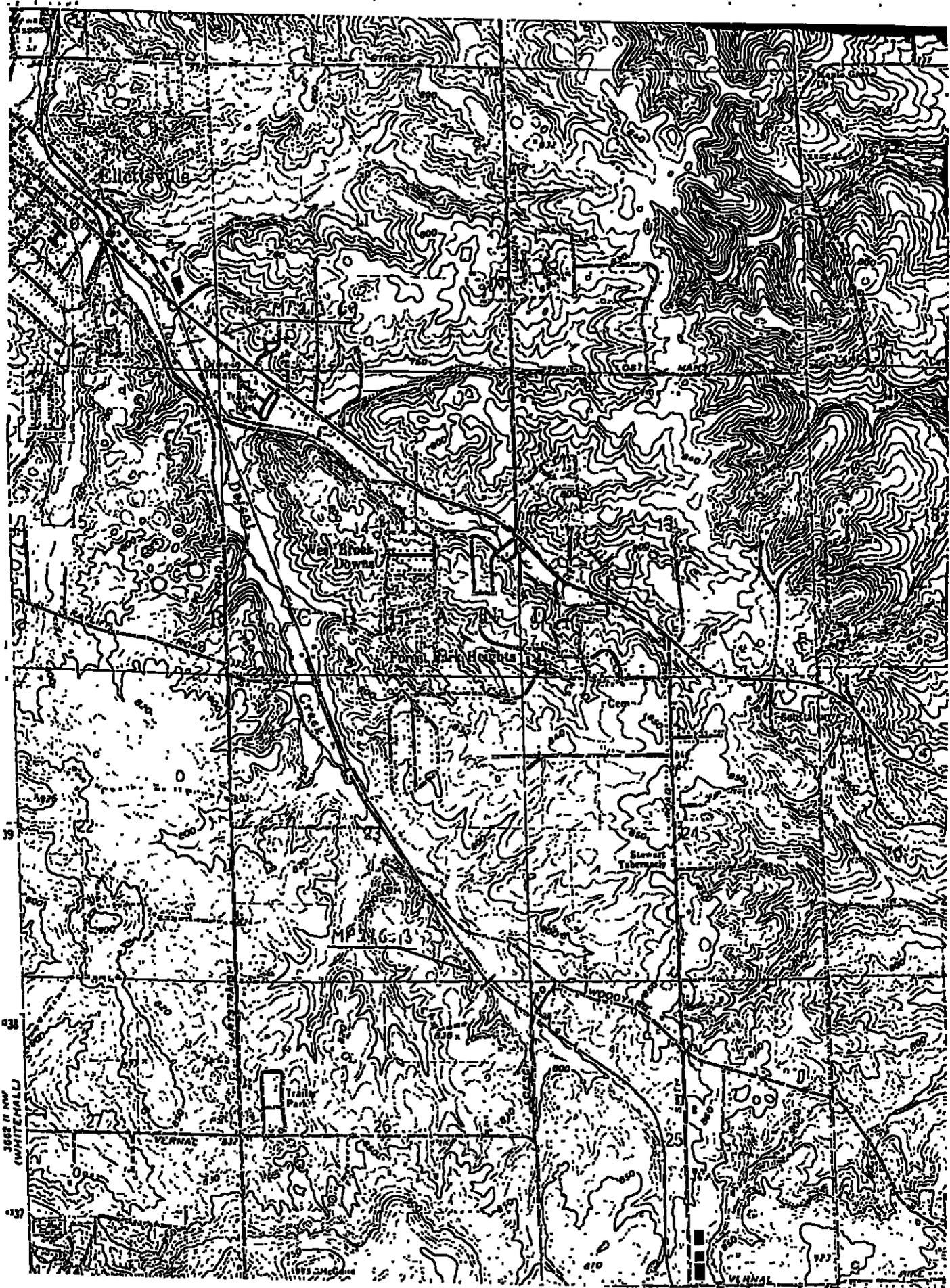
7. This decision is effective on its service date.

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

Vernon A. Williams
Secretary



The Indiana Rail Road Company	
Elliottsville Line - Monon	
drawn: 01 FEB 2005	by: WFC
scale: none	file: elliottsville line.vsd



3682 11 NW
(WHITENALL)

VERNAL

Stewart
Tabernacle

MP 26.13

WOODS



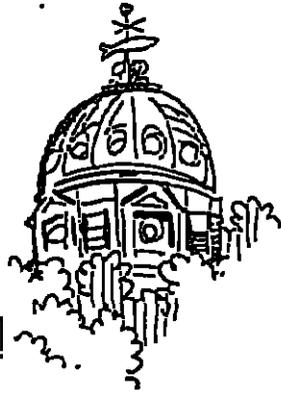


Exhibit C

OFFICE OF
MONROE COUNTY COMMISSIONERS
100 West Kirkwood Avenue
The Courthouse Room 322
BLOOMINGTON, INDIANA 47404

Telephone 812-349-2550
Facsimile 812-349-7320

Mark Stoops, President Iris F. Kiesling, Vice President Patrick Stoffers, Member

December __, 2012

Daniel R. Elliott III
Chairman
The Surface Transportation Board
395 E Street, SW
Washington D C. 20423

RE. Statement of Willingness to Assume Financial Responsibility
 STB Docket No. AB-295 (Sub-No. 6X)

The Honorable Daniel R. Elliott III.

In order to establish interim trail use and rail banking under 16 U.S.C. § 1247(d) and 49 CFR 1152.29, Monroe County Board of Commissioners on behalf of Monroe County (interim trail user) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by the Indiana Rail Road Company and operated by the Indiana Railroad Company. The property, known as the Ellettsville Branch, extends from railroad milepost MP Q216 13, near Loesch Road, to MP Q213.69, near the end of the Branch at Ellettsville, a distance of 2.44 miles in Monroe County, Indiana. The right-of-way is part of a line of railroad proposed for abandonment in Docket AB 295 (Sub-No. 6X)

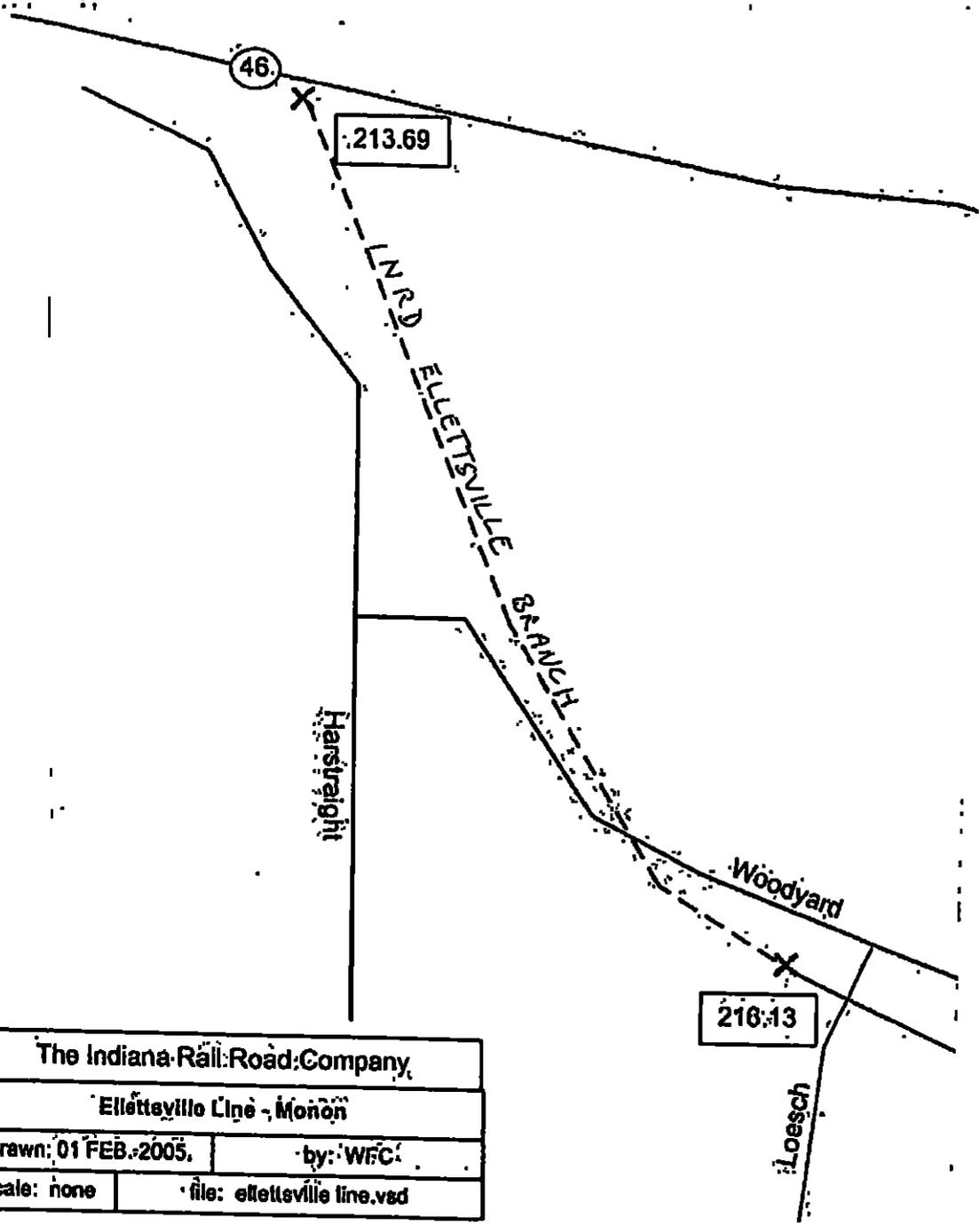
A map of the property depicting the right-of-way is attached.

The Monroe County Board of Commissioners on behalf of Monroe County acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad(s) on the same date it is being served on the Board.

Sincerely,

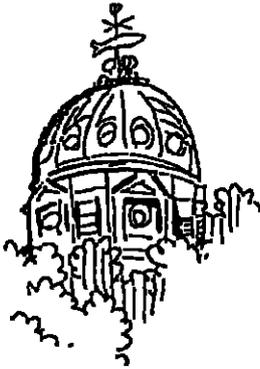
A handwritten signature in cursive script, reading "Iris Kiesling".

Iris Kiesling, Vice President
Monroe County Board of Commissioners



The Indiana Rail Road Company	
Ellettsville Line - Monon	
drawn: 01 FEB. 2005.	by: WFC
scale: none	file: ellettsville line.vsd

Exhibit C



OFFICE OF
MONROE COUNTY COMMISSIONERS
100 West Kirkwood Avenue
The Courthouse Room 322
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Mark Stoops, President Iris F. Kiesling, Vice President Patrick Stoffers, Member

December __, 2012

Daniel R. Elliott III
Chairman
The Surface Transportation Board
395 E Street, SW
Washington D.C. 20423



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STB Docket No AB-295 (Sub-No 6X)

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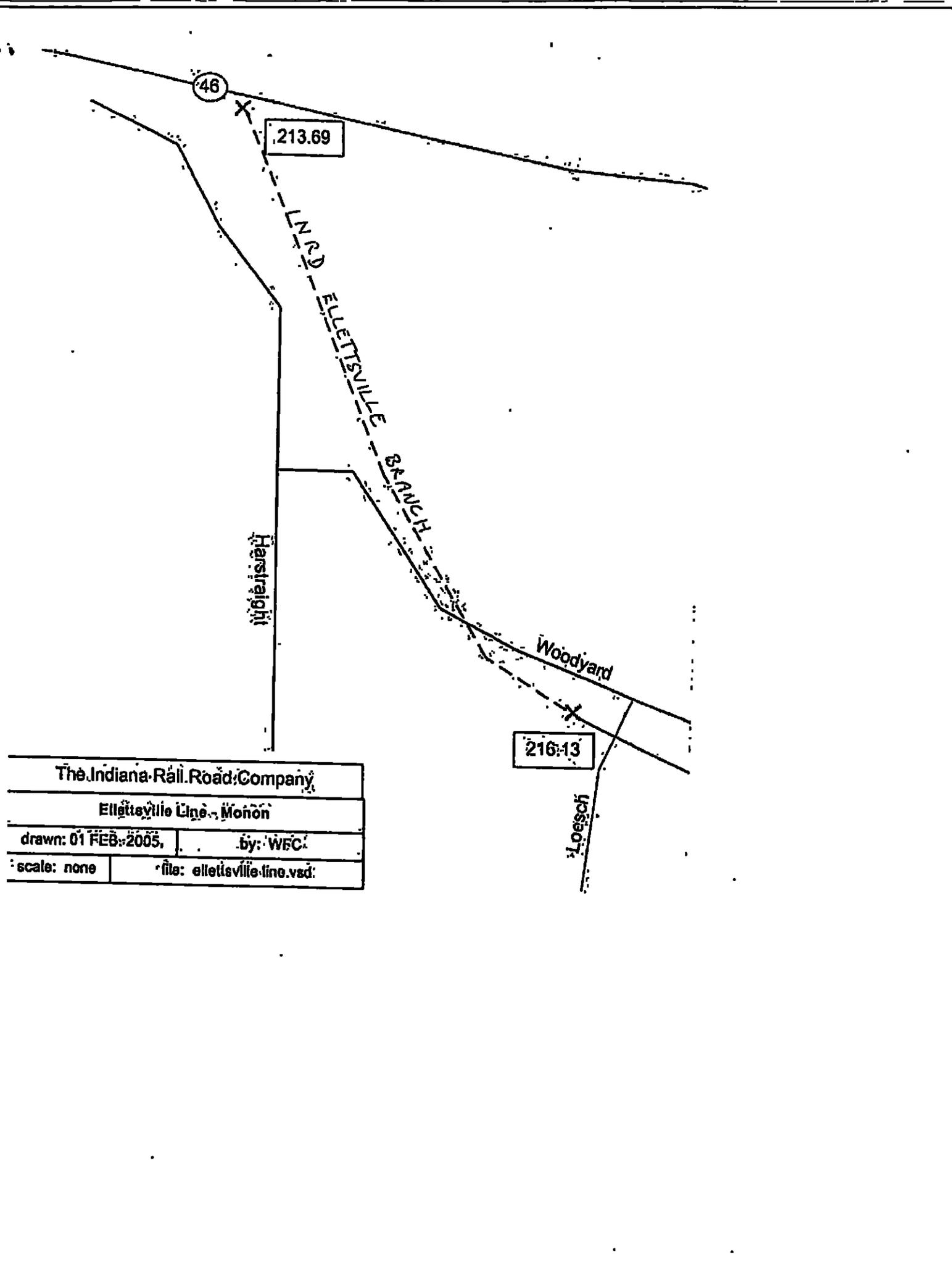
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A map of the property depicting the right-of-way is attached.

The Monroe County Board of Commissioners on behalf of Monroe County acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad(s) on the same date it is being served on the Board.

Sincerely,


Iris Kiesling, Vice President
Monroe County Board of Commissioners



The Indiana Rail Road Company	
Ellettsville Line - Monon	
drawn: 01 FEB. 2005,	by: WFC
scale: none	file: ellettsville.lino.vsd



OFFICE OF
MONROE COUNTY ATTORNEY
100 W Kirkwood Avenue, Room 220
Bloomington, Indiana 47404
Telephone: (812) 349-2525
Facsimile (812) 349-2982
e-mail: legal@co.monroe in us

DAVID B. SCHILLING
C. JEFF COCKERILL
KEVIN W. DOGAN

December 14, 2012



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

RE: STB Docket AB-295 (Sub-No. 6X)
The Indiana Rail Road Company
Abandonment Exemption in Monroe County, IN
Substitution of Trail User

Dear Ms Brown.

Please enter my appearance in the above captioned cause representing the Monroe County Board of Commissioners, acting on behalf of Monroe County, Indiana. My vital information is as follows:

Kevin W Dogan
Office of the Monroe County Attorney
100 W. Kirkwood Ave., Room 220
Bloomington, IN 47404
Telephone: (812) 349-2525
Facsimile (812) 349-2982
Email: kdogan@co.monroe.in.us
Attorney for Monroe County, Indiana

Sincerely,

A handwritten signature in cursive script, reading 'Kevin W. Dogan', is positioned above the typed name.

Kevin W. Dogan

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Joint Petition to Vacate and Reissue NITU by United States mail. first class postage prepaid to the following person or persons this the 14th day of December, 2012.

John Broadley
John Broadley & Associates
1054 31st Street NW. Suite 200
Washington, D.C. 20007
Attorney for the Indiana Rail Road Company


Kevin W. Dogan
Attorney for Monroe County

**John H. Bradley & Associates, P.C.
1054 Thirty-first Street, N.W.
Suite 540
Washington, D.C. 20007**

Tel. 202-333-6025
Fax 202-380-9081

Internet jbroadley@alum.mit.edu

December 4, 2012

Cynthia T Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W
Washington, D.C. 20423

Re: STB Docket No. AB-295 (Sub-No 6X), The Indiana Rail Road Company—
Abandonment Exemption—Monroe County, IN (Substitution of Trail User)

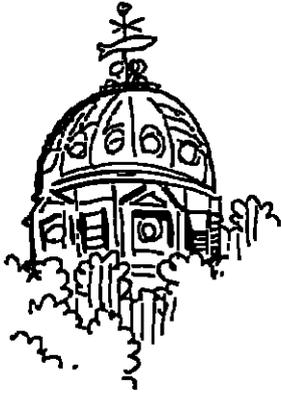
Dear Ms. Brown:

This letter is to notify the Board that The Indiana Rail Road Company has no objection to substitution of Monroe County, Indiana to be the trail user in the place of The Indiana Trails Fund, Inc. for the line that is the subject of this proceeding, provided, of course, that Monroe County assumes the responsibilities of a trail user as set forth in 16 U.S.C. 1247(d) and 49 CFR 1152.29

Yours very truly,


John Bradley

Cc: Thomas G Hoback
Richard Vonnegut
Kevin Dogan



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MONROE COUNTY COMMISSIONERS
100 West Kirkwood Avenue
The Courthouse Room 322
BLOOMINGTON, INDIANA 47404

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Iris F. Kiesling, Vice President
Monroe County Board of Commissioners