

Michael J. Barron, Jr.
Counsel
Legal Department



Canadian National/Illinois Central
455 North Cityfront Plaza Drive
Chicago, Illinois 60611-5317
Telephone: (312) 755-7954
Fax: (312) 755-7669
Internet: Michael.Barron@cn.ca

209756

December 23, 2003

Via First Class Mail

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

DEC 31 2003

Part of
Public Record



Re: Docket No. AB-43 (Sub-No. 175X), Illinois Central Railroad Company—
Abandonment Exemption — in Mobile County, Alabama

Dear Secretary Williams:

We received the attached letter from the Army Corps of Engineers after we had submitted our Verified Notice of Exemption on December 22. The Corps' letter states that an Army permit pursuant to Section 404 of the Clean Water Act will not be required for this proposed abandonment. We respectfully request that this correspondence be included with our submission of December 22. Ten copies of the correspondence are included.

Yours very truly,


Michael J. Barron, Jr.
Counsel for Illinois Central
Railroad Company

Encl.



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001



REPLY TO
ATTENTION OF:

December 11, 2003

Regulatory Branch
Operations Division

209756

SUBJECT: No Permit Required - Jurisdictional Number
ALJ03-03873-C, Railroad Abandonment

Canadian National/Illinois Central
Attention: Mr. Michael Barron, Jr.
455 North Cityfront Plaza Drive
Chicago, Illinois 60611-5317

Dear Mr. Barron:

Reference is made to your letter requesting a jurisdictional determination on property between railroad mileposts 3.67 and 4.7 in the City of Prichard. Please reference letter dated October 3, 2003 (ALJ03-2982-C). The property is located within Mobile County, Alabama.

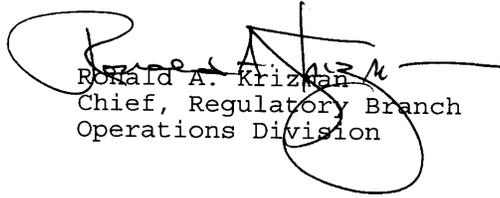
An in-office review conducted on December 11, 2003, revealed that a Department of the Army permit pursuant to Section 404 of the Clean Water Act will not be required for the proposed rail abandonment. The property is a nonwetland/upland area based upon the U.S. Army Corps of Engineers' 1987 Wetland Delineation Manual.

Please be advised that this jurisdictional determination reflects current policy and regulation and is valid for a period of 5 years from the date of this letter. If after the 5-year period this jurisdictional determination has not been specifically revalidated by the U.S. Army Corps of Engineers, it shall automatically expire. Should you disagree with this determination, the enclosed Notification of Applicant Options outlines the steps to take to file your objection.

The statements contained herein do not convey any property rights or any exclusive privileges, and do not authorize any injury to property or obviate the requirements to obtain other local, State, or Federal assent required by law for the activities discussed above.

If the scope of work or project location changes, you are urged to contact this office for a verification of this determination. Thank you for your cooperation with our permit program. If you have any questions concerning this matter, please contact Ms. Debra D. Archie of the Enforcement Section at (251) 694-3734.

Sincerely,


RONALD A. KRIZMAN
Chief, Regulatory Branch
Operations Division

Enclosure

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Illinois Central Railroad/AB-43		File Number: ALJ03-03873-C	Date: 12/11/2003
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
XX	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
Mrs. Debra D. Archie
CESAM-OP-S
U.S. ARMY CORPS OF ENGINEERS
POST OFFICE BOX 2288
MOBILE, ALABAMA 36628-0001
(251) 694-3734

If you only have questions regarding the appeal process you may also contact:
MR. ARTHUR L. MIDDLETON, JR.
REGULATORY APPEAL REVIEW OFFICER
ROOM 9M15
60 FORSYTH STREET SOUTHWEST
ATLANTA, GEORGIA 30303-8801
(404) 562-5136

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number: