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TOWSON, MARYLAND 21204-4022
(202) 466-6532
FAX (410) 332-0885

March 31, 2009

Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 T. Street, S.W.
Washington, D. C. 20423



RE: Docket No. AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc.*
Abandonment Exemption in Muskegon County, MI

Dear Acting Secretary Quinlan:

Enclosed are the original and 10 copies of a Verified Notice of Exemption for abandonment in the above-entitled proceeding and a check for the filing fee of \$3,700. Also enclosed is a computer diskette in containing the Notice. Maps and other color exhibits are included in Exhibit E at the end of the Notice.

Please time and date stamp the additional copy of this letter and the Notice and return them with our messenger. Thank you for your assistance.

If you have any questions please call or email me

Sincerely yours

A handwritten signature in black ink, appearing to read "Louis E. Gitomer".

Louis E. Gitomer
Attorney for Mid-Michigan Railroad, Inc.

Enclosures

FILED

MAR 31 2009

**SURFACE
TRANSPORTATION BOARD**

FEE RECEIVED

MAR 31 2009

**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings

MAR 31 2009

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-364 (Sub-No. 16X)

MID-MICHIGAN RAILROAD, INC.—ABANDONMENT EXEMPTION—
IN MUSKEGON COUNTY, MI

VERIFIED NOTICE OF EXEMPTION



Scott G. Williams, Esq.
Senior Vice President and General Counsel
RailAmerica, Inc.
7411 Fullerton Street, Suite 300
Jacksonville, FL 32256
(904) 538-6329

Louis E. Gitomer, Esq.
600 Baltimore Avenue
Suite 301
Towson, MD 21204
(202) 466-6532
Lou_Gitomer@verizon.net

Attorneys for: MID-MICHIGAN
RAILROAD, INC.

Dated: March 31, 2009

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-364 (Sub-No. 16X)

MID-MICHIGAN RAILROAD, INC.—ABANDONMENT EXEMPTION—
IN MUSKEGON COUNTY, MI

VERIFIED NOTICE OF EXEMPTION

Mid-Michigan Railroad, Inc. (“MMRR”) files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for MMRR to abandon a 3.35-mile rail line in Muskegon, MI between milepost 191.40 and milepost 194.75, the end of the line, in Muskegon County, MI (the “Line”).¹ No local rail traffic has moved over the Line during the past two years. Any overhead rail traffic can be rerouted over other rail lines.

Based on information in the possession of MMRR, the Line does not contain federally granted rights-of-way. Any documentation in the railroad’s possession will be made available promptly to those requesting it.

There are no local shippers on the Line. The last shipment on the Line occurred in September 2005. There have been no rail shipments in 2006, 2007, 2008, or in 2009 to date.

¹ The abandonment of the Line was previously exempted in *Mid-Michigan Railroad, Inc.—Abandonment Exemption—in Muskegon County, MI*, STB Docket No. AB-364 (Sub-No. 13X) (STB served December 10, 2008). MMRR notified the Board that it had discontinued service over the Line on September 15, 2008. MMRR did not consummate the abandonment by the December 10, 2008 deadline for consummation and has filed the instant notice of exemption to be able to abandon the Line.

1. Proposed consummation date. The proposed abandonment date is May 20, 2009
2. Certification required by 49 C.F.R. § 1152.50(b). *See* Exhibit A
- 3 Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (e)(4).

(a) General.

(1) Exact name of applicant. The Mid-Michigan Railroad, Inc.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C Subtitle IV, Chapter 105. MMRR is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Relief sought. MMRR seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon a 3.35-mile rail line in Muskegon, MI between milepost 191.40 and milepost 194.75, the end of the line, in Muskegon County, MI.

(4) Map. *See* Exhibit B-1

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Louis E. Gitomer, Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (202) 466-6532.

(8) List of all United States Postal Service ZIP Codes that the line proposed for discontinuance traverses. The line traverses ZIP Codes 49441, 49442, and 49444.

(c) Rural and community impact.

(4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If

the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

MMRR does not believe that the properties proposed for abandonment are suitable for other public purposes.

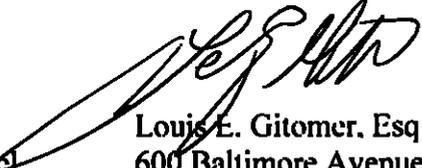
4 The level of labor protection. The interests of railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in *Oregon Short Line R Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

5. Certification. Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11 are attached as Exhibit C.

6 Combined Environmental and Historic Report The Combined Environmental and Historic Report is attached as Exhibit D.

Respectfully submitted,

Scott G. Williams, Esq.
Senior Vice President and General Counsel
RailAmerica, Inc.
7411 Fullerton Street, Suite 300
Jacksonville, FL 32256
(904) 538-6329



Louis E. Gitomer, Esq.
600 Baltimore Avenue
Suite 301
Lowsen, MD 21204
(202) 466-6532
Lou_Gitomer@verizon.net

Attorneys for: MID-MICHIGAN
RAILROAD, INC.

Dated: March 31, 2009

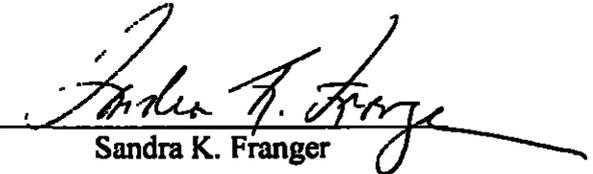
EXHIBIT A-VERIFICATION AND CERTIFICATION

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF TEXAS)
) ss.
COUNTY OF BEXAR)

I, Sandra K. Franger being duly sworn depose and state that I am Vice President of RailAmerica, Inc., and Vice-President of its subsidiary, the Mid-Michigan Railroad, Inc. ("MMRR"), that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.

I hereby certify that no local traffic has moved over MMRR's 3.35-mile rail line in Muskegon, MI between milepost 191.40 and milepost 194.75, the end of the line, in Muskegon County, MI, for at least two years prior to the date hereof, and that any overhead traffic on the line can be rerouted over other lines. Further, no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period. The foregoing certification is made on behalf of MMRR by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.


Sandra K. Franger

SUBSCRIBED AND SWORN TO before me this 26th day of March 2009.

My Commission Expires: 4-30-2010


Notary Public

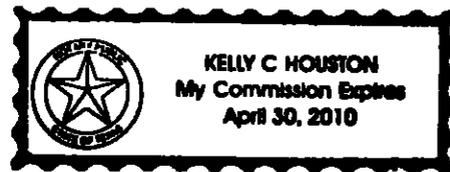


EXHIBIT B—MAP OF LINE

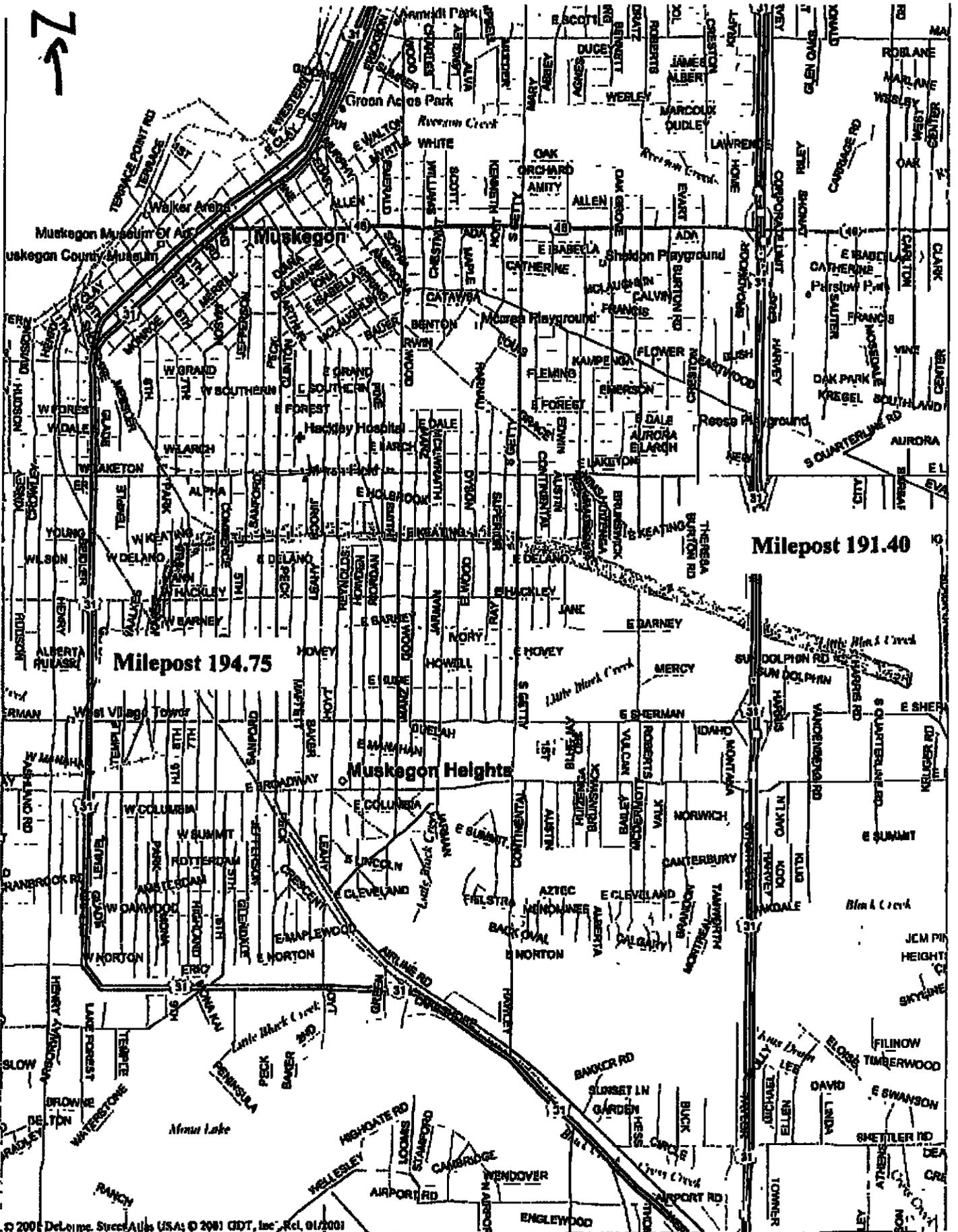


EXHIBIT C—CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-364 (Sub-No. 16X) was mailed via first class mail on March 13, 2009, to the following parties:

State Public Service Commission

**Michigan Department of Transportation
State Transportation Building
425 W. Ottawa St.
P.O. Box 30050
Lansing, MI 48909**

Military Traffic Management Command

**Headquarters
Military Surface Deployment and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357**

National Park Service

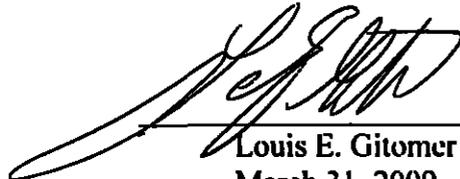
**Mr. Charlie Stockman
RTCA Program
National Park Service
1849 C St., NW (Org Code 2235)
Washington, DC 20240**

National Park Service

**U.S. Department of Interior
National Park Service
Land Resources Division
800 North Capitol St., N.E.
Room 540
Washington, DC 20002**

U S. Department of Agriculture

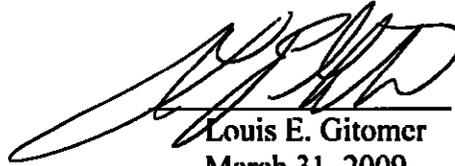
**U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Auditors' Building
14th Street and Independence Avenue, S.W.
Washington, DC 20250**



**Louis E. Gitomer
March 31, 2009**

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-364 (Sub-No. 16X) was advertised on March 23, 2009 in the Muskegon Chronicle, a newspaper of general circulation in Muskegon County, MI, as required by 49 C.F.R. § 1105.12.



Louis E. Gitomer
March 31, 2009

NOTICE

Mid-Michigan Railroad, Inc ("MMRR") gives notice that on or about March 24, 2009, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments permitting MMRR to abandon a 3.35-mile rail line in Muskegon, MI, between milepost-191.40, and milepost 194.75, all in Muskegon County, MI, which traverses through United States Postal Service ZIP Codes 49441, 49442, and 49444. This proceeding will be docketed as No. AB-364 (Sub-No 16X).

The Board's Section of Environmental Analysis will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, Washington, DC 20423 or by calling that office at 202-245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 395 E Street, SW, Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the Board's Office of Congressional and Public Services at 202-245-0233. Copies of any comments or requests for conditions should be served on the applicant's representative. Louis E. Gitomer, Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, 202-466-6532, email at Lou_Gitomer@verizon.net

PUBLISH 3/23/09

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STATE OF MICHIGAN
County of Muskegon

ss.

Paul M. Keep

being duly sworn deposes and says that he is the Publisher of the MUSKEGON CHRONICLE, a newspaper printed in Muskegon County and circulated within the Counties of Muskegon, Ottawa, Newaygo, Mason, and Oceana; that the annexed notice was duly printed and published in said MUSKEGON CHRONICLE for One (1) day(s); that is to say, on the 23rd day(s) of March 2009, and the 23rd day(s) of 200, and that said publication was continued during said time without any intermission or omission, and that he has a personal knowledge of the facts above set forth.

Paul M. Keep

Subscribed and sworn to before me this 23rd day of March A.D. 2009.

John M. Ward
Notary Public, Muskegon County, Mich.

times, \$

LENA MARIE ALLARD
NOTARY PUBLIC-STATE OF MICHIGAN
COUNTY OF MUSKEGON
My Commission Expires 08/31/2010
Acting in the County of Muskegon

EXHIBIT D

**COMBINED ENVIRONMENTAL AND HISTORIC REPORT
CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. § 1105.7, 49 C.F.R. § 1105 8(c), and 49 C.F.R. § 1105 11 the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report in Docket No. AB-364 (Sub-No. 16X) was mailed via first class mail on March 4, 2009, to the following parties

Manager, Federal Project Review
Michigan Department of Commerce
Michigan Neighborhood Builders Alliance
P.O. Box 30242
Lansing, MI 48909

Michigan Historic Center
702 West Kalamazoo Street
P.O. Box 30740
Lansing, MI 48909-8240

Michigan Department of Environmental Quality
P.O. Box 30473-7973
Lansing, MI 48909

Detroit District Headquarters
U.S. Army Corps of Engineers
Detroit District
477 Michigan Ave.
Detroit, MI 48226

USDA Natural Resources Conservation Service
3001 Coolidge Street
East Lansing, MI 48823-6350

U.S. Environmental Protection Agency
Region 5
Office of Strategic Environmental Analysis
77 West Jackson Boulevard Mailcode: B-19J
Chicago, IL 60604

U.S. Fish and Wildlife Service
Region 3
One Federal Drive
BHW Federal Building
Fort Snelling
Twin Cities, MN 55111

**National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East-West Highway
Silver Spring, MD 20910-3282**

**U.S. National Park Service
Midwest Region
1709 Jackson Street
Omaha, NE 68102**

**Honorable Stephen Warmington
Mayor, City of Muskegon
933 Terrace Street
Muskegon, MI 49440**

**Honorable James J. Derezinski
Chair, Board of Commissioners
County of Muskegon
990 Terrace Street, 4th Floor
Muskegon, MI 49442**

**Honorable Rillastine R. Wilkins
Mayor, City of Muskegon Heights
City Hall
2724 Peck
Muskegon Hts., MI 49444**



**Louis E. Gitomer
March 31, 2009**

COMBINED ENVIRONMENTAL AND HISTORIC REPORT
(49 C.F.R. 1105.7 and 1105.8)

Docket No. AB-364 (Sub-No. 16X)

**MID-MICHIGAN RAILROAD, INC.—ABANDONMENT EXEMPTION—
IN MUSKEGON COUNTY, MI**

Dated: March 4, 2009

ENVIRONMENTAL REPORT

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Mid-Michigan Railroad, Inc (“MMRR”) proposes to abandon the 3.35-mile rail line in Muskegon, MI between milepost 191.40 and milepost 194.75, the end of the line, including all spur tracks, in Muskegon County, MI (the “Line”). Upon receipt of abandonment authority, MMRR proposes to abandon and salvage the track and material and dispose of the right-of-way in the portion of the Line between mileposts 191.94 and 194.75, to negotiate trail use/interim rail banking with the Michigan Department of Natural Resources (“MIDNR”) for the portion of the Line between mileposts 191.40 and 191.90, and to negotiate the sale of the 0.04 miles of the Line between mileposts 191.90 and 191.94 with the Michigan Department of Transportation (“MIDOT”).

Abandonment of the Line will result in the removal of the rail, crossties and possibly the upper layer of ballast. MMRR does not intend to disturb any sub grade or sub grade structures. In consultation with the MIDOT, the bridge over US Highway 31 will most likely be removed in order to save MIDOT about \$10 million in design and construction costs for US Highway 31.

Removal of the Line will result in the elimination of 15 public road crossings and one private crossing.

MMRR previously submitted a Combined Environmental and Historic Report (“CEHR”) on October 25, 2007 and November 20, 2007, and received comments on the CEHR. MMRR also submitted an Application for Section 106 Review to the Michigan State Historic Preservation Office (the “MISHPO”) on August 5, 2008. By letter dated August 18, 2009, MISHPO concluded that “no historic properties are affected” by the proposed abandonment. As a result, the Board decided that the “historic preservation condition imposed in the January 2008 decision is removed” and that “in the event that any unanticipated archaeological sites, human remains, or funerary items or associated artifacts are discovered during salvage activities, MMRR shall immediately cease all work and notify SEA, interested Federally recognized tribes, and the MI SHPO, pursuant to 36 CFR 800.13(b). SEA shall then consult with the MI SHPO, interested Federally recognized tribes, MMRR, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.” *Mid-Michigan Railroad, Inc.—Abandonment Exemption—in Muskegon County, MI*, STB Docket No. AB-364 (Sub-No 13X) (STB served September 12, 2008) at 2.

The Board authorized the abandonment in a decision served on December 10, 2007, and required consummation of the abandonment by December 10, 2008. MMRR notified the Board that it had discontinued service over the Line on September 15, 2008. MMRR then engaged in negotiations with the MIDOT and MIDNR as described above. MMRR did not consummate the abandonment on December 10, 2008 and its requests filed on January 7, 2009 to consummate a portion of the abandonment, to engage in trail negotiations for a portion of the Line, and to negotiate with MIDOT to avoid construction of the bridge were denied by the Board and the

Board required MMRR to file a new abandonment request if it wanted to abandon the Line *Mid-Michigan Railroad, Inc –Abandonment Exemption—in Muskegon County, MI*, STB Docket No. AB-364 (Sub-No. 13X) (STB served February 25, 2009). This CEHR is part of that new abandonment request.

The last shipper on the Line was Dana Perfect Circle (“Dana”). Dana has not received any shipments since September 2005. There have been no shipments over the Line in 2006, 2007, 2008, or to date in 2009

The only alternative to a full abandonment would be for MMRR not to abandon the Line. No service has been provided on the Line since September 2005. The Line is a stub end track and therefore has no overhead traffic. With little, if any, potential traffic, MMRR has decided to seek abandonment of the Line

A map of the proposed abandonment is attached hereto as Exhibit 1.¹

(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.

No passenger traffic will be diverted to other modes as a result of the proposed abandonment. Dana, the only shipper on the line, has not used the Line since September 2005. No traffic moved over the Line in 2006, 2007, 2008, or to date in 2009. There is no freight traffic to be diverted to motor carrier. Accordingly, the proposed abandonment should have no adverse effects on regional or local transportation systems and patterns. However, successful negotiations with MIDOT over the 0.04 miles between mileposts 191.90 and 191.94 will allow MIDOT to spend less on US Highway 31.

¹ The copy of the map that accompanied the information-gathering letter has been removed from that letter. That map was the same as the map in Exhibit 1 accompanying this report.

(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 (ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land. (iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 1105.9 (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. § 10905 and explain why.

(i) MMRR considers the proposed abandonment to be consistent with existing land use plans. The land adjoining the Line is in the City of Muskegon.

MMRR contacted the City of Muskegon, the City of Muskegon Heights, and the County of Muskegon, MI by letters dated March 4, 2009. See Exhibit 2. No response has been received as of this date. A copy of this Environmental Report has been mailed to the appropriate local and state agencies for their information and further comment.

(ii) MMRR does not believe that there is any prime agricultural land that will be affected. MMRR notified the United States Department of Agriculture (“USDA”) Natural Resources Conservation Service (the agency succeeding to the responsibilities of the Soil Conservation Service) of the proposed abandonment by letter dated March 4, 2009. See Exhibit 2. USDA responded in the prior proceeding and the response is in Exhibit 5.

(iii) The Line does not pass through a designated coastal zone.

(iv) MMRR believes that a portion of the Line may be suitable for interim trail use/ rail banking based on Muskegon’s expanding pedestrian trail system.

(4) Energy. (i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why (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.

(i) The proposed abandonment will have no effect on the transportation of energy resources.

(ii) The proposed abandonment will have no effect on the transportation of recyclable commodities.

(iii) The proposed abandonment will have minimal effect on overall energy efficiency since there has been no traffic on the Line since September 2005.

(iv) The proposed abandonment will not cause the diversion more than 1,000 rail carloads a year; or an average of 50 rail carloads per mile per year for any part of the Line of rail traffic to motor carriage.

(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 § 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in sub-section (5)(i)(A) will apply. (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. § 10505), 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. (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.

(i) The proposed abandonment will not result in meeting or exceeding the specified thresholds.

(ii) The proposed abandonment will not result in meeting or exceeding the specified thresholds.

(iii) The proposed abandonment will not affect the transportation of ozone depleting materials.

(6) **Noise** If any of the thresholds identified in item (5)(1) 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.

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

(i) The proposed abandonment will have no detrimental effects on public health and safety. MMRR has ceased operating over the Line As a result of the abandonment. MMRR will remove 15 public road crossings and one private crossing. If negotiations with MIDOT are successful, removal of the bridge at US Highway 31 will result in reduced costs for highway improvements.

(ii) The proposed abandonment will not affect the transportation of hazardous materials.

(iii) MMRR is not aware of any known hazardous waste sites or sites where there have been known hazardous materials spills on the Line.

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

(i) MMRR does not believe that the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat. MMRR notified the U.S. Fish and Wildlife Service (“USF&W”) of the proposed abandonment by letter dated March 4, 2009, and requested assistance in determining whether the proposed abandonment will adversely affect endangered or threatened species or areas designated as a critical habitat. *See* Exhibit 2. The response of the USF&W in the prior proceeding is in Exhibit 5.

(ii) MMRR is unaware of any wildlife sanctuaries or refuges, National or State parks or forests that would be adversely affected by the proposed abandonment.

MMRR notified the National Parks Service of the proposed abandonment by letter dated March 4, 2009, and requested assistance in identifying any potential effects on wildlife sanctuaries or refuges, National or State parks or forests. *See* Exhibit 2. To date, no response to this request has been received. A copy of this Report is being supplied to the National Park Service for its information and comment

(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. (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. (iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

(i) MMRR is confident that the proposed abandonment will be consistent with applicable water quality standards. MMRR contacted the Michigan Department of Environmental Quality (“MIDEQ”) and the United States Environmental Protection Agency (“USEPA”) by letters dated

March 4, 2009. *See Exhibit 2.* To date, no response to this request has been received. A copy of this Report has been supplied to the MIDEQ and USEPA for their information and comment.

(ii) MMRR believes that no permits under section 404 of the Clean Water Act are required for the proposed abandonment and that no designated wetlands or 100-year flood plains will be affected by the proposed abandonment. MMRR expects that the only bridge on the Line over U.S. Highway 31 will be removed after negotiations with MIDOT. Upon receiving abandonment authority, removal of material will be accomplished by use of the right-of-way for access, along with existing public and private crossings. No new access roads are contemplated. MMRR does not intend to disturb any of the underlying roadbed or perform any activities that would cause sedimentation or erosion of the soil, and does not anticipate any dredging or use of fill in the removal of the track material. The cross-ties and/or other debris will be transported away from the Line and will not be discarded along the right-of-way nor be placed or left in streams or wetlands, or along the banks of such waterways. Also, during track removal, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any waterways. Based upon this course of action, MMRR does not believe a permit under Section 404 of the Clean Water Act will be required.

MMRR contacted the U.S. Army Corps of Engineers by letter dated March 4, 2009 and has received no response to date. *See Exhibit 2.* A copy of this Report has been supplied to the U.S. Army Corps of Engineers for its information and comment.

(iii) MMRR believes that no permit under section 402 of the Clean Water Act would be required for the abandonment. MMRR contacted the MIDEQ and the USEPA by letter dated March 4, 2009. *See Exhibit 2.* A copy of this Report has been supplied to the MIDEQ and USEPA for their information and further comment.

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

MMRR does not expect any adverse environmental impact from the proposed abandonment and, therefore, see no need for any mitigating actions. MMRR will, of course, adhere to any remedial actions suggested by the recipients of this Report, which are required by the Board.

HISTORIC REPORT

1. A U.S.G.S. topographic map (or 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:

U.S. Geological Survey Maps have been supplied to the Michigan Historic Center ("MIHC"). See Exhibit 3.

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 3.35-mile right-of-way is generally 50 feet wide from end of track at milepost 191.40 to milepost 194.0 (Peck Street) and from milepost 194.0 to milepost 194.75 is irregular, with some larger parcels from milepost 194.0 to milepost 194.25 and the remainder of the Line being about 20 feet wide in many areas. The western end of the Line begins at about Ninth Street and the MMRR north-south line in Muskegon Heights, MI. The Line runs east to Getty Avenue, where it turns southeast and continues across US Highway 31 before it ends just north of Sherman Boulevard at milepost 191.40.

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:

Photographs of the bridges on the Line that are 50 years old or older and a detailed description of the bridges are attached as Exhibit 4. The bridge over US Highway 31 may be removed after negotiations with MIDOT.

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:

See Exhibit 4.

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:

The Line was constructed by the Grand Rapids & Indiana Railroad ("GR&I") in 1886. GR&I was purchased by the Pennsylvania Railroad in 1921. Grand Trunk & Western ("GTW") purchased the line during the Penn Central bankruptcy period in 1976. Central Michigan Railroad (Straits Corporation) ("CMR") purchased the line from GTW in September of 1987. RailTex, Inc. purchased the Line, and other properties from CMR in December 1990 and formed the Michigan Shore Railroad, a predecessor to MMRR. RailTex merged into RailAmerica, Inc. in 2000.

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;

MMRR possesses the valuation maps of the Line, but is not aware of any other documentation in its possession.

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 C.F.R. 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);

MMRR believes that the bridges and structures on the Line are not unusual or noteworthy for inclusion on the National Register of Historic Places. It is also MMRR's opinion that there are no archeological resources or other railroad related historic properties in the project area. In the prior abandonment proceeding, MMRR submitted an Application for Section 106 Review to the MIHC. The Application was given project number ER-99-392. MIHC sent a letter to the Board that concluded "no historic properties are affected". There is no change in the abandonment being proposed in this proceeding from the abandonment that MIHC reviewed previously. A copy of the letter is in Exhibit 5.

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 waste), and the surrounding terrain.

MMRR believes that there are no existing records as to the nature of any known subsurface ground disturbance or fill, or environmental conditions that might affect the archeological recovery of any potential resources.

9. Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specific non railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (*i.e.* prehistoric or native American).

MMRR does not foresee the likelihood that any additional information will need to be supplied in association with the proposed abandonment other than that information previously submitted. But, if any additional information is requested, MMRR will promptly supply the necessary information.

MMRR contacted MIHC. *See Exhibit 2.* A copy of this Report has been mailed to MIHC. MIHC previously determined that as a result of the abandonment of the line "no historic properties are affected." *See Exhibit 5.*

EXHIBIT 1 – MAP

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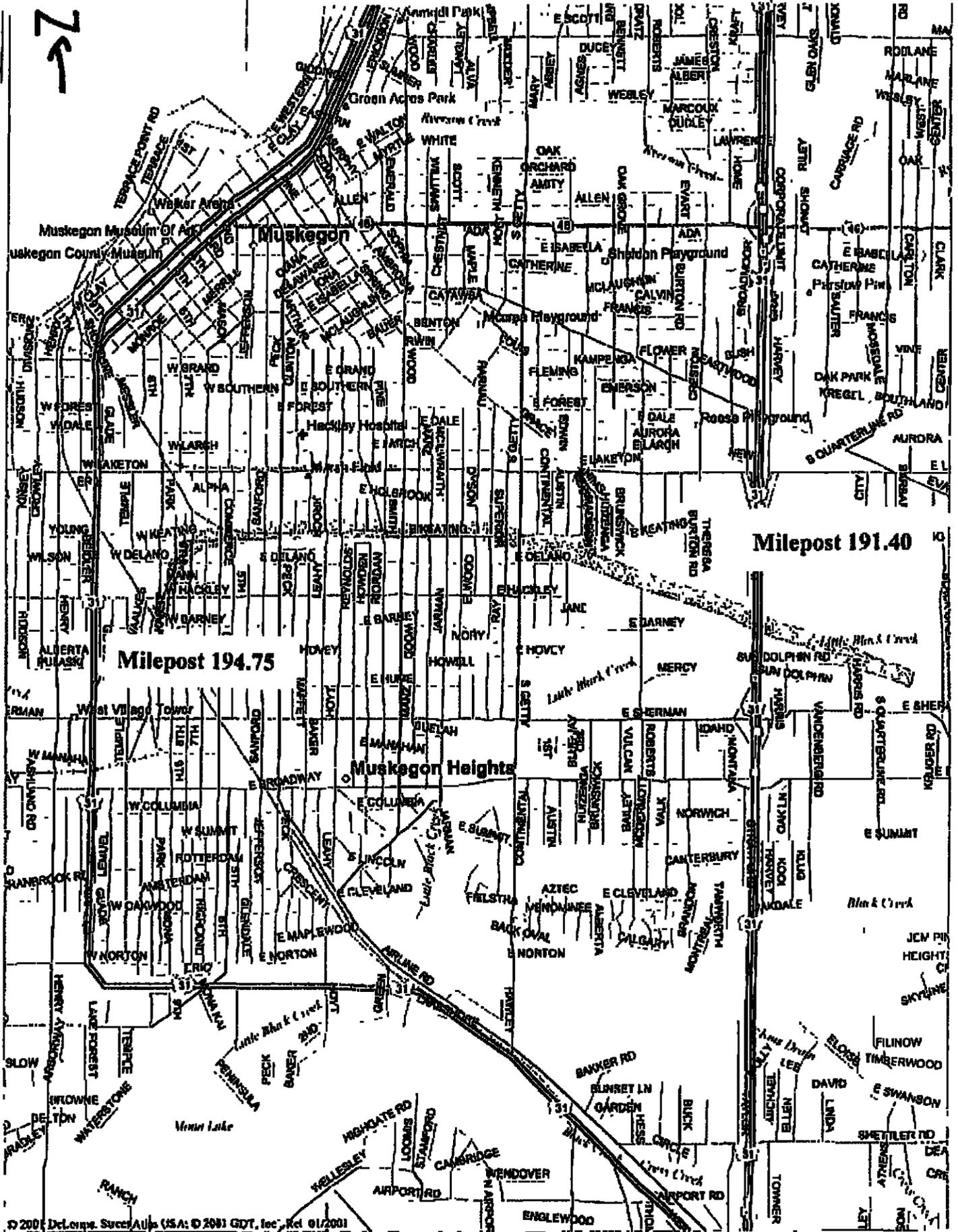


EXHIBIT 2 – LETTERS

**LAW OFFICES OF
LOUIS E. GITOMER**

LOUIS E. GITOMER
LOU_GITOMER@VERIZON.NET

March 4, 2009

THE ADAMS BUILDING, SUITE 301
600 BALTIMORE AVENUE
TOWSON, MARYLAND 21204-4022
(202) 466-6532
FAX (410) 332-0885

Honorable Stephen Warmington
Mayor, City of Muskegon
933 Terrace Street
Muskegon, MI 49440

**RE: Docket No. AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc.—
Abandonment Exemption—in Muskegon County, MI***

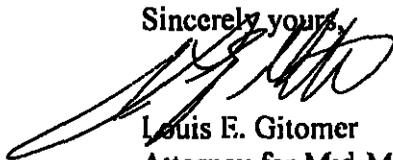
Dear Mayor Warmington:

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Attached is a Combined Environmental and Historic Report describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area. We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 395 E Street, SW, Washington, DC 20423, telephone 202-245-0295 and refer to the above Docket No. AB-364 (Sub-No. 16X).

Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to our representative) would be appreciated within 3 weeks. Your comments will be considered by the STB in evaluating the environmental impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. Our representative in this matter is Louis E. Gitomer who may be contacted by telephone at 410-296-2250, email at Lou_Gitomer@verizon.net, or mail at Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204

Sincerely yours,



Louis E. Gitomer
Attorney for Mid-Michigan Railroad, Inc.

Enclosures

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March 4, 2009

THE ADAMS BUILDING, SUITE 301
600 BALTIMORE AVENUE
TOWSON, MARYLAND 21204-4022
(202) 466-6532
FAX (410) 332-0885

USDA Natural Resources Conservation Service
3001 Coolidge Street
East Lansing, MI 48823-6350

RE: Docket No. AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc -
Abandonment Exemption--in Muskegon County, MI*

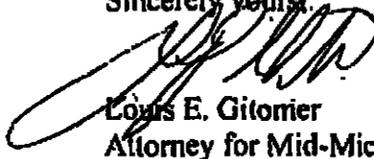
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March 4, 2009

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TOWSON, MARYLAND 21204-4022
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U.S. National Park Service
Midwest Region
1709 Jackson Street
Omaha, NE 68102

RE: Docket No. AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc.—
Abandonment Exemption—in Muskegon County, MI*

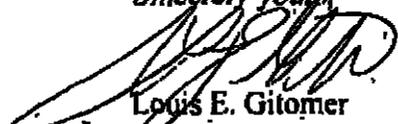
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March 4, 2009

THE ADAMS BUILDING, SUITE 301
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TOWSON, MARYLAND 21204-4022
(202) 466-6532
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National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East-West Highway
Silver Spring, MD 20910-3282

**RE: Docket No. AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc -
Abandonment Exemption-in Muskegon County, MI***

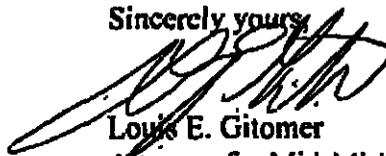
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March 4, 2009

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TOWSON, MARYLAND 21204-4022
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U.S. Fish and Wildlife Service
Region 3
One Federal Drive
BHW Federal Building
Fort Snelling
Twin Cities, MN 55111

RE: Docket No AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc -
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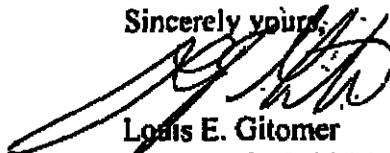
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March 4, 2009

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

RE: Docket No. AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc. –
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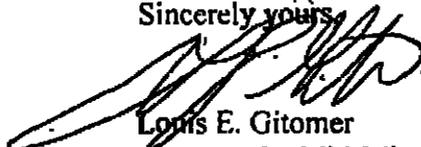
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March 4, 2009

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TOWSON, MARYLAND 21204-4022
(202) 466-6532
FAX (410) 332-0885

Detroit District Headquarters
U.S. Army Corps of Engineers
Detroit District
477 Michigan Ave.
Detroit, MI 48226

**RE: Docket No AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc -
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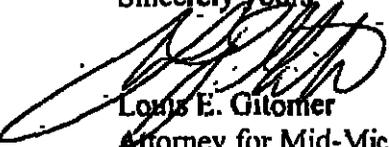
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March 4, 2009

THE ADAMS BUILDING, SUITE 301
600 BALTIMORE AVENUE
TOWSON, MARYLAND 21204-4022
(202) 466-6532
FAX (410) 332-0885

Michigan Historic Center
702 West Kalamazoo Street
P.O. Box 30740
Lansing, MI 48909-8240

RE: *Docket No AB-364 (Sub-No. 16X), Mid-Michigan Railroad, Inc –
Abandonment Exemption—in Muskegon County, MI*

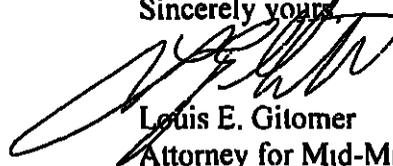
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March 4, 2009

THE ADAMS BUILDING, SUITE 301
600 BALTIMORE AVENUE
TOWSON, MARYLAND 21204-4022
(202) 466-6532
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Manager, Federal Project Review
Michigan Department of Commerce
Michigan Neighborhood Builders Alliance
P.O. Box 30242
Lansing, MI 48909

RE: Docket No. AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc -
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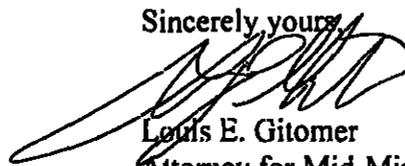
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Michigan Department of Environmental Quality
P.O. Box 30473-7973
Lansing, MI 48909

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Abandonment Exemption—in Muskegon County, MI*

Dear Madam/Sir:

On or about March 4, 2009, we expect to be filing with the Surface Transportation Board ("STB") a notice of exemption seeking authority for Mid-Michigan Railroad, Inc. ("MMRR") to abandon a 3.35-mile rail line between milepost 191.40, and milepost 194.75, all in Muskegon, MI, in Muskegon County, MI.

Attached is a Combined Environmental and Historic Report describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area. We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. *If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 395 E Street, SW, Washington, DC 20423, telephone 202-245-0295 and refer to the above Docket No. AB-364 (Sub-No. 16X).*

Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to our representative) would be appreciated within 3 weeks. Your comments will be considered by the STB in evaluating the environmental impacts of the contemplated action. *If there are any questions concerning this proposal, please contact our representative directly. Our representative in this matter is Louis E. Gitomer who may be contacted by telephone at 410-296-2250, email at Lou_Gitomer@verizon.net, or mail at Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.*

Sincerely yours,



Louis E. Gitomer
Attorney for Mid-Michigan Railroad, Inc

Enclosures

LAW OFFICES OF
LOUIS E. GITOMER

LOUIS E. GITOMER
LOU_GITOMER@VERIZON.NET

March 4, 2009

THE ADAMS BUILDING, SUITE 301
600 BALTIMORE AVENUE
TOWSON, MARYLAND 21204-4022
(202) 466-6532
FAX (410) 332-0885

Honorable James J. Derezinski
Chair, Board of Commissioners
County of Muskegon
990 Terrace Street, 4th Floor
Muskegon, MI 49442

RE: Docket No AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc -
Abandonment Exemption-in Muskegon County, MI*

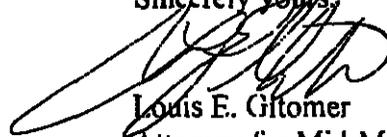
Dear Mayor Derezinski:

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Attorney for Mid-Michigan Railroad, Inc.

Enclosures

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LOUIS E. GITOMER

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March 4, 2009

THE ADAMS BUILDING, SUITE 301
600 BALTIMORE AVENUE
TOWSON, MARYLAND 21204 4022
(202) 466-6532
FAX (410) 332-0885

Honorable Rillastine R. Wilkins
Mayor, City of Muskegon Heights
City Hall
2724 Peck
Muskegon Hts., MI 49444

RE: Docket No. AB-364 (Sub-No. 16X), *Mid-Michigan Railroad, Inc –
Abandonment Exemption—in Muskegon County, MI*

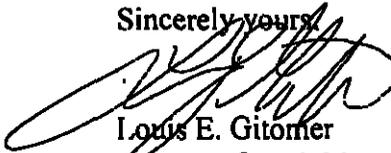
Dear Mayor Wilkins:

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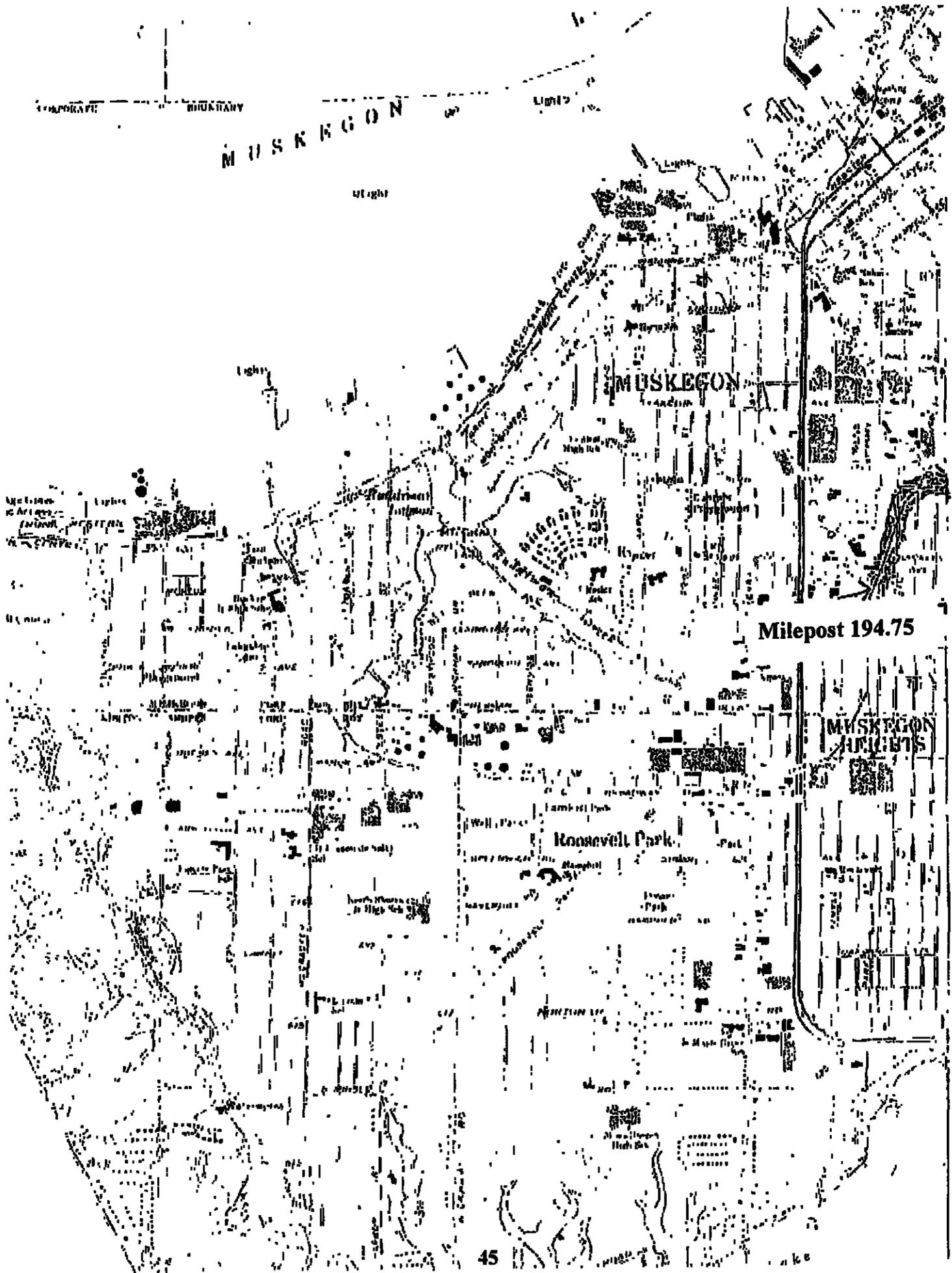
Sincerely yours,



Louis E. Gitomer
Attorney for Mid-Michigan Railroad, Inc.

Enclosures

EXHIBIT 3 – USGS MAPS



MUSKEGON

MUSKEGON

Milepost 194.75

MUSKEGON

Roosevelt Park

MUSKIEGON

MAP

Milepost 191.40

MUSKIEGON HEIGHTS

Black

Monu Lake

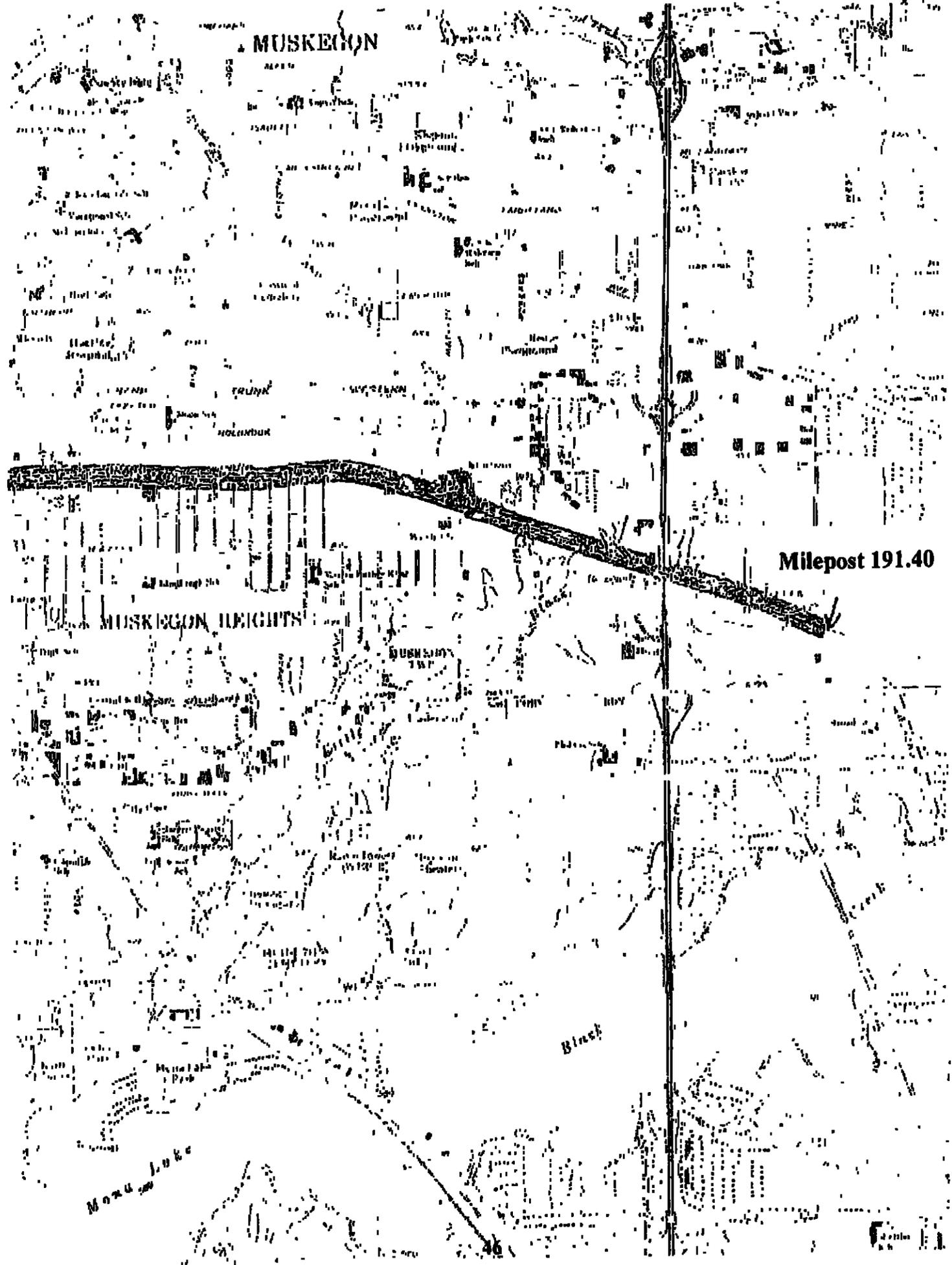


EXHIBIT 4 – BRIDGE PHOTOGRAPHS AND DESCRIPTIONS



This is a plate girder bridge that was built in 1949.

EXHIBIT 5 – RESPONSES



IN REPLY REFER TO:

United States Department of the Interior

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

**FWS/NWRS-RE - General
Railroad Abandonments**

November 2, 2007

**Surface Transportation Board
Section of Environmental Analysis (SEA)
1925 K Street, NW
Washington, D.C. 20423**

Dear Sir/Madam:

Thank you for the opportunity to comment on the proposed abandonment of service on 3.35 miles of railroad line between MP 191.40 and MP 194.75, located in Muskegon County, Michigan, STB Docket No. AB-364 (Sub-No. 13X).

We have researched our ownerships in the vicinity and have determined we do not own any land 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,

/s/ Patrick G Carroll

**Patrick G. Carroll
Senior Realty Officer
Division of Realty**

cc: Louis E. Gilmer, Law Offices of Louis E. Gilmer

United States Department of Agriculture



Helping People Help the Land
Natural Resources Conservation Service
3001 Coolidge Road, Suite 250
East Lansing, MI 48823
T (517) 324-5270 F (517) 324-6171 www.mn.nrcs.usda.gov

October 31, 2007

Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

**RE: Docket No. AB-364 (Sub-No. 13X), Mid-Michigan Railroad, Inc.
Abandonment Exemption in Muskegon County, MI**

We have reviewed the proposal to abandon 3.35 miles of rail line between milepost 191.40 and milepost 194.75 in the City of Muskegon, Michigan. The land adjacent to where the abandonment is proposed has already been converted to non-farm uses. Therefore, no conversion of prime and unique farmland will occur.

Thank you for this opportunity to comment on the proposal.

Sincerely,


GARRY L. F.
State Conservationist

cc:

Mr. Louis E. Gitomer, Attorney, 600 Baltimore Ave., Suite 301, Towson, MD 21204
Carla Gregory, Area Conservationist, NRCS, Grand Rapids, MI
Steve Utic, District Conservationist, NRCS, Grand Rapids, MI
Brian Barclay, District Conservationist, NRCS, Stanton, MI

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment

An Equal Opportunity, wider and Employer



JENNIFER GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF HISTORY, ARTS AND LIBRARIES
LANSING

DR WILLIAM ANDERSON
DIRECTOR

Aug 11 10
June 16, 2008

DIANA WOOD
SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS
395 E STREET SW SUITE 1100
WASHINGTON DC 20423

RE: ER-99-392 STB Docket No AB-364 (Sub-No. 13X), Muskegon County (STB)

Dear Mr Brady

Under the authority of Section 106 of the National Historic Preservation Act of 1966, as amended, we have reviewed the above-cited undertaking at the location noted above. Based on the information provided for our review, it is the opinion of the State Historic Preservation Officer (SHPO) that no historic properties are affected within the area of potential effects of this undertaking.

The views of the public are essential to informed decision making in the Section 106 process. Federal Agency Officials or their delegated authorities must plan to involve the public in a manner that reflects the nature and complexity of the undertaking, its effects on historic properties and other provisions per 36 CFR § 800.2(d). We remind you that Federal Agency Officials or their delegated authorities are required to consult with the appropriate Indian tribe and/or Tribal Historic Preservation Officer (THPO) when the undertaking may occur on or affect any historic properties on tribal lands. In all cases, whether the project occurs on tribal lands or not, Federal Agency Officials or their delegated authorities are also required to make a reasonable and good faith effort to identify any Indian tribes or Native Hawaiian organizations that might attach religious and cultural significance to historic properties in the area of potential effects and invite them to be consulting parties per 36 CFR § 800.2(c-f).

This letter evidences the STB's compliance with 36 CFR § 800.4 "Identification of historic properties", and the fulfillment of the STB's responsibility to notify the SHPO, as a consulting party in the Section 106 process, under 36 CFR § 800.4(d)(1) "No historic properties affected".

The State Historic Preservation Office is not the office of record for this undertaking. You are therefore asked to maintain a copy of this letter with your environmental review record for this undertaking. If the scope of work changes in any way, or if artifacts or bones are discovered, please notify this office immediately.

If you have any questions, please contact Brian Grennell, Environmental Review Specialist, at (517) 335-2721 or by email at ER@michigan.gov. Please reference our project number in all communication with this office regarding this undertaking. Thank you for this opportunity to review and comment, and for your cooperation.

Sincerely,

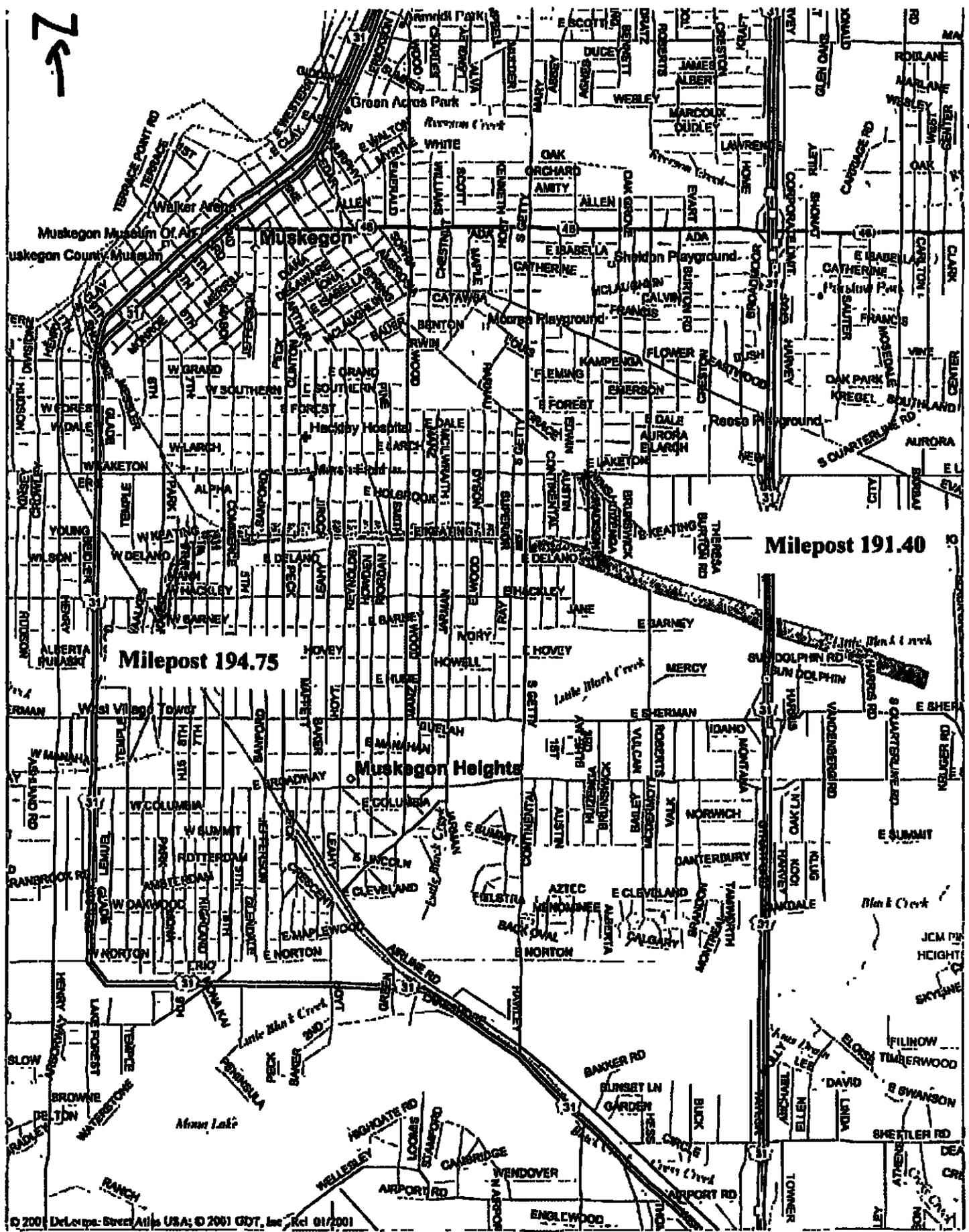
Brian D. Conway
State Historic Preservation Officer

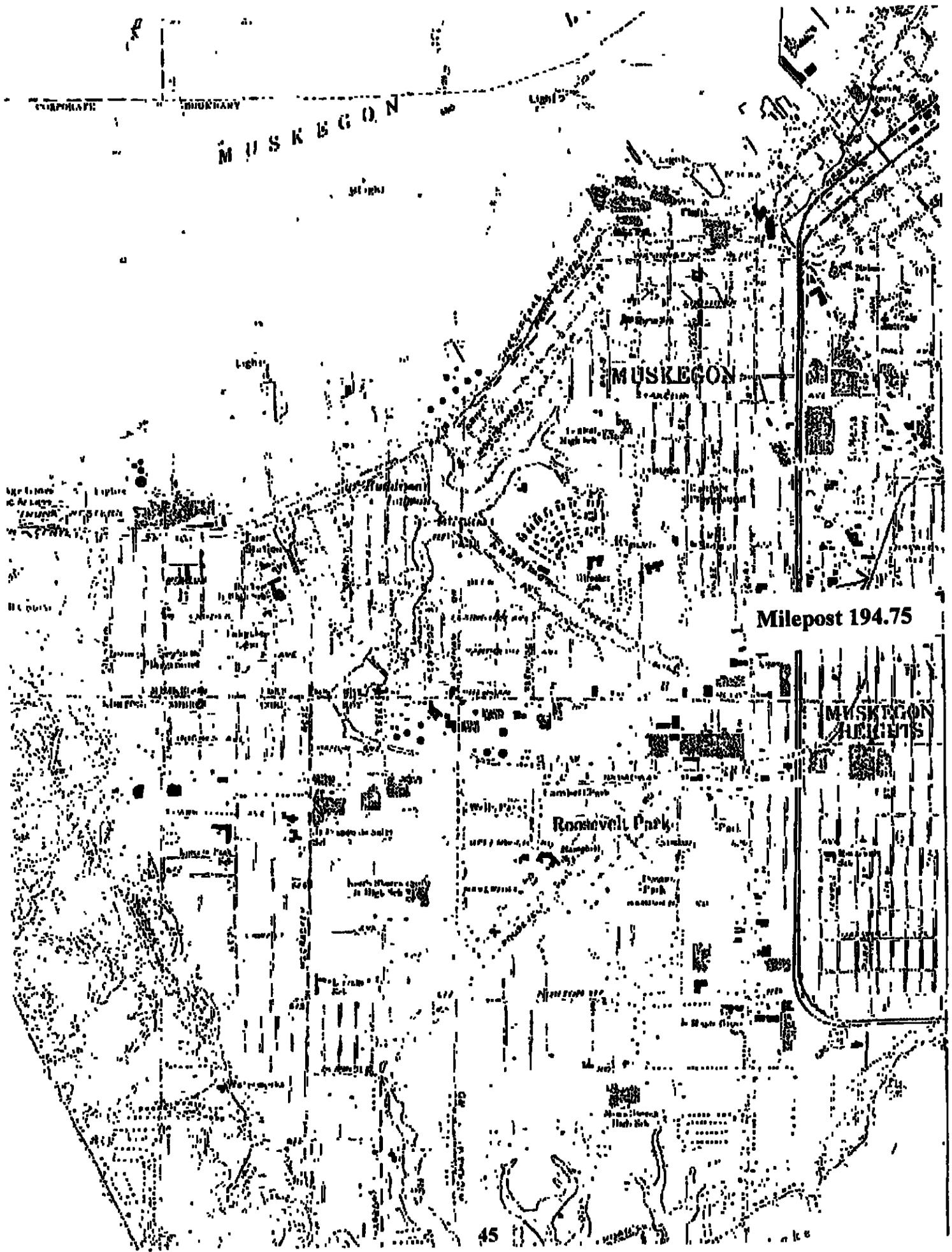
BDC:JRH:ROC.bgg

Copy: Louis, Oltmer

EXHIBIT E-COLOR DOCUMENTS

74





MUSKEGON

MUSKEGON

Milepost 194.75

MUSKEGON HEIGHTS

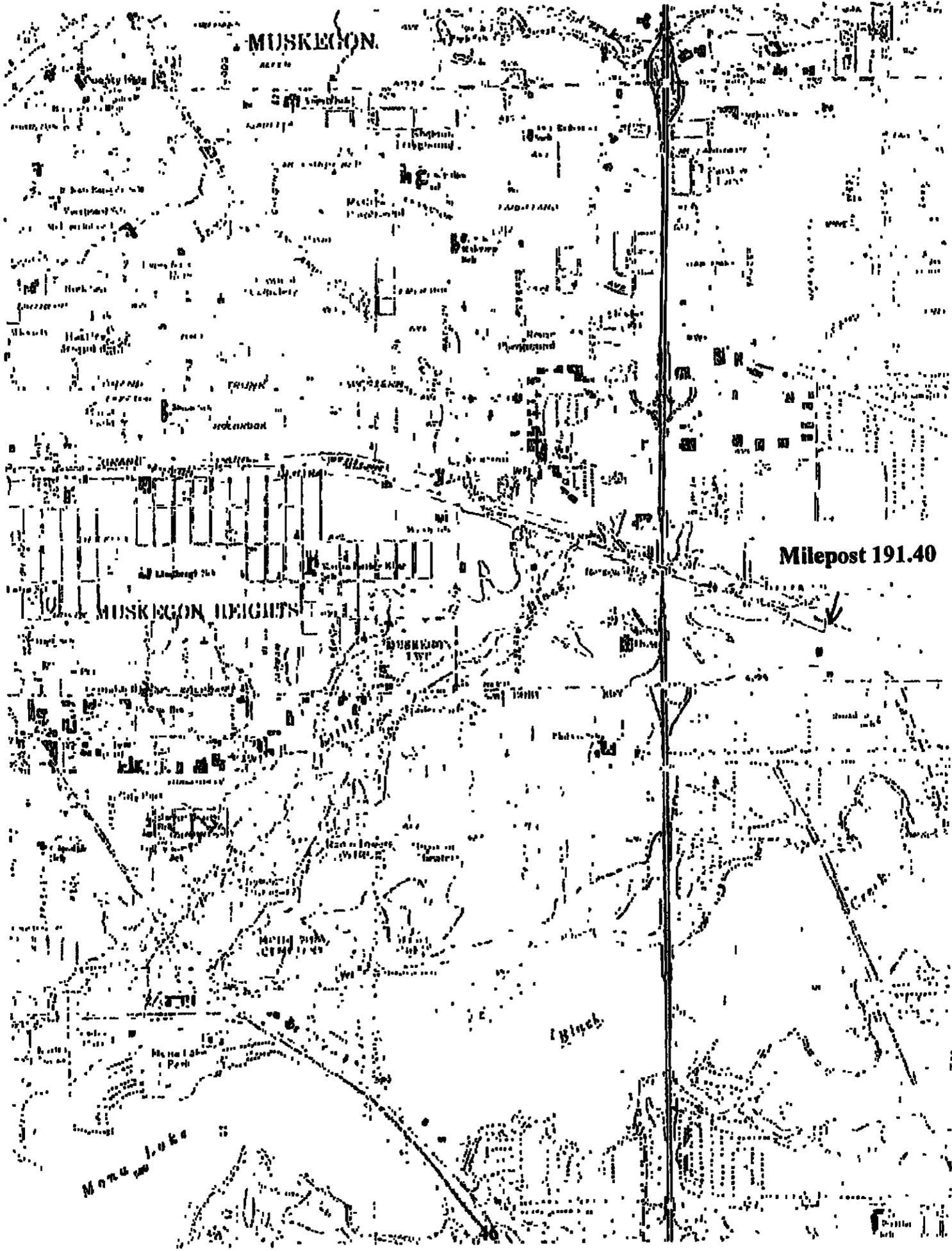
Roosevelt Park

MUSKEGON

Milepost 191.40

MUSKEGON HEIGHTS

Mono Lake





This is a plate girder bridge that was built in 1949.