

209475

\*\*\*\*\*

BOARD OF COMMISSIONERS - PULASKI COUNTY

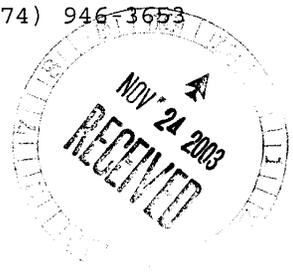
\*\*\*\*\*

Marion L. Kasten  
Richard L. Sommers  
Michael T. Tiede

Courthouse - Room 200  
112 East Main Street  
Winamac, Indiana 46996  
Phone: (574) 946-3653

ENTERED  
Office of Proceedings

NOV 24 2003



November 18, 2003

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

RE: Docket No. AB-847 (Sub-No. 2X), Toledo, Peoria & Western  
Railway Corporation-Discontinuance Exemption-(Between Kenneth  
and Winamac) in Cass and Pulaski Counties, IN  
Docket No. AB-855 (Sub-No. 1X), A & R Line, Inc.- Abandonment  
Exemption-(Between Kenneth and Winamac) in Cass and  
Pulaski Counties, IN

**Additional Response to A & R Line, Inc., Abandonment Exemption in  
Cass and Pulaski County, Indiana, AB-855 (Sub No.1X)**

Dear Secretary Williams:

Your office received on August 10, 2003, a request filed on behalf of the Indiana Trails Fund, Inc. which was a private/public interest organization interested in conserving railroad right of ways for walking trails. The request submitted by Indiana Trails Fund, Inc. requests that the Surface Transportation Board find that these properties are suitable for other public use, specifically trail use and requested that the Board place the conditions on the abandonment, including an order prohibiting the carrier from disposing of the corridor, an order barring removal or destruction of trail related structures such as bridges, trestles, culverts and tunnels. A copy of the Indiana Trails Fund, Inc. is attached hereto for your review.

The Board of Commissioners of Pulaski County is concerned that if the abandoned railway property is set out for the uses and purposes of a walking trail or bicycle trail, and the organization is not properly funded to maintain and keep all of the structures such as bridges, trestles, culverts and tunnels, that the

taxpayers may at some future point be required to pick up the cost of removing or cleaning up any old trestles or bridges that may, through age and disrepair, become non-functional or actually fall down into the ditches, streams and rivers which are owned by county taxpayers.

The Board of Commissioners believe that a final order should include language which requires either the railroad or the not-for-profit organization to be bonded against such an event or that funds be escrowed for that purpose or that the clean-up costs would be the obligation of the railroad organization or the not-for-profit group as a protection to the taxpayers and property owners of this area. Presently there are plans to mark eighty miles of walking/bicycle routes in this county in the next few years. The Board of Commissioners would recommend that no Rails to Trails be created in this county.

Pulaski County is a small rural community with about 13,000 population. There are already considerable acreage owned by the State of Indiana, Department of Natural Resources and so the tax base here is not that of a densely populated community area and it would be a great hardship to the taxpayers to have to clean up the old bridges and tunnels and raised railroad crossings in the county.

The Pulaski County Board of Commissioners respectfully requests that the Surface Transportation Board take these factors into account in the event that the railroad or the not-for-profit interest group organization become financially strapped, or would have no legal obligation to attend to these matters in future years when the old bridges and trestles wear out and begin to decay or fall down.

At the present time the Board of Commissioners have been informed that there are two participants that would like to have access and use of the abandoned railways. One participant is the Indiana Trail Fund, Inc., Indianapolis, Indiana, and the other participant is the North Judson Railroad Museum organization, North Judson, Indiana, who is seeking to have the use of about one or two miles of right-of-way located in Starke County, Indiana, located north of Pulaski County and is of no specific concern to the Board of Commissioners of Pulaski County. However, the Indiana Trails Fund, Inc. organization is seeking to have the use of railroad property located in Pulaski County and the Board of Commissioners has concern that funding may not always be available to make the necessary repairs or replacements of bridges and trestles and raised crossings along the county roads, and that these expenses may ultimately fall on Pulaski County taxpayers.

Therefore, the Board of Commissioners respectfully request that the Board consider requiring a bond to be kept in effect or an escrow established to meet these expenses in later years.

Board of Commissioners of Pulaski County, IN

*Marion L. Kasten*

Marion L. Kasten, President

Copy: Louis E. Gitomer, Attorney for  
J.K. Line, Inc. and Toledo, Peoria  
And Western Railway Corporation  
Ball Janik LLP  
1455 F Street, N.W., Suite 225  
Washington, D.C. 20005

Tom Beck  
Indiana Department of Transportation  
Rail Planner Multi-Modal Transportation Division  
100 North Senate Avenue, Room N901  
Indianapolis, IN 46204

Michael O'Loughlin  
Indiana Department of Transportation  
Bicycle and Pedestrian Program Manager  
Multi-Modal Transportation Division  
100 North Senate Avenue, Room N901  
Indianapolis, IN 46204

Thomas Weatherwax  
Indiana State Senate  
Indianapolis, IN 46204

Pulaski County Auditor's file

U.S. Representative Steve Buyer  
House of Representatives  
Washington D.C.



**Indiana Trails Fund, Inc.**

P. O. Box 402, Indianapolis, Indiana 46206-0402  
317-237-9348 • www.indianatrails.org

ENTERED  
Office of Proceedings

OCT 10 2003

Part of  
Public Record

October 01, 2003

**FEE RECEIVED**

OCT 10 2003

SURFACE  
TRANSPORTATION BOARD



Secretary Vernon A. Williams  
Surface Transportation Board  
Mercury Building  
1925 K Street, N. W.  
Washington, DC 20423-0001  
202-565-1674- Tele

Re: A&R Line, Inc. Abandonment Exemption in Cass and Pulaski Counties, Indiana.  
AB-855 (SUB NO. 1X)

Dear Secretary Williams:

This request is filed on behalf of Indiana Trails Fund, Inc., which is a private/public interest organization interested in the conservation of railroad right-of-ways for both reuse and for such non-motor transportation as walking. ITF is hereinafter referred to "proponent."

Proponent requests issuance of a Public Use Condition as well as an Interim Trail Use Condition rather than an outright abandonment authorization between Milepost 5.1W near Kenneth to Milepost 21.0W near Winamac in Cass and Pulaski Counties, Indiana.

**A. Request For Public Use Condition**

Proponent asks the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. Justification for this condition is: The corridor would make an excellent recreational trail and conversion of the property to trail use is in accordance with local plans. In addition, the corridor provides open space and its preservation as a recreational trail is consistent with those purposes. The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time: to begin negotiations with the carrier.
2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

SURFACE  
TRANSPORTATION BOARD

OCT 10 2003

**FILED**

**B. Request For Interim Trail Use**

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, proponent also makes the following request:

**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY**

In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C.

§1247(d), and 49 CFR §1152.29, Indiana Trails Fund, Inc. 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 and operated by CSX Transportation, Inc.

CSX  
incorrect  
goes to NO Justice  
- showed say  
A & R line I  
on TPW

The property, known as the A&R Line, Incorporated from railroad milepost 5.1W near Kenneth in Cass County, Indiana to milepost 21.0W near Winamac in Pulaski County, Indiana, a distance of 15.9 miles. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-855 (SUB-NO. 1X)

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

Indiana Trails Fund, Inc. 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.

By my signature below, I certify service upon both Mr. Louis E Gitomer, Of Counsel, Ball Janik, LLP, 1433 F Street, NW, Suite 225, Washington, DC 20005 (202-466-6532), and Mr. Gary A. Laakso, Vice President, Regulatory Counsel, Rail America, 5300 Broken Sound Blvd NW, Boca Raton, Florida 33487 (561-237-1427) by U.S. Mail, postage pre-paid, first class, this 25<sup>th</sup> day of July, 2002. ?

← incorrect  
DATE  
JUL 15 -  
2003

In addition to ten duplicates for STB, I am enclosing one more, for which I request time and date stamp, to be returned in the enclosed envelope. Also enclosed is an application check for \$150.00.

Respectfully submitted,

Richard C. Vonnegut  
On behalf of Indiana Trails Fund, Inc.

Enc:  
Maps  
10 duplicates  
\$150 filing fee

