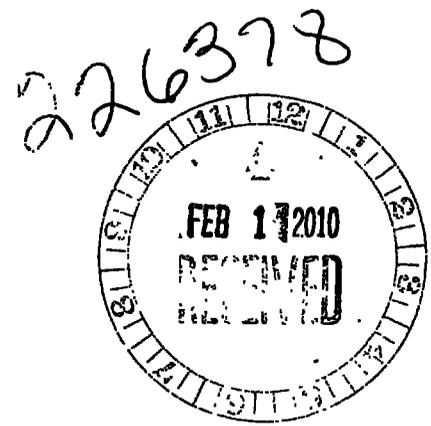


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THOMAS F. MCFARLAND

January 29, 2010

By UPS overnight mail
(Monday delivery)

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: Docket No. AB-1036, *The City of Chicago, Illinois -- Adverse Abandonment -- Chicago Terminal Railroad in Chicago, IL:*

Dear Chief:

Enclosed please find an original and 10 copies of Application For Adverse Abandonment, for filing with the Board in the above referenced matter.

Very truly yours,

Thomas F. McFarland
*Attorney for the City
of Chicago, Illinois*

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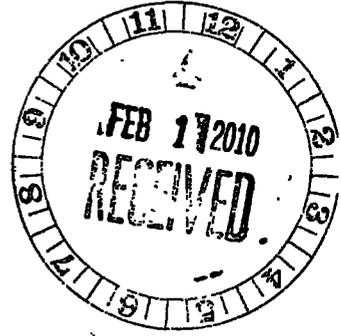
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Part of
Public Record

FILING FEE WAIVED

BEFORE THE
SURFACE TRANSPORTATION BOARD



THE CITY OF CHICAGO, ILLINOIS --)
ADVERSE ABANDONMENT --) DOCKET NO.
CHICAGO TERMINAL RAILROAD IN) AB-1036
CHICAGO, IL)

APPLICATION FOR
ADVERSE ABANDONMENT

FILED

FEB 1 - 2010

SURFACE
TRANSPORTATION BOARD

FEE RECEIVED

FEB 1 - 2010

SURFACE
TRANSPORTATION BOARD

THE CITY OF CHICAGO, ILLINOIS
CITY HALL
121 North LaSalle Street
Chicago, IL 60602

Applicant

ENTERED
Office of Proceedings

FEB 1 - 2010

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Public Record

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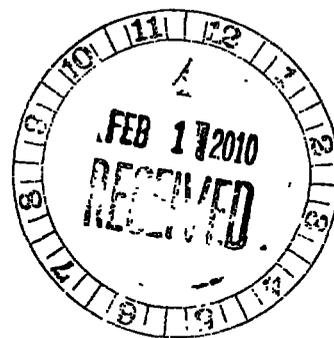
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DATE FILED: February 1, 2010

FILED FEE WAIVED

BEFORE THE
SURFACE TRANSPORTATION BOARD



THE CITY OF CHICAGO, ILLINOIS --)
ADVERSE ABANDONMENT --) DOCKET NO.
CHICAGO TERMINAL RAILROAD IN) AB-1036
CHICAGO, IL)

**APPLICATION FOR
ADVERSE ABANDONMENT**

Pursuant to 49 U.S.C. § 10903(a) and 49 C.F.R. § 1152.22, the CITY OF CHICAGO, ILLINOIS (the City) hereby applies for a determination that the present or future public convenience and necessity require or permit abandonment of two unused segments of rail line in Chicago, Cook County, Illinois operated by CHICAGO TERMINAL RAILROAD (CTM):

- (1) a portion of the Kingsbury Branch from its southern terminus at the intersection of Kingsbury, Division, and Halsted Streets, to, but not including, the point at which the Goose Island Branch diverges from the Kingsbury Branch at or near Willow Street, a distance of approximately 6 city blocks (.75-mile) (“the Kingsbury Segment”); and
- (2) a portion of the Lakewood Avenue Line between the southwest right-of-way line of Clybourn Avenue and the Line’s northern terminus at Diversey Parkway, a distance of approximately 7 city blocks (.875-mile) (“the Lakewood Segment”).^{1/}

^{1/} The above identification of rail lines proposed for abandonment clarifies the description of those lines in the Draft Environmental and Historic Report, dated September 10, 2009, at 2-3, but the extent of the proposed abandonment is the same in both documents.

Thus, the total trackage proposed for abandonment is 1.625 miles. The Kingsbury Segment is shaded in yellow and the Lakewood Segment is shaded in pink on a map of the CTM rail system that is attached to the Verified Statement of Paul Zalmezak as Appendix PZ-2 in Tab 1 of this Application.

PRIOR PLEADINGS AND BOARD DECISION

On June 10, 2009, the City filed a Petition for Partial Waiver of Abandonment Regulations and for Exemptions as related to this Application.

On June 30, 2009, CTM filed a Response to that Petition. The CTM Response included an Affidavit of its President, and asserted that the Petition should be rejected on the ground that precedent will require denial of the Application. (CTM Response at 6-10, Ellis Aff.).

The requested waivers and exemptions were granted in part and denied in part in a Board decision served July 10, 2009. CTM's request that the Petition be rejected was denied as premature. (Decision at 2-3).

OVERVIEW

There is no merit in fact or law in CTM's primary argument that there is a public need for rail-truck transloading service on the Kingsbury and Lakewood Segments.

There are no transloading facilities on either Segment. There is no evidence of a plan to establish such facilities in the foreseeable future.

CTM's contention that such transloading will be performed in the middle of Kingsbury Street and Lakewood Avenue is undermined by the fact that not a single shipment has been transloaded between rail and truck at either of those locations during the three years in which CTM has been authorized to provide service over the involved Segments.

Even if there were to be a demand for rail-truck transloading in the area of the involved Segments, that would not establish a public need for those Segments where, as here, shipments can be as efficiently transloaded at other nearby CTM rail lines, and especially because such shipments would be far more properly transloaded in the industrial setting of those other rail lines rather than in the middle of retail-oriented Kingsbury Street and residentially-oriented Lakewood Avenue.

In the absence of a present or prospective need for rail service over the Kingsbury and Lakewood Segments, the present and future public convenience and necessity permit and require abandonment of those Segments.

Additional factors that militate strongly in favor of abandonment are the saving of substantial funds by the City if it would not be required to remove and replace the trackage in the Kingsbury Segment in conjunction with imminent reconstruction of Kingsbury Street, and the material improvement in safety if bicyclists, pedestrians, and motorists no longer would have to contend with dangerous ruts from separated trackage and pavement in the middle of Kingsbury Street and Lakewood Avenue.

CONTENTS OF THE APPLICATION

Tab No. 1 of this Application is the Verified Statement of Paul Zalmezak of the City's Department of Community Development. That Statement provides facts to show that there is no present or prospective public need for rail service over the Kingsbury and Lakewood Segments (collectively, "the Segments").

Tab No. 2 is the Verified Statement of Joseph B. Alonzo of the City's Department of Transportation providing facts to show that substantial nonrail public benefits would result from

abandonment of those Segments, including the immediate saving of approximately \$1.3 million in conjunction with a pending Kingsbury Street reconstruction project, and a reduction in vehicular, bicycle and pedestrian accidents.

Tab No. 3 is the City's Legal Argument that applies governing law to those facts to show that the present or future public convenience and necessity require or permit abandonment of those Segments.

Tab No. 4 consists of information to comply with the requirements of the abandonment statute and regulations at 49 C.F.R. § 1152.22, to the extent not waived or exempted by the Board.

VERIFIED STATEMENT OF PAUL ZALMEZAK

My name is Paul Zalmezak. I am employed by the City of Chicago, Illinois (the City) as Coordination Planner - Near North & North Branch Industrial in the Department of Community Development. My business address is Room 1003, City Hall, 121 North LaSalle Street, Chicago, IL 60602. I have held my current position for the past 2 years. Prior to that time, I was Managing Director of Place Consulting, Inc., an urban planning consultancy in Chicago. I have a total of 10 years of experience in municipal planning and development.

I am familiar with the City's application for involuntary abandonment of portions of the Kingsbury Branch and Lakewood Avenue Line of the Chicago Terminal Railroad (CTM) that are depicted on a map of the CTM System that is attached to this Statement as Appendix PZ-2. I have read the Response that CTM filed to the City's Petition for Partial Waiver of Abandonment Regulations and Exemptions. My employment requires that I be familiar with conditions affecting planning and development in areas affected by the proposed abandonment. Part of my Statement will be responsive to allegations made by CTM's President as part of CTM's Response to the City's Petition.

DESCRIPTION OF THE LINE SEGMENTS PROPOSED FOR ABANDONMENT

The Segments proposed for abandonment are located in a densely-populated urban area in the Near North Side of Chicago, IL. CTM has acknowledged that the neighborhoods in which those Segments are located have transformed from industrial to predominantly retail and residential in recent years. (CTM Response at 5). That is borne out by a chart attached to my Statement as Appendix PZ-1 that shows a steady decline in the number of rail-served shippers in Chicago's Near North Side from 150 in 1950, to 100 in 1960, to 50 in 1970, to 20 in 1980, to 9

in 1990, and to only 4 in 2000. The source of that chart is an article entitled "The Decline of Railroad Customers" by Thomas Mann, found under "Chicago's North Side Switching" in the internet website <http://www.chicagoswitching.com>. Without question, rail operations are no longer compatible with existing land uses in the area that encompasses the Segments.

The Kingsbury Segment is shaded in yellow Appendix in PZ-2. That Segment is a part of the former Chicago & Evanston Railroad Company (C&E Line), which was acquired and operated for many years by Chicago, Milwaukee, St. Paul & Pacific Railroad Company (Milwaukee Road). CTM acquired remnants of the C&E Line from Canadian Pacific Railway-Soo Line Railroad Company (CP-Soo) at the beginning of 2007. CP-Soo had acquired those lines from Chicago Milwaukee Corporation (CMC), successor in bankruptcy of Milwaukee Road.

The Kingsbury Segment is located in the middle of Kingsbury Street. Kingsbury Street is a public right-of-way heavily-traveled by many trucks, automobiles, and bicycles. The railroad tracks in the middle of Kingsbury Street exist by virtue of an easement granted by the City nearly 100 years ago. The Segment sought to be abandoned extends in a northwesterly direction from its southern terminus (end of track) at the intersection of Kingsbury, Division, and Halsted Streets, to, but not including, the point at which the Goose Island Branch diverges from the C&E Line at approximately Willow Street. It is six city blocks in length, which corresponds to three-quarters of a mile (.75-mile).

The use of the property adjacent to the Kingsbury Segment is primarily retail. For example, adjacent properties include a new Whole Foods grocery complex, Fantasy Kingdom, a

childrens' birthday-party facility and indoor play center, and The British School, a British-oriented educational facility. With the exception of a single shipment of firewood in 2007 that CTM acknowledges to have been a "test shipment" (CTM Response, Ellis Aff. at 2), there has been no rail service on the Kingsbury Segment for approximately 10 years.

The Lakewood Segment is shaded in pink on Appendix PZ-2. It, too, is part of the former C&E Line. It is located either in the middle of, or in close proximity to, Lakewood Avenue. It extends in a generally northerly direction from the southwestern right-of-way boundary of Clybourn Avenue, near Dickens Street, to its northern terminus (end of track) at Diversey Parkway. It is approximately seven city blocks in length, which corresponds to seven-eighths of a mile (.875-mile). Together, therefore, the Line Segments proposed for abandonment total approximately 1.625 miles in length (.75-mile + .875-mile = 1.625 miles).

The use of the property adjacent to the Lakewood Segment is primarily residential (townhomes and condos), with some commercial use (e.g., the Lakeshore Athletic Club). There has been no rail freight service on the Lakewood Segment since Peerless Confection Co. (Peerless) went out of business three years ago.

DESCRIPTION OF THE REMAINDER OF THE CTM RAIL SYSTEM

CTM's sole connection to the national rail system is to Union Pacific Railroad Company (UP) at UP's North Avenue Yard, which is shown on Appendix PZ-2.

CTM operates over UP trackage from North Avenue Yard to the beginning of CTM's Bloomingdale Line near the point marked "CY" on Appendix PZ-2.

CTM's Bloomingdale Line extends in a west-east direction from near CY across the north branch of the Chicago River to connection with the C&E Line at C&E Jct., as shown on Appendix PZ-2. CTM provides rail service to Sipi Metals adjacent to the Bloomingdale Line.

At and near C&E Jct., CTM provides rail service to General Iron Industries (General Iron). The City vacated part of Kingsbury Street at General Iron's location to permit General Iron to expand its operations unimpeded by motor or pedestrian traffic. Thus, the five-block area between the Kingsbury and Lakewood Segments that is not proposed for abandonment is industrial in nature, including General Iron's operations.

A short distance north of C&E Jct., a CTM track curves west from the C&E Line into the plant of A. Finkl & Sons, a manufacturer of specialty steel. That track is the only remaining part of the former Milwaukee Road's Deering Line. It now dead ends at the Finkl plant. Finkl has provided rail traffic for CTM, but it is committed to moving its plant to a different location in the near future.

CTM's Goose Island Branch diverges from the C&E Line near Willow Street. The Branch reaches Goose Island by crossing the North Branch of the Chicago River over a bridge as to which the City spent approximately \$1 million not long ago to rebuild for the benefit of CTM. Upon reaching Goose Island, the Branch trackage is located in the center of Cherry Avenue. At the end of Cherry Avenue, the Branch extends onto North Branch Street for a short distance before becoming impassable because of a stop sign that is placed between the tracks south of Bliss Street near the beginning of a Pickens Kane Warehouse. Appendix PZ-2 incorrectly shows the Goose Island Branch extending to Halsted Street. Much of the trackage beyond the Pickens

Kane Warehouse has been removed. I have noted Bliss Street on that Appendix as the approximate point at which the Branch becomes impassible. CTM provides rail service to Big Bay Lumber at the intersection of Cherry Avenue and Division Street. CTM has stated that it soon will begin to provide rail service to Serious Materials along Cherry Avenue north of Division Street. CTM's addition of Serious Materials as a shipper will be offset by CTM's imminent loss of A. Finkl & Sons as a shipper.

CTM'S LIMITED INTEREST IN THE KINGSBURY AND LAKEWOOD SEGMENTS

CTM has only an easement to operate over the Kingsbury and Lakewood Segments for railroad purposes, in contrast to fee simple title. That easement would be extinguished if those Segments were to be abandoned. A CTM predecessor sold the track materials in those Segments in place, effective upon abandonment of those Segments.

Attached to my Statement as Appendix PZ-3 is a copy of a decision of the United States District Court for the Northern District of Illinois, Eastern Division, in No. 91 C 7658, *In the Matter of Chicago, Milwaukee, St. Paul & Pacific Railroad Company, Debtor*, entered on July 20, 1995. At issue in that case was whether CP-Soo was required to pay rent to CMC for CP-Soo's use of Milwaukee Road's C&E Line. The C&E Line involved in that decision includes the Kingsbury and Lakewood Segments that were later conveyed by CMC to CP-Soo and by CP-Soo to CTM. The Court concluded that no rental was payable on a net liquidation value basis because the C&E Line had no liquidation value to Milwaukee Road (*viz.*, Paragraph 36 at 11-12, *emphasis added*):

. . . The Soo points out that since CMC retains only an easement in the property underlying the Line and since the easement reverts to the fee holders upon abandonment, it (CMC) has no reversionary interest in the underlying property. Further, the Soo points out that pursuant to the contracts and deeds by which CMC conveyed the fee interests in the property on which the Line is located, the rail line is to be abandoned "in place" and become the property of the grantees upon termination of rail service, therefore, the Soo argues for an assessment of a value of "0" for the tracks. Accordingly, the Soo contends that any valuation based on the value of the property is invalid. The Court agrees.

NO LOSS OF CUSTOMERS, AND NO ADVERSE EFFECT ON ABILITY TO PROVIDE SERVICE TO CUSTOMERS, AS A RESULT OF ABANDONMENT

None of the four current customers of CTM identified in the Affidavit of its President is located on either the Kingsbury or Lakewood Segment. (CTM Response, Ellis Aff. at 2). Neither is Serious Materials. (*Id.* at 3-4). As is evident from the map of the CTM System (Appdx. PZ-2), it is not necessary for CTM to operate over either of those Segments in order to provide rail service to any of those customers. Consequently, abandonment of those Segments would not cause CTM to lose any customer, nor would such abandonment adversely affect CTM's ability to provide rail service to any of its customers.

I agree with Mr. Ellis's omission of the company that made the "test shipment of firewood" from his listing of CTM customers because there is no claim that such company has made any other shipments over CTM, nor that it intends to do so. Firewood is not susceptible to transportation by rail because it is transported locally in small quantities for short distances.

NO ADVERSE EFFECT FROM ABANDONMENT ON ABILITY TO STORE RAILCARS

Contrary to the claim of CTM's President (CTM Response, Ellis Aff. at 3), abandonment of the Kingsbury and Lakewood Segments would not harm CTM operationally by eliminating

track space that is required for storage of CTM railcars during periods of low traffic volume. There is plenty of available main track that is not used or required to provide rail service to shippers, as well as ample sidetrack and yard track, for storage of CTM's railcars without use of trackage on the Kingsbury or Lakewood Segments.

CTM leases 25 gondola-type railcars that are used to provide rail service to three of CTM's shippers, i.e., Sipi Metals, General Iron, and Finkl. (CTM Response, Ellis Aff. at 3). Each of those railcars is 52 feet long. (*Id.*). Thus, 1,300 feet is the maximum track space that would be required for storage of those cars. (25 x 52 ft. = 1,300 ft.). However, it is highly unlikely that all 25 of those cars would be required to be stored at any one time. Mr. Ellis has stated that traffic for the gondola car users is "down", not that such traffic is not moving at all. (*Id.*). With three shippers using those cars, it is virtually certain that considerably less than all 25 of those cars would need to be stored at any one time.

Even in the extremely unlikely event that all 25 of those cars were required to be stored at the same time, there is sufficient track space on CTM to do so without use of trackage on the Kingsbury or Lakewood Segments. CTM does not provide rail service to any shipper on its Goose Island Branch south of the Big Bay Lumber facility at Cherry Avenue and Division Street. Even allowing tailroom for a large lumber car south of Big Bay Lumber, there are approximately 600 feet of main track in Cherry Avenue and North Branch Street south of the Big Bay Lumber facility that are not used or required for providing rail service to shippers, and thus would be available for storage of CTM railcars. (That main track does not become impassible until the

location of a stop sign that is placed in between tracks at or near the north end of a Pickens Kane warehouse in North Branch Street south of Bliss Street.)

In addition, there are approximately 350 feet of sidetrack that parallel that main track on its west beginning a short distance south of the Big Bay Lumber facility and rejoining the main track near the end of Cherry Avenue. Eighteen of CTM's railcars could be stored on that unused main track and sidetrack alone ($600 \text{ ft.} + 350 \text{ ft.} = 950 \text{ ft.} \div 52 \text{ ft.} = 18.27$). Attached to my Statement as Appendix PZ-4 is a map on which I have shaded in blue the trackage identified in this paragraph. Attached to my Statement as Appendix PZ-5 is a photograph of a lumber car on Cherry Avenue near Bliss Street. That photograph, which appears in the internet website <http://www.flickr.com>, shows that the trackage here identified is operable.

There is a lengthy sidetrack adjacent to CTM's Bloomingdale Line between the east bank of the Chicago River and C&E Jct. on which 9 railcars can be stored. I know that 9 cars can be stored on that trackage because an attorney for the City observed 9 cars under storage on that trackage on October 6, 2009. Attached to my Statement as Appendix PZ-6 is a photograph of that sidetrack which appears in the website <http://www.chicagoswitching.com> referred to earlier.

Thus, the Bloomingdale Line sidetrack just referred to and the trackage on the Goose Island Branch south of Division Street have sufficient storage space for all 25 CTM gondola cars, even in the unlikely event that all of 25 of those cars were required to be stored at one time. ($18 \text{ cars} + 9 \text{ cars} = 27 \text{ cars}$).

Even though that trackage alone would satisfy all of CTM's railcar storage needs, there is additional CTM track storage space that could be utilized, if needed. CTM undoubtedly is able

to store a number of cars on trackage in the UP North Avenue Yard that it has the right to use. Attached to my Statement as Appendix PZ-7 is a copy of the Quit Claim Deed by which CP-Soo conveyed trackage to CTM's parent company, dated December 20, 2006 (later reconveyed by its parent to CTM). At page 3 of that Deed, it can be seen that CTM received easements to operate at least 650 feet of trackage in North Avenue Yard. Even allowing for the presence on that trackage of CTM's locomotive and some loaded cars, there should be room to store at least six or seven 52-foot cars on that trackage ($7 \times 52 = 364$ feet). Few loaded cars would be expected to be on that trackage in times of low traffic volume when empty-car storage would be required on that trackage.

Another five railcars could be stored on CTM main track that curves northeast from Kingsbury Street toward Clybourn Avenue a short distance north of the intersection of Kingsbury and Cortland Streets. That trackage is not used or required to provide rail service to shippers. That trackage becomes impassible due to a large opaque fence that blocks the track before it reaches a parking lot and a Men's Wearhouse Store on Clybourn Avenue. Five railcars could be stored on that trackage between the point at which it clears Kingsbury Street and the location of that fence.

There is trackage that is partially sunken into the earth immediately north and west of the Bloomingdale Line sidetrack identified above. That trackage could be dug out and used for railcar storage if additional track storage space were to be required. It appears that four or five 52-foot railcars could be stored on that trackage.

In sum, there is more than ample track space in the CTM rail system for storage of CTM's gondola railcars without use of trackage in the Kingsbury and Lakewood Segments. Accordingly, CTM would not be harmed operationally as a result of abandonment of those Segments by virtue of elimination of needed track storage space on those Segments.

NO POTENTIAL FOR NEW RAIL SHIPPING FACILITIES ADJACENT TO THE KINGSBURY AND LAKEWOOD SEGMENTS

There is no potential for location of new rail shipping facilities at any point adjacent to either the Kingsbury or Lakewood Segments. CTM itself has acknowledged the reason why that is so, i.e. (CTM Response at 5):

... (T)he City is correct in stating that the character of the neighborhood (adjacent to those Segments) has become more residential and retail in nature over the years . . .

Thus, except for the arranged test shipment of firewood, it has been approximately ten years since the last rail shipment over the Kingsbury Segment. The location from which that last shipment was made (by Midwest Zinc) is now the site of a Whole Foods grocery complex. It has been more than three years since the last rail shipment over the Lakewood Segment. The facilities of Peerless Confection, which made that last shipment, have been demolished, and residential development is slated for that site.

Any rail-oriented industrial development is instead likely to occur in areas where industrial uses continue to exist. That is evidenced by the recent location of a new rail shipper, Serious Materials, adjacent to CTM's trackage on Goose Island where there continues to be significant industrial activity. The soon-to-be-vacated manufacturing facilities of A. Finkl &

Sons presents another rail-oriented industrial development opportunity along the CTM rail line between the Kingsbury and Lakewood Segments that is not sought to be abandoned.

In view of those market realities, there is absolutely no merit to the contention of CTM's President that "(i)t is possible that a rail user may locate in the vacant property at Diversey and Lakewood," or in "the Peerless property that has not been built on." (CTM Response, Ellis Aff. at 4). The property at Diversey and Lakewood to which reference was made is the site of a former Wonder Bread facility. The former Peerless property is located along Lakewood Avenue north of Schubert Avenue. Both of those sites are located along the Lakewood Segment at its north end.

It is not possible for a rail user to locate at either of those sites because they have been rezoned for residential use that is incompatible with industrial development. Attached to my Statement as Appendix PZ-8 is a zoning map that shows the zoning of the former Wonder Bread property as "PD 1068" and the zoning of the former Peerless property as "RT-4". Attached to my Statement as PZ-9 is a copy of pages 5304-5323 of the Journal of the City Council of Chicago on July 19, 2007 that reflects a change of zoning of the former Wonder Bread property at Diversey and Lakewood from manufacturing (MI-2) to RM 4.5, Residential Multi-Unit District. The zoning designation of RT-4 for the former Peerless property allows townhomes and multi-unit residential use. An industrial use would not be a permitted use under the zoning for either of those sites. Therefore, there is no chance that a rail user will locate at either site.

For similar reasons, there is no merit to the contention of CTM's President that "Kingsbury is zoned for development that could include rail-oriented businesses." (CTM

Response, Ellis Aff. at 4). As mentioned earlier, development along the Kingsbury Segment has been characterized by retail, entertainment, and education, i.e., Whole Foods, Fantasy Kingdom, and the British School. Attached to my Statement as PZ-10 is a copy of Figure 4, North Branch Corridor, from a 2003 City planning document entitled "Corridors of Industrial Opportunity - A Plan for Industry in Chicago's North Side," which shows that the properties adjacent to the Kingsbury Segment between Division Street and North Avenue are not located within the Goose Island Planned Manufacturing District (PMD), or any other PMD. That is to be contrasted with the cross-hatched area in Figure 4 on Goose Island north of Division Street that is designated as "Industrial Development Opportunity." That is the area in which Serious Materials recently located when it took over the factory and warehouse of the former Republic Windows and Doors. Also to be contrasted is the area in Figure 4 along Kingsbury Street between the Kingsbury and Lakewood Segments that is designated as "Industrial Corridor".

The primary zoning and use of property adjacent to the Kingsbury Segment is planned development for retail (e.g., Whole Foods), entertainment (e.g., Fantasy Kingdom), and education (e.g., The British School). There are two parcels that abut Division Street at the south end of the Kingsbury Segment that continue to have "M" zoning that authorizes commercial, light industrial, or retail uses. However, market realities have effectively precluded any rail-oriented industrial development of those properties.

Attached to my Statement as Appendix PZ-11 is an overhead photograph of the Kingsbury-Division-Halsted intersection on which the two properties under consideration are outlined in red. The much smaller triangular-shaped parcel on the east side of Kingsbury may be

the "small parcel of land" that CTM claims to own "at the intersection of Kingsbury and Division Streets". (CTM Response, Ellis Aff. at 2). Contrary to CTM's claim, however, the parcel report for that property shows that it is owned by Zafar Hussasin. Attached to my Statement as Appendix PZ-12 is a copy of the Parcel Detail and accompanying Detail Map for that property showing Mr. Hussasin as the taxpayer-owner.

That tiny parcel is far too small for any meaningful industrial development, even if CTM owned it. It would not be possible to fit a building or transloading facilities on that sliver of irregularly-shaped land. As a practical matter, the only potential developmental use of that property would be for expansion of the gasoline service station that abuts the parcel at its north end. That service station is visible on my Appendix PZ-11.

The other such parcel is a rectangular-shaped parcel that abuts Division Street on the west side of the Kingsbury Segment. (See Appdx. PZ-11). It is owned by a private individual, Mr. Howard Garoon. It has been vacant for approximately 20 years. It is environmentally contaminated. Being adjacent to the North Branch Canal, a 30-foot setback would be required under the City's Zoning Ordinance for any building. Inasmuch as the site is quite narrow to begin with, that would be a serious impediment to development of the property. The owner has not been interested in building on the site, or in selling it.

In 2006, the City attempted unsuccessfully to obtain development proposals for that property for either commercial office, light industrial, or retail uses. Attached to my Statement as Appendix PZ-13 is a copy of the Request for Proposals that was issued by the City's Department of Planning and Development on August 21, 2006. The City rejected as non-responsive the

single proposal that was received, which was to lease the parcel for an outdoor music venue.

Thereafter, interest in the property was expressed in behalf of a retailer of chocolate candy and an automobile dealer, but no agreement on acquisition could be reached. In 2007, the owner of the parcel paved it with asphalt and has operated it as a parking facility since that time. That use of the property is responsive to a need consistent with the retail and entertainment use of nearby properties.

It is evident in view of all of the foregoing that there is no realistic possibility of rail-oriented industrial development at any site adjacent to either the Lakewood or Kingsbury Segment. Moreover, CTM's claim of ownership of a parcel of land at Kingsbury and Division undermines CTM's credibility. A review of available public records refutes such claim of ownership. It has also been shown that CTM does not own any of the land or track materials in the right-of-way of either Segment.

**NO PUBLIC NEED FOR RAIL-TRUCK TRANSLOADING ON THE
KINGSBURY AND LAKEWOOD SEGMENTS**

There are no facilities adjacent to the Kingsbury or Lakewood Segments that are designed for rail-truck transloading, nor has CTM identified any plans to establish such facilities. CTM may be correct in contending that, however dangerous, unsightly, and inefficient it would be, it is physically possible to transload traffic between railcars and trucks in the middle of streets in residential or retail neighborhoods. (CTM Response, Ellis Aff. at 2). However, the propriety of that practice is not established by reference to Big Bay Lumber's transloading from rail to truck in Cherry Avenue on Goose Island. (*Id.*). Goose Island is in a planned manufacturing district in

which industrial uses are encouraged. It is quite a different thing to transload in a street in which there is heavy pedestrian, bicycle, and motorized traffic.

However, putting aside the propriety of the practice, there is no public need for rail-truck transloading in streets on the Kingsbury and Lakewood Segments. If there were any legitimate demand for such transloading on those Segments, CTM shipments would have been expected to have been transloaded at some time during the three years in which it has been authorized to operate those Segments. Instead, not a single CTM shipment has been transloaded on those Segments in all of that time.

Even if there were a demand for rail-truck transloading on CTM, there would be no public need for such transloading on the Kingsbury or Lakewood Segments because there are ample alternative locations for such transloading on nearby CTM tracks that are far more preferable compared to locations on those Segments. One such alternative location is CTM's tracks on Goose Island, on which Big Bay Lumber already transloads. CTM operates to and from Goose Island regularly twice per week. Goose Island is in a planned manufacturing district. It would be much more efficient for CTM to transload on Goose Island during its regular operations there than to begin a new transloading operation on the Kingsbury or Lakewood Segments, on which there has been no rail service for years.

A second alternative location is in the industrial area between the Kingsbury and Lakewood Segments. CTM regularly operates over that trackage to serve General Iron. It could easily establish a transloading operation near that trackage as an incident of its rail service to General Iron.

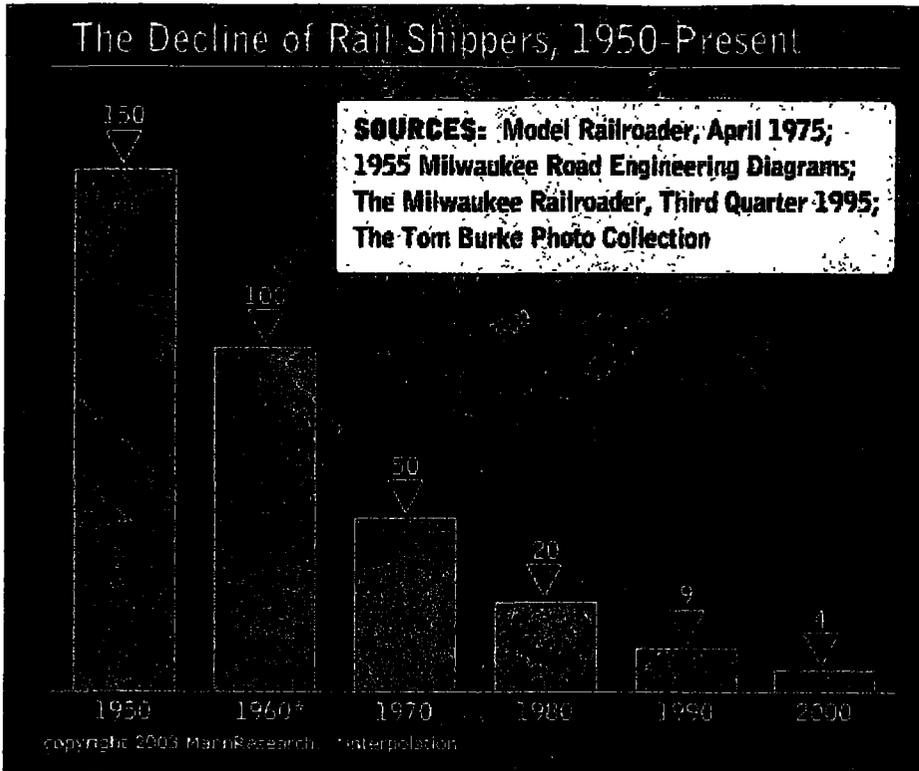
A third alternative is the area north of C&E Jct., including trackage at and near the area soon to be vacated by A. Finkl & Sons. There would be plenty of room in that area for transloading without disturbing pedestrians, bicyclists, or motor vehicles.

A fourth alternative is transloading adjacent to CTM's tracks in North Avenue Yard.

Self-serving allegations by CTM's President, such as that it "expects to start transloading traffic at a location on Lakewood Street (sic) near Diversey," (which is in the midst of new townhome residential developments, (CTM Response, Ellis Aff. at 2)), do not come close to establishing a public need for transloading on the Segments, in the absence of a showing of any demand for such transloading, and a cogent explanation of why such transloading must take place in residential and retail-oriented streets in the Kingsbury and Lakewood Segments rather than in the industrial-oriented streets on other nearby CTM tracks.

In view of all of the foregoing, no public need for rail-truck transloading on the Kingsbury or Lakewood Segments has been established.

APPENDIX PZ-1



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Former Milwaukee:
LAKEWOOD BRANCH
KINGSBURY BRANCH
DEERING LINE
GOOSE ISLAND
BLOOMINGDALE LINE

Former C&NW:
NAVY PIER
NORTH LINE
NORTHWEST LINE

Common Locations:
RIVER WEST

Overview:
AERIAL OVERVIEW

THE DECLINE OF RAILROAD CUSTOMERS CHART
by THOMAS MANN



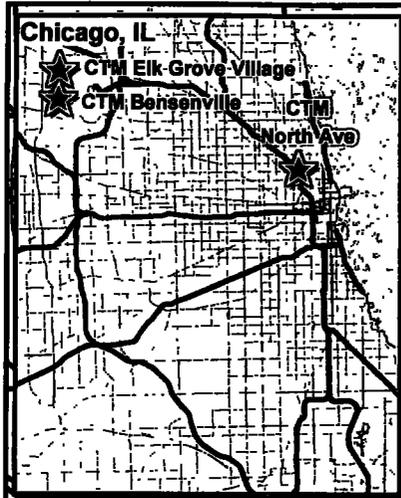
id: 485 [compare]

In the summer of 2003, Tom Burke and Tom Mann used a variety of resources to determine the downfall of north side rail served industries. This chart presents a summary of the amount of industries, averaged over each decade.

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dedicated to the memory of JOHN R. MIKA | [Legisl](#) | [Main](#) | [Articles](#) | [Article Index](#) | [Research](#)

APPENDIX PZ-2

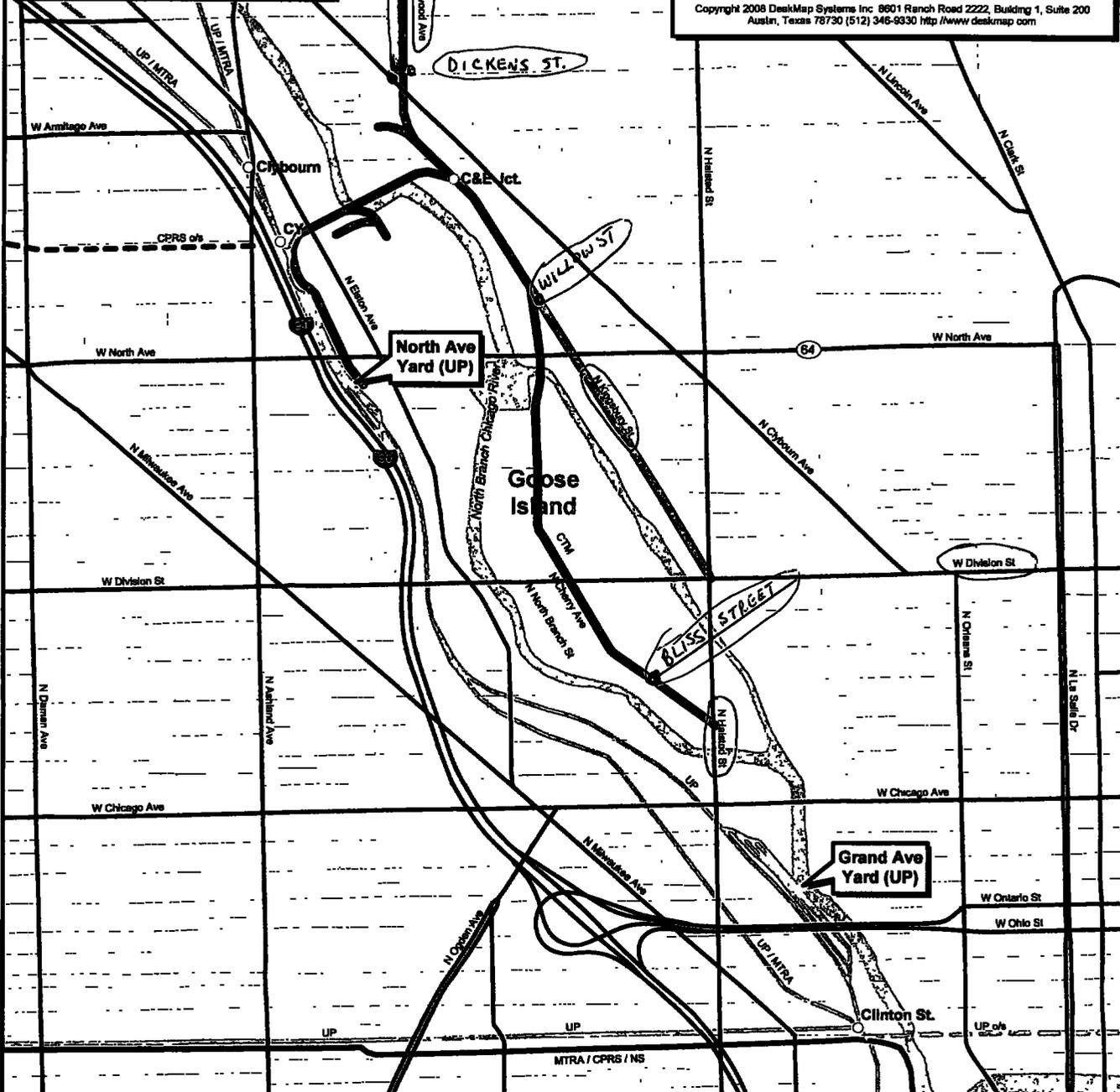


Chicago Terminal Railroad

	CTM	Chicago Terminal Railroad
	MTRA	Chicago Commuter Rail Authority
	UP	Union Pacific

Connections: CTM with UP at North Ave, Chicago, IL

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Austin, Texas 78730 (512) 346-9330 <http://www.deskmap.com>



APPENDIX PZ-3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the Matter of:

CHICAGO, MILWAUKEE, ST. PAUL
& PACIFIC RAILROAD COMPANY,

In Proceedings for
Reorganization of a Railroad

No. 91 C 7568

Debtor.

Hon. Gerald E. Rosen,
Sitting by Designation

OPINION AND ORDER SETTING FORTH THE COURT'S
FINDINGS OF FACT AND CONCLUSIONS OF LAW

At a session of said Court, held in
the U.S. Courthouse, Chicago, Illinois
on JUL 20 1995

PRESENT: Honorable Gerald E. Rosen
United States District Judge

I. INTRODUCTION

This matter came before the Court for hearing and determination on the issue of the amount of rent to be paid by the Soo Line Railroad Company (the "Soo") to the Chicago Milwaukee Corporation ("CMC")¹ for the Soo's use, since February 1985, of two parcels of CMC railroad property, the "C&E Line" in Chicago, Illinois² and the "Beer Line" in Milwaukee, Wisconsin.

The Court conducted a three-day hearing on this matter September 8-12, 1994, during which hearing the Court heard the testimony of three real estate valuation experts, William J. Carter, M.D. Ross and James D. Jennings. The Court also heard the testimony of CMC vice-president and general counsel, Lawrence

¹ CMC is the parent corporation of the reorganized debtor railroad, Chicago, Milwaukee, St. Paul & Pacific Railroad Company.

² The C&E Line is also referred to as the "Candy Line".

Adelson; Soo Line trainmasters Timothy John Dickey and Anthony Fletcher; Soo costing specialist, Robert Miller; the Soo's director of development and contracts, James Fandrich.

Having heard the testimony of the witnesses and the oral arguments of counsel, and having reviewed and considered the exhibits submitted at trial, the Court makes the following findings of fact and conclusions of law. To the extent that any findings of fact constitute conclusions of law, they are adopted as such. To the extent that any conclusions of law constitute findings of fact, they are so adopted.

II. FINDINGS OF FACT

A. BACKGROUND

1. This matter arises out of the eight-year-long bankruptcy reorganization of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company (the "Milwaukee Road").³ The District Court for the Northern District of Illinois served as the Reorganization Court and supervised the operation and disposition of the Milwaukee Road's assets. Governor Richard B. Ogilvie served as the Milwaukee Road's court-appointed trustee during the period of time relevant to this matter.

2. In 1984, the Trustee offered the Milwaukee Road's core rail assets for sale. Several parties, including the Soo, submitted bids for the core rail assets. On February 19, 1985, the Reorganization Court approved the Soo's bid, and on that same date,

³ The Milwaukee Road filed its petition for reorganization in 1977. Reorganization was ultimately consummated in 1985.

the Soo and CMC finalized and executed their Asset Purchase Agreement (the "APA").

3. At the time of the closing on the APA, it was unclear whether three rail lines -- the Beer Line, the C&E Line and the Rockford Line* -- would remain rail property because abandonment petitions for these lines were pending. As a result, the parties entered into a Letter Agreement on the closing date which amended the APA by providing:

As of and following the Closing, Soo and SLRCO⁵ agree to provide rail service pursuant to 45 U.S.C. § 1017 to the extent that Milwaukee has continuing service obligations over the "Beer Line" (Milwaukee, Wisconsin), the "Rockford Terminal Line" (Rockford, Illinois, and the C&E Line (Chicago, Illinois), with respect to which abandonment proceedings initiated by the Trustee are pending. If the Reorganization court determines that the Trustee may not abandon a line under Section 5(a) of the Milwaukee Railroad Restructuring Act, Soo and SLRCO will continue to provide the rail service with respect to that line. In that event, the Trustee, Soo and SLRCO agree to negotiate either a purchase of the property or a grant of trackage rights which will accord Soo and SLRCO permanent rights to provide the rail service required.

[CMC Ex. 6, ¶ 10 (emphasis added).]

4. On October 15, 1986, the Reorganization Court entered Order No. 919, denying the application to abandon the C&E Line. In that Order, the Court also ordered that within 90 days, CMC and the SOO shall negotiate and agree to a purchase by the Soo of the C&E Line, or a grant of trackage rights on that line to the Soo.

* The Rockford Line is not part of the present dispute as the parties settled their differences concerning this line in the summer of 1994.

⁵ SLRCO, Inc. is a subsidiary of Soo, which actually submitted the bid for the purchase of the Milwaukee Road's core rail assets.

5. On March 23, 1987, the Court entered Order No. 931, denying abandonment of the northern portion of the Beer Line and a branch of that northern portion known as the "Snake Line" (the "North Beer Line").⁶ The Court, however, did grant the abandonment petition as to the southern end of the line (the "South Beer Line".) As it did in denying the abandonment of the C&E Line, the Court directed the Soo and CMC to negotiate and agree on a purchase or trackage rights agreement for the portion of the line for which the Court denied abandonment.

6. According to the testimony of Lawrence Adelson, vice-president and general counsel of CMC, after CMC received the Reorganization Court's Orders denying abandonment, CMC submitted to Soo a proposed Lease of C&E Line [9/9/94 Hearing Transcript, p. 267; CMC Ex. 22.] Adelson stated that it was CMC's intention to propose a similar Lease of the Beer Line after an agreement was reached on the C&E Line.

7. Mr. Adelson testified that the Soo rejected CMC's proposed Lease terms, and initially suggested an alternative calculation of the rent to be paid by the Soo for use of the line. [9/9/94 Tr. p. 270; CMC Ex. 24.] Adelson stated that subsequently the Soo proposed, as an alternative to a lease, a direct purchase of C&E Line for net salvage value [9/9/94 Tr. p 272; CMC Ex. 25], but then withdrew that offer and proposed instead that the parties enter into an agreement under which CMC would pay the Soo for

⁶ The Court notes that, in the past, the parties and the Court have sometimes referred to the entire North Beer Line as the "Snake Line".

providing rail service on its Lines. [9/9/94 Tr. 273, CMC Ex. 27.]

8. Following receipt of the Soo's last proposal, CMC brought a motion in this Court for an Order requiring the Soo to comply with the APA/Letter Agreement and the Court's previous Orders to negotiate and agree to a purchase or lease of the Lines in question.

9. The Soo's position with respect to CMC's Motion was that while the contract and the Orders of the Court required the Soo to negotiate, there was no requirement that it enter into an agreement for the purchase or lease of the Lines. Since it had "negotiated", the Soo contended that it should be excused from any further obligations under the APA. The Soo also sought compensation from CMC for operating the Lines.

10. On August 10, 1988, Judge Marshall entered Order No. 968 in which he held that the Soo must either purchase or acquire permanent trackage rights from CMC for the Lines, and denied the Soo's request for compensation.

11. With respect to the Soo's position that it was not obligated to purchase or lease the Lines and that CMC should be obligated to pay the Soo for providing rail service on the Lines, in Order No. 968, Judge Marshall stated:

The Soo does not refer to any language in the [Asset Purchase] Agreement which indicates that CMC is to pay for the Soo's service, but apparently a court-imposed arrangement tailored from whole cloth which benefits the Soo suits it just fine. . . .

There can be no serious doubt that the parties expected the Soo to obtain permanent rights and obligations regarding railroad operations in the event abandonment was denied, or that the agreement expresses this

expectation.

Three times we have interpreted ¶ 10 as an agreement to negotiate and agree. Order Nos. 919, 921, 931. The first of these orders was issued on October 17, 1986; the last on March 23, 1987. The Soo first informed us of its contrary view of ¶ 10 on January 4, 1988, leading us to wonder whether it forwards its current position in good faith.

Once again we order that the Soo shall negotiate with CMC and agree to either a purchase of the C&E, Rockford and Snake lines by the Soo or a grant of trackage rights to the Soo such that the Soo will acquire permanent rights to provided the rail service required.

[CMC Ex. 29.]

10. Following Judge Marshall's August 1988 Order, CMC resumed negotiations with the Soo, but the Soo continued to refuse to conclude a purchase, lease or trackage rights agreement regarding the Lines.

11. Because since February 1985, the Soo has been operating and continues to operate over the C&E Line and the Beer Line without any payment of rent to CMC, on March 1, 1994, CMC filed a "Motion for Rule to Show Cause Why Soo Line Railroad Company Should Not be Held in Contempt of Court" for the Soo's refusal to conclude a purchase or lease with respect to either the C&E Line or the Beer Line, in violation of the Court's previous Orders. In this Motion, CMC asked that the Court schedule a hearing for the determination of the issue of the Soo's payment of rent and related costs and expenses to CMC. It is this Motion which has brought this matter before this Court for resolution.

B. THE C&E LINE

12. The C&E Line is a relatively short branch segment (i.e.,

less than 1.5 miles long) in a largely residential area in Chicago.⁷

13. CMC has conveyed the property underlying the C&E Line to adjoining landowners, retaining only an easement for railroad operations. Each of the contracts and deeds by which CMC conveyed its interest in the property on which the C&E Line is located provides that the rail line is to be abandoned in place and become the property of the grantees upon termination of rail service.

14. The Soo has provided and continues to provide service over the C&E Line to only one customer, the Peerless Candy Company.

15. Timothy John Dickey, the Soo's Chicago area trainmaster, testified that trains run on the C&E Line to the Peerless Candy Company twice a week, on Tuesdays and Thursdays. There is only once run on each day. He stated that normally, only two cars and one locomotive provide the Peerless Candy service.

17. Mr. Dickey explained that a run normally should take approximately one-half hour to 45 minutes, but delays due to parked cars blocking the tracks are frequent. He testified that even though deliveries frequently take longer and require more work by the train employees due to delays caused by parked cars on the tracks, the Soo has not raised its rates to account for the increased time necessary to service its customer.

C. THE BEER LINE

18. The "Beer Line" is a 100-foot-wide strip of land with railroad tracks on it that runs through industrial and residential

⁷ During the course of the hearings, the Court personally walked the length of the C&E Line with both the Soo's and CMC's counsel.

areas in Milwaukee, Wisconsin. (A branch off of the northern portion of the Beer Line known as the "Snake Line" is only approximately 30-feet-wide.) The property is owned by CMC in fee.

19. Abandonment of the south portion of the Beer Line was granted on August 31, 1987. The Soo's Milwaukee trainmaster, Anthony Fletcher, testified that even before abandonment, however, there was no traffic at all on the South Beer Line. There has been no traffic on the South Beer Line since 1985, and that southern portion of the Line has not been used to store cars or for any other railroad purpose.

20. With respect to the North Beer Line, Mr. Fletcher testified that Soo runs a switch engine five days a week, and services the line south of Richards Street, on an "as-needed" basis.

22. Soo provides rail service over the North Beer Line and the "Snake Line" branch to three customers, Tulip Company and Frank Miller Services on the Snake Line, and Northside Lumber, on the main Beer Line.

D. VALUATION OF THE C&E LINE AND THE BEER LINE

23. Evidence as to the valuation of the two lines at issue was presented to the Court via the testimony of expert witnesses -- CMC witness, William J. Carter, and the Soo's witnesses, M.D. Ross, and James Jennings.

24. Mr. Carter is a partner with the Arthur Andersen accounting firm. He is in charge of Arthur Andersen's Real Estate Valuation Group. He has 21 years of experience in appraising

property with a particular concentration in railroad real estate.

25. Mr. Ross is a self-employed private consultant who was formerly employed by the Soo Line as an assistant controller in charge of income taxes. His real estate valuation expertise arises out of his experience in ascertaining the value of Soo railroad property to make certain that the Soo did not pay excessive property taxes due to overvaluation by the state.

26. James Jennings is a real estate appraiser and consultant whose railroad appraisal work consists principally of appraising railroad real estate for the Interstate Commerce Commission in connection with abandonment proceedings and in evaluating railroad property for prospective purchasers of railroad right-of-ways.

(1) VALUATION OF THE C&E LINE

27. CMC's proposed valuation of the C&E Line is the valuation suggested by William Carter.

28. Mr. Carter testified that he has used several methods in appraising railroad property. These methods include the "Replacement Cost New" method; the "Replacement Cost New Less Depreciation" method ("RCNLD"); the "Corridor Approach"; the "Across-the-Fence-Value"; the "Base Value" method; and the "Net Liquidation Value". The method which results in the highest valuation is the "Replacement Cost New" method which entails estimating the cost of what it would take to install a new railroad line on the subject property. The method which yields the lowest valuation is the "Net Liquidation Value".

29. Mr. Carter used the "Base Value Method" in determining

the valuation of the C&E Line. This method of valuation is based on the market value of the individual parcels of property forming the corridor, adjusted downward to account for lack of usability factors (such as the particular location, lack of access and narrow shape of the railroad right of way).

30. With respect to the C&E Line, Mr. Carter used the market value of the individual parcels of real estate underlying the track as of 1985 (i.e., when the APA and Letter Agreement were executed), adjusted downward by 50% to reflect the easement (as opposed to fee) interest held by CMC.⁸

31. The 1985 valuation of the parcels forming the C&E Line corridor averaged \$9.20 per square foot. The land area under the easement was calculated by Carter as 74,885 square feet. The easement area was then multiplied by \$9.20, and this product was then reduced by 50% to reflect the easement-only interest. This yields an easement value of \$344,471 [See CMC Ex. 41].

32. Carter then capitalized this \$344,471 figure by 11% to arrive at an estimated annual rent of \$37,891.⁹ Id. With rent owing since February 19, 1985, as of September 1994 (i.e., the date of the hearing on this matter), Carter concluded that the total amount of rent owed to CMC for use of the land totaled \$361,366. Id.

33. To this land figure was added the rental value of the

⁸ Mr. Carter testified that 50% of the fee value is commonly used in the railroad industry in valuing easements.

⁹ Mr. Carter testified that it was common practice in the industry to calculate rent as 10-12% the value of the property.

track structure. Carter valued the track structure based on the February 1985 price of scrap metal quoted by American Metals of \$112.00 per ton. This is an "in place" value which does not take into account the cost to remove the rails, transporting/shipping the rails to the smelter, etc.

34. The amount of rail was determined to be 292.5 tons.¹⁰ Thus, the "value in place" of the rail was determined to be \$32,760. Id. Carter capitalized this figure by 11% to arrive at a figure of \$3,603 rent per year for the track structure alone. Id. With rent owing since February 19, 1985, Carter concluded that the total amount of rent owed to CMC for use of the track structure as \$34,362. Id.

35. Thus, CMC seeks \$395,728 (\$361,366 rent on the land plus \$34,362 rent on the track structure) total back rent on the C&E Line.¹¹

36. The Soo urges the Court to reject Mr. Carter's valuation of the C&E Line. The Soo points out that since CMC retains only an easement in the property underlying the Line and since the easement reverts to the fee holders upon abandonment, it has no reversionary interest in the underlying property. Further, the Soo points out that pursuant to the contracts and deeds by which CMC conveyed the fee interests in the property on which the Line is located, the

¹⁰ This figure was based on a quantity supplied Midwest Rail Recovery, a company that primarily deals with the salvage of railroad rights-of-way.

¹¹ On a going-forward basis, CMC asks that future rent be assessed based on these figures (i.e., \$37,891 annual rent on the land plus \$3,603 rent on the track structure.)

rail line is to be abandoned "in place" and become the property of the grantees upon termination of rail service, therefore, the Soo argues for an assessment of a value of "0" for the tracks. Accordingly, the Soo contends that any valuation based on the value of the property is invalid. The Court agrees.

37. Soo's expert, M.D. Ross, offered an alternative to real property valuation based on income generated from the Line, based on information provided by the Soo Line's Revenue Accounting Department. [See Soo Ex. 40.] Mr. Ross determined that, based on a calculation of gross revenue minus full costs, the C&E Line was not generating any income; instead, he determined that the Line had been losing an average of \$19,000 per year. Id.

38. As noted above, Mr. Ross used a "full costs" calculation. However, Robert Miller, who prepared the revenue/cost report upon which Mr. Ross's determination was based, explained that the "direct" costs associated with the use of the C&E Line were not the "full" costs reflected in Soo Exhibit 40, but rather fell under the category of "variable costs". (Full costs, as Mr. Miller explained, included costs of the entire Soo Line, not just those attributable to the C&E Line.)

39. The Court finds Mr. Miller's and Mr. Ross's testimony regarding the revenue approach to valuation credible and finds that a rental based upon a calculation of gross revenue - direct (i.e., "variable") costs most fairly and reasonably reflects the amount of revenue upon which a calculation of rent due and owing to CMC for the Soo's use of the C&E Line may most appropriately be made.

40. According to the uncontested figures of gross revenue and variable costs set forth in Soo Exhibit 40, a calculation of gross income less direct costs from 1987 through 1992, yields a net total of \$20,334.¹² Capitalizing this figure using the 16.5% ICC capitalization rate used by Mr. Ross [See Soo Ex. 46],¹³ yields an annual rental of \$3,355.11.

41. Based on the foregoing, the Court finds that the Soo Line owes CMC back rent (through September 1, 1994) for the C&E Line amounting to \$31,873.55. From September 1, 1994 forward, annual rent due shall be \$3,355.11.¹⁴

(2) VALUATION OF THE BEER LINE

42. Unlike the easement nature of the C&E Line, because the property underlying the Beer Line is owned by CMC in fee, a "base value" valuation of real estate and trackage is appropriate.

43. As an initial matter, however, the Court finds it

¹² In the years 1990, 1991, and 1992, the Soo shows a loss of earnings on the C&E Line. Mr. Miller testified that losses continued in 1993 and 1994 (although the figures are not reflected on Soo Ex. 40.) In any event, Mr. Ross testified that a five-year average was normally used in this approach.

¹³ As noted above, Mr. Ross used a "full" costs calculation which this Court rejects. In valuing only this particular line, the Court finds it more appropriate to apply only those costs directly attributable to the C&E Line, and, therefore, has used a "variable" costs calculation.

¹⁴ The Court finds that, because the property is to revert to the owners of the fee interest in the land and because the tracks are to be abandoned in place, no "rent" for the track structure is called for. This is especially true since, as testified by the trainmaster, the cost and performance maintenance and repair of the tracks is borne and done by the Soo. Further, CMS has, effectively, already been compensated for the tracks by the landowners.

necessary to "bifurcate" its discussion of rent for the Beer Line into two segments -- the South Beer Line and the North Beer Line.

44. The uncontroverted testimony of trainmaster Anthony Fletcher is that there has been no traffic whatsoever on the South Beer Line since 1985, i.e., during the two years preceding abandonment of that portion of the line. CMC, however, seeks rent from the Soo for this period.

45. Because the South line was not operating from 1985-1987, the Court rejects CMC's request for rent from the Soo for this pre-abandonment period, and finds that no rent is owing for these two years.¹⁵

43. With respect to the North Beer Line, the Court finds that Mr. Carter's "base value" approach, discussed supra, is an appropriate valuation method to be applied to the property at issue here.

44. Mr. Carter's calculations, however, were based upon a square footage arrived at using the full 100-foot width of the main North Beer Line (and the full 30-foot width of the Snake Line), i.e., 399,948 square feet.

45. James Jennings, a Soo expert, testified that only a 30-foot corridor (15 feet on either side of the center of the tracks) is needed for safe operations on the Line. Accordingly, his valuation is based upon 167,320 square feet.

46. The Court finds Mr. Jennings' square footage to be the

¹⁵ CMC does not seek rent for the South Beer Line from the date of abandonment forward.

property upon which a rental calculation should be made for the North Beer Line. As the witnesses testified, at one time the full 100-foot width of the corridor was covered with operating tracks. During the time period relevant to these proceedings, however, only one set of tracks is operational. Therefore, only what is necessary for this one set of tracks should be valued.

47. However, the Court rejects Mr. Jennings' market value and his "net liquidation value" approach to determining rent on the North Beer Line.

48. Mr. Jennings used a "current market value" price instead of the 1985 market value, i.e., the value of the property at the time of the APA/Letter Agreement used by CMC expert, William Carter. The Court finds that the 1985 value should be used because the 1985 property values more accurately reflect the intent of the parties at the time of the execution of the APA.

49. Mr. Jennings also ultimately used a "net liquidation value" approach. The Court rejects this approach because it assumes abandonment. The North Beer Line is still an operating line, therefore, the Court will use Mr. Carter's "base value approach" and his per-square-foot price in calculation rent owing by the Soo on the North Beer Line.

50. Mr. Carter testified that, based on comparable properties in the area, the 1985 average price per square foot of the property underlying the North Beer Line and Snake Line was \$.74 per square foot. Using Mr. Jennings' calculation of 167,320 square feet of property, the total estimated market value of the property amounts

to \$123,816.80. Capitalized at a rate of 11%, this yields an annual rent of \$13,619.85. For the period of use of 9 years and 6.444 months (i.e., through September 1, 1994), the Soo owes CMC back rent for use of the land in the amount of \$129,892.50.

51. To this land figure must be added the rental value of the track structure. The Court credits Mr. Carter's "in place" valuation of this component.

52. Mr. Carter valued the track structure based on the February 1985 price of scrap metal quoted by American Metals of \$112.00 per ton. [See CMC Ex. 42.]

34. Based on Midwest Rail Recovery's estimate, the quantity of rail in the North Beer Line was determined to be 367.057 tons. Thus, the value of the rail is \$41,334. Id. Also valued were the ties on the Beer Line. Based on industry experience, Carter determined that 50% of the ties were in fair condition, 25% were in poor condition, and the remaining 25% had no value whatsoever. Thus, it was estimated that 5,146 ties were in place on the line. Using a price of \$2.95 per tie, Mr. Carter valued the ties at \$15,180.

35. Thus, the total value of the track structure would be \$56,514. Capitalized at a rate of 11%, Carter determined that the annual rent for the use of the track structure was \$6,216. Thus, back rent due and owing by the Soo to CMC for use of the track structure for the 9 years and 6.444 months prior to September 1, 1994 amounts to \$59,282.

III. CONCLUSIONS OF LAW

1. The Asset Purchase Agreement provides that its terms are to be "construed and interpreted in accordance with the laws of the State of Illinois."

2. Therefore, pursuant to the APA, this dispute, to the extent that its resolution requires a determination of a reasonable rental for the use of the two Lines in question, shall be governed by Illinois law.

3. The Soo's obligation under the APA and Letter Agreement to purchase or lease the C&E and the Beer Line is sufficiently definite to be enforced by this Court. Berger v. Heckler, 771 F.2d 1556 (2d Cir. 1985); see also, Medtronic, Inc. v. Benda, 689 F.2d 645, 689 (7th Cir. 1982).

4. This Court may determine a reasonable price for the Lines that the Soo agreed to purchase or lease. Elk v. Knecht, 223 Ill. App. 3d 234, 240-41, 585 N.E.2d 156 (1991); Ingrassia v. Ingrassia, 156 Ill. App. 3d 483, 491, 509 N.E.2d 729 (1987), lv. denied, 515 N.E.2d 108 (Ill. 1987).

5. The Soo's prolonged refusal to agree to purchase or lease the Lines in question constitutes a violation of the Court's previous Orders and demonstrates a contempt of this Court.

6. This Court's civil contempt powers include the ability to compel compliance with its prior Orders. Hartman v. Lyng, 884 F.2d 1103, 1106 (8th Cir. 1990).

7. By application of the foregoing authorities to the facts of this case, the Court finds that CMC is entitled to the fair rental value of the C&E Line and the North Beer Line from February

20, 1985 through the present, plus interest from August 10, 1988 (i.e., the date of Judge Marshall's last Order -- Order No. 968 -- rejecting the Soo's request for CMC to pay it for the Soo's operation of the lines and directing the Soo, for the fourth time to negotiate and agree upon a purchase or lease of the lines).

8. Based upon the testimony of the witnesses, as indicated above the Court determines that CMC is entitled to payment from the Soo as fair rental for its use of the lines in question as follows:

(a) For the C&E Line

The Soo shall pay to CMC the amount of \$31,873.55 as "back rent" on the C&E Line from February 20, 1985 through September 1, 1994. From September 1, 1994 forward, annual rent due to CMC shall be \$3,355.11, until the Soo abandons service on the line or enters into an agreement with CMC to purchase this line.

(b) For the North Beer Line

The Soo shall pay to CMC the amount of \$189,174.50 as "back rent" on the North Beer Line (i.e., \$129,892.50 back rent for the use of the land and \$59,282.00 back rent for use of the track structure) from February 20, 1995 through September 1, 1994. From September 1, 1994 forward, annual rent due to CMC shall be \$19,835.85 (i.e., \$13,619.85 for rent of the land and \$6,216 rent of the track structure), until the Soo abandons service on the line or enter into an agreement with CMC to purchase this line.

(c) The Court finds that CMC is not entitled to any compensation for the period of 1985-1987 requested on South Beer Line because there were no operations on south line whatsoever

during this period.

IV. CONCLUSION

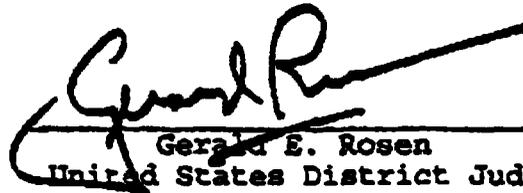
For all of the foregoing reasons,

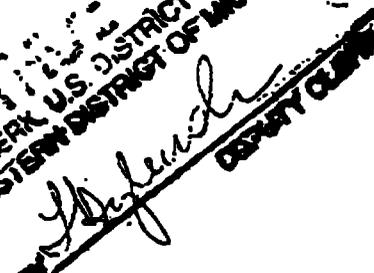
IT IS HEREBY ORDERED that the Soo shall pay to CMC as back rent through September 1, 1994 for use of the C&E and the Bear Line \$221,048.05, plus interest from August 10, 1988.

IT IS FURTHER ORDERED that, from September 1, 1994 forward until the Soo abandons the lines or enters into an agreement with CMC to purchase the lines, the Soo shall pay annual rent to CMC for the use of the two lines, \$23,190.96.

Further, because the Court finds that the Soo's conduct in this matter in refusing to purchase or lease the Lines in question violated the Court's previous Orders, the Court will entertain an application from CMC for costs and attorneys' fees attendant with the September 8-12, 1994 hearing.

SO ORDERED.


Gerald E. Rosen
United States District Judge

A True Copy
CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

DEPUTY CLERK

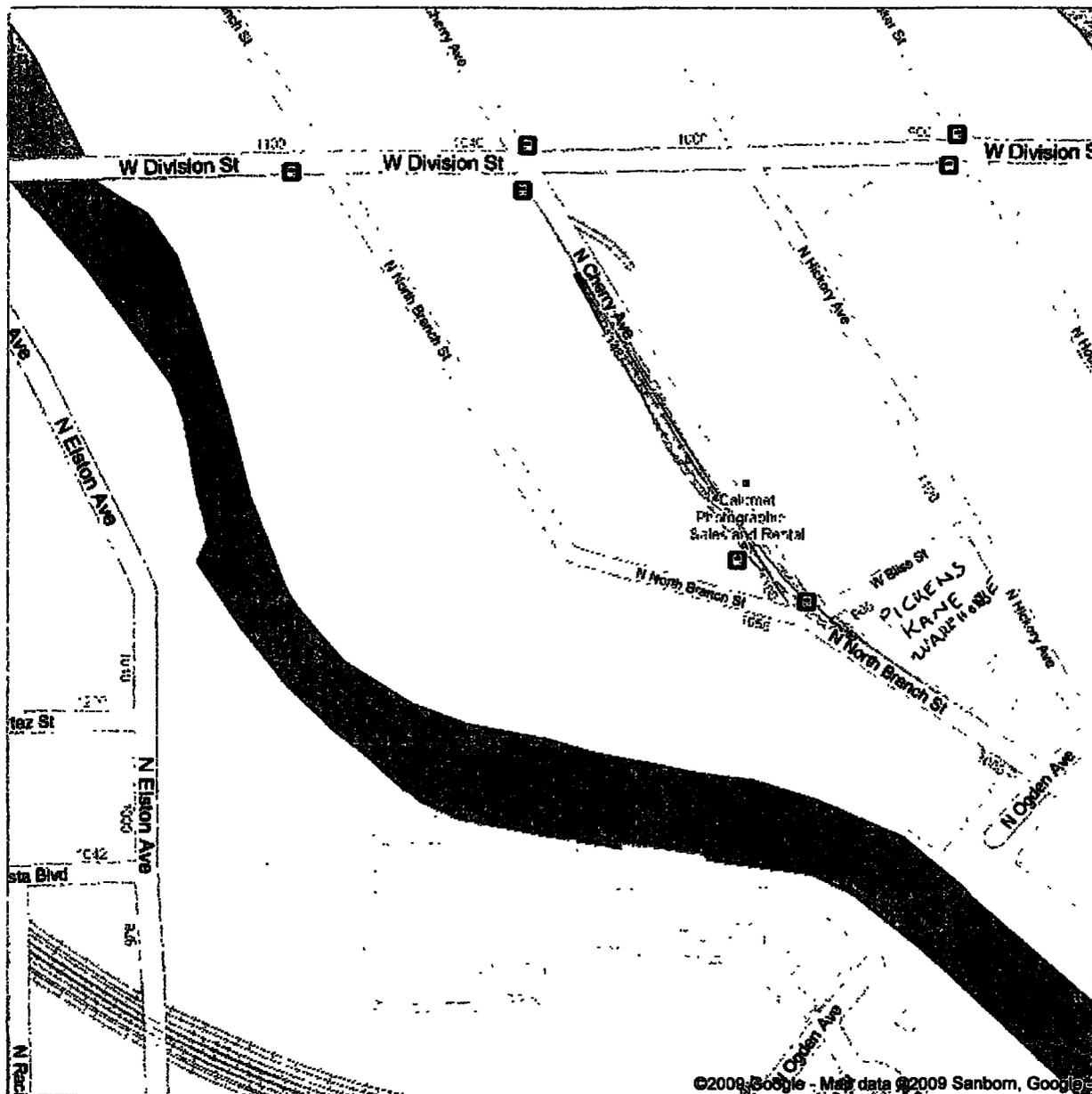
APPENDIX PZ-4

Google maps

Address **1333 N Kingsbury St**
Chicago, IL 60642

Get Google Maps on your phone

Text the word "GMAPS" to 466453



APPENDIX PZ-5

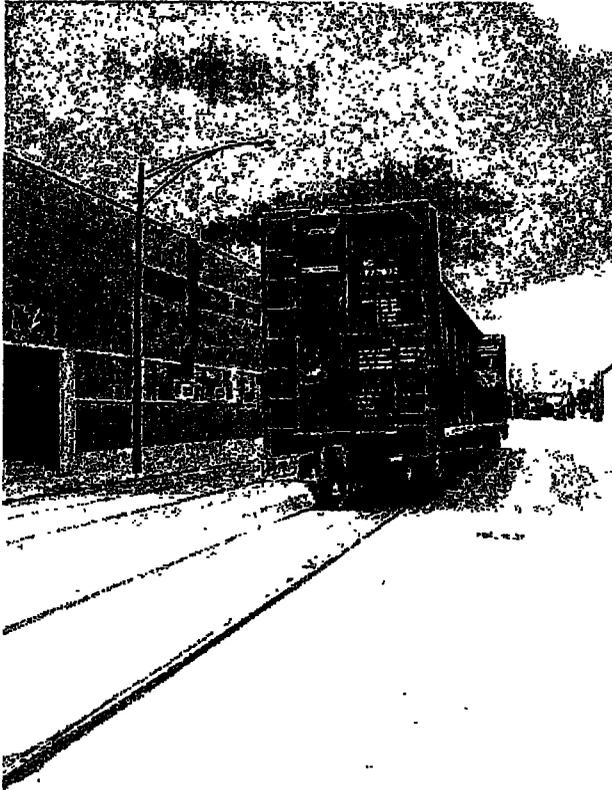


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HPIM6636



Looking north on Cherry Avenue near the corner of Bliss Street and N. Branch Street.

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Uploaded on August 23, 2008
by vxla

vxla's photostream



8,902 uploads

This photo also belongs to.

Chicago Terminal Railroad
C&E Line (Set)



52 items

Part of Chicago

Tags

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- short line
- industrial
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- freight
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- ctr-tour-august-2008

Additional Information

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- Taken in **Goose Island, Chicago** (map)
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- Taken on August 23, 2008
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BETWEEN THE EAST BANK OF THE CHICAGO RIVER AND C&E JUNCTION



APPENDIX PZ-6

APPENDIX PZ-7

DOCUMENT NUMBER

QUIT CLAIM DEED

This instrument was drafted by:

David S. Drach
Real Estate Department
Canadian Pacific Railway
501 Marquette Ave.
Minneapolis, MN 55402

Tax statements for the property described in this instrument should be sent to Grantee(s) at:

Date: Dec 20 2006



Doc#: 0635639105 Fee: \$32.00
Eugene "Gene" Moore
Cook County Recorder of Deeds
Date: 12/22/2006 02:33 PM Pg: 1 of 5

RESERVED FOR RECORDING DATA

Return Recorded Documents to:

Robert Leavitt
Lewis & Gellen LLP
200 W. Adams St., Suite 1900
Chicago, IL 60606

PARCEL IDENTIFICATION NUMBER

For valuable consideration,

SOO LINE RAILROAD COMPANY ("Grantor"), a corporation under the laws of the State of Minnesota, doing business as Canadian Pacific Railway with its principal place of business located at 501 Marquette Ave. S., Suite 804, Minneapolis, Minnesota 55402,

hereby conveys and quitclaims EFFECTIVE January 1, 2007 to

IOWA PACIFIC HOLDINGS, LLC ("Grantee"), an Illinois Limited Liability Company

all of Grantor's right, title and interest in and to the lands, right of way, railroad track, bridges, culverts, signals equipment, cables and conduit and appurtenances to any of the foregoing items or logically

required for the use thereof for railroad operations, upon on those lines of railroad in Cook County, State of Illinois, described below, together with all hereditaments and appurtenances thereto:

1. **C&E Line:** A line of railroad located in the

E $\frac{1}{2}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9,
W $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 4, and
NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5,
All in Township 39 North, Range 14 East

And

W $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 32, and
E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 29
All in Township 40 North, Range 14 E

Extending generally northwesterly from Engineer's Survey Station 10+68 at the Northerly Street Line of West Chicago Avenue a distance of 12,284.92 feet, more or less, to Engineer's Survey Station 122+95.6;

thence continuing Northerly a distance of 5,420.9 feet, more or less, to Engineer's Survey Station 177+16.5 at the Southerly Street Line of West Diversey Parkway and there terminating.

2. **Deering Line:** A line of railroad located in the

NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31;
W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32,
All in Township 40 North, Range 14 East

Extending Northwestery from Engineer's Survey Station 0+00 (C&E Line Station 122+95.6) a distance of 3,650 feet, more or less, to Engineer's Survey Station 36+50 and there terminating.

3. **Bloomington Line (East End):** A line of railroad located in the

N $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 32, Township 14 East

Extending West-Southwesterly from the point of intersection of the Easterly terminus of the Bloomington Line with the C&E Line at Bloomington Line Engineer's Survey Station 114+58.2 (C&E Line Station 109+81.8) a distance of 1,061.3 feet, more or less, to the west bank of the North Branch of the Chicago River at approximately Engineer's Survey Station 125+19.5.

4. **Goose Island:** A line of railroad located in the

SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Township 40 North, Range 14 East, and
W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 39 North, Range 14 East

Extending Southerly and then Southeasterly from Engineer's Survey Station 0+00 (C&E Line Station 101+31) a distance of 5,653 feet, more or less to Engineer's Survey Station 56+53.

5. **North Ave Yard:** Railroad tracks and easement rights located in the

SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Township 40 North, Range 14 East

Comprised of Easements for the operation, maintenance, repair, renewal, replacement, and removal of railroad tracks encompassing Ten (10) feet of land to either side of the centerlines of the two railroad tracks as now located upon and across the following two parcels, to-wit:

NORTH AVE YARD PARCEL 1:

ALL THAT PART of lots 46 through 58 inclusive in block 20 in Sheffield's Addition to Chicago in the West Half of the southwest Quarter of Section 32, Township 40 north, Range 14, East of the Third Principal Meridian more particularly described as follows:

BEGINNING at the Northwest corner of said lot 46,

Thence Southerly along the west line of said lots 46 through 57 inclusive as distance of 650.00 feet, more or less, to the Southwest corner of said lot 57;

Thence Easterly along the South line of said lot 57 a distance of 47.00 feet, more or less, to a point on a line 15.00 feet Westerly of as measured at right angles to and parallel with the centerline of the Soo Line Railroad Company's most Easterly Spur track;

Thence Northerly along a line 15.00 feet Westerly of and parallel with the Centerline of said spur track a distance of 675.00 feet, more or less, to a point on the North line of said lot 46;

Thence Westerly along the north line of said lot 46 a distance of 110.00 feet, more or less, to the point of beginning.

NORTH AVE YARD PARCEL 2:

Lot 65 and all that Part of Lots 58 to 64, inclusive, and off the southwesterly 25.00 feet of Lot 57 in Block 1 in Chicago Distillery Company's Subdivision of Block 19 in said Sheffield Addition to Chicago lying Westerly of a curved line 10.00 feet Easterly and parallel to the centerline of a railroad track across said premises, which line is more particularly described as follows:

BEGINNING on the Northeasterly line of Lot 64 aforesaid at a point 10½ inches southeasterly of the Northeasterly corner of said lot;

Thence Southwesterly on a curved line, radius 563.69 feet, curved convex to the Northwest, a distance of 150.06 feet to a point of compound curve;

Thence continuing Southwesterly on a curved line, radius 218.83 feet a distance of 90.99 feet to an intersection with the Southwesterly line of lot 57 aforesaid, which point is 8.85 feet Southeast of the Northwesterly corner of said lot 577, all in Cook County, Illinois.

INCLUDING intervening vacated streets and alleys between North Ave Yard Parcel 1 and North Ave Yard Parcel 2.

6. **Bloomington Line (West End):**

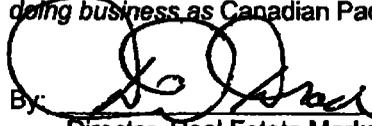
ALL OF GRANTOR'S rights to occupy and operate railroad tracks upon that part of West Bloomington Ave lying westerly of Elston Ave, and Easterly of the northerly extension of Lot 46, Block 20, Sheffield's Addition to the City of Chicago.

This deed is intended to convey after-acquired title.

The grant of property pursuant to this deed is the consummation of a purchase and sale agreement between the parties. The terms and conditions of that purchase and sale agreement shall be deemed to

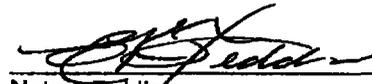
be incorporated herein, shall survive execution and delivery of this deed and shall run with the land and be binding upon the successors and assigns of Grantee.

SOO LINE RAILROAD COMPANY
doing business as Canadian Pacific Railway

By: 
Director, Real Estate Marketing, U.S.

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

The foregoing quitclaim deed was acknowledged before me this 20 day of December 2006 by David S. Drach, Director, Real Estate Marketing, U.S. of Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, on behalf of the corporation.


Notary Public

Notary Seal

STATEMENT BY GRANTOR AND GRANTEE.

The Grantor or his Agent affirms that, to the best of his knowledge, the name of the Grantee shown on the Deed or Assignment of Beneficial Interest in a land trust is either a natural person, an Illinois corporation or foreign corporation authorized to do business or acquire and hold title to real estate in Illinois, a partnership authorized to do business or acquire and hold title to real estate in Illinois, or other entity recognized as a person and authorized to do business or acquire title to real estate under the laws of the State of Illinois.

Dated _____, 20__

Signature: _____

Grantor or Agent

Subscribed and sworn to before me by the said _____ this ___ day of _____, 20__ Notary Public _____

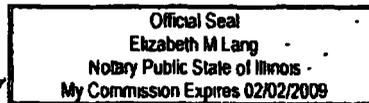
The Grantee or his Agent affirms and verifies that the name of the Grantee shown on the Deed or Assignment of Beneficial Interest in a land trust is either a natural person, an Illinois corporation or foreign corporation authorized to do business or acquire and hold title to real estate in Illinois, a partnership authorized to do business or acquire and hold title to real estate in Illinois, or other entity recognized as a person and authorized to do business or acquire and hold title to real estate under the laws of the State of Illinois.

Dated December 22, 2006

Signature: Robert Leavitt

Grantee or Agent

Subscribed and sworn to before me by the said agent of grantee this 22nd day of December, 2006 Notary Public _____

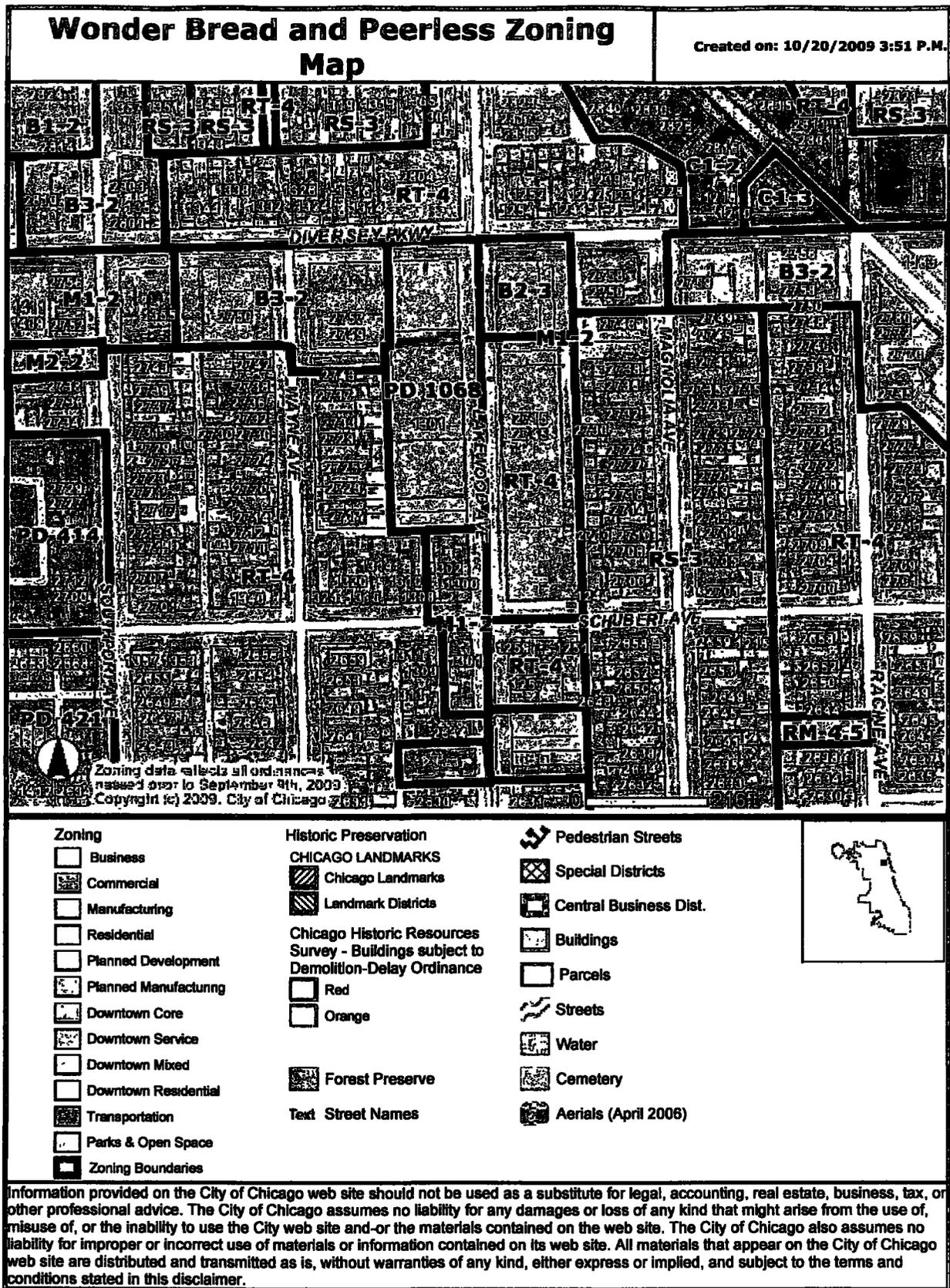


Note: Any person who knowingly submits a false statement concerning the identity of a Grantee shall be guilty of a Class C misdemeanor for the first offense and of a Class A misdemeanor for subsequent offenses.

(Attached to Deed or ABI to be recorded in Cook County, Illinois, if exempt under the provisions of Section 4 of the Illinois Real Estate Transfer Tax Act.)

Revised 10/02-cp

APPENDIX PZ-8



APPENDIX PZ-9

~~Reclassification Of Area Shown On Map Number 6-K.
(Application Number A-7153)~~

~~Be It Ordained by the City Council of the City of Chicago:~~

~~SECTION 1. Title 17 of the Municipal Code of Chicago, the Chicago Zoning Ordinance, is hereby amended by changing all the RS3 Residential Single-Unit (Detached House) District symbols and indications as shown on Map Number 6-K in the area bounded by:~~

~~a line 50 feet north of and parallel to West 27th Street; the public alley next east of and parallel to South Kildare Avenue; West 27th Street; and South Kildare Avenue,~~

~~to those of a C3-1 Commercial, Manufacturing and Employment District.~~

~~SECTION 2. This ordinance takes effect after its passage and approval.~~

Reclassification Of Area Shown On Map Number 7-G.
(As Amended)

(Application Number 15923) RPD 1068

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. That the Chicago Zoning Ordinance be amended by changing all the M1-2 Manufacturing/Business Park District symbols and indications as shown on Map Number 7-G in the area bounded by:

West Diversey Parkway; North Lakewood Avenue; the east/west alley south of and parallel to West Diversey Parkway; and a line 124.25 feet west of and parallel to North Lakewood Avenue,

to those of an RM4.5 Residential Multi-Unit District and a corresponding use district is hereby established in the area above described.

SECTION 2. In the area above described, the City Zoning Ordinance be amended by changing all of the RM4.5 Residential Multi-Unit symbols to those of a Residential Planned Development and a corresponding use is hereby established.

SECTION 3. This ordinance shall be in force and effect from and after its passage and due publication.

Plan of Development Statements attached to this ordinance read as follows:

Residential Planned Development Number 1068.

Plan Of Development Statements.

1. The area delineated herein as a Residential Planned Development Number 1068 ("Planned Development") consists of a net site area of approximately fifty-seven thousand one hundred seventy-three (57,173) square feet (one and thirty-one hundredths (1.31) acres) of property which is depicted on the attached Planned Development Boundary, Subarea and Property Line Map (the "Property"), and is owned or controlled by the applicant, 1301 West Diversey, L.L.C. for purposes of this Residential Planned Development.
2. The applicant, or its successors, assignees or grantees shall obtain all applicable official reviews, approvals or permits which are necessary to implement this Plan of Development. Any dedication or vacation of streets, alleys or easements, any adjustments of rights-of-way, and any consolidation or resubdivision of parcels shall require a separate submittal on behalf of the applicant or its successors, assigns or grantees and approval by the City Council.

The requirements, obligations and conditions applicable within this Planned Development shall be binding upon the applicant, its successors and assigns and if different than the applicant, the owners of all the property within the Planned Development or any homeowners association(s) formed to succeed the applicant or its successor, assigns or grantees for purposes of control and management of any portion of the Planned Development, the legal titleholder and any ground lessors. All rights granted hereunder to the applicant shall inure to the benefit of the applicant, its successors and assigns and, if different than the applicant, the legal titleholder and any ground lessors. Furthermore, pursuant to the requirements of Section 17-13-0600 of the Chicago Zoning Ordinance, the Property, at the time applications for amendments, modifications or changes (administrative, legislative or otherwise) to this Planned Development are made, shall be under single ownership or under single

designated control. Single designated control for purposes of this paragraph shall mean that any application to the City for any amendment to this Planned Development or any other modification or change thereto (administrative, legislative or otherwise) shall be made or authorized by all the owners of the property within the Planned Development or any homeowners' association formed to represent all or some of the owners for zoning purposes and management of any portion of the Planned Development.

3. This plan of development consists of these fifteen (15) statements; a Bulk Regulations and Data Table; an Existing Zoning Map; an Existing Land-Use Map; a Planned Development Boundary, Subarea and Property Line Map; a Site Plan; a Townhouse Building Plan; a Landscape Plan; and Building Elevations, all dated May 17, 2007, prepared by Pappageorge/Haymes Architects, which are all incorporated herein. Full size sets of the Site Plan, Landscape Plan and the Building Elevations are on file with the Department of Planning and Development. This plan of development is in conformity with the intent and purposes of the Chicago Zoning Ordinance (Title 17 of the Municipal Code of Chicago) and all requirements thereof, and satisfies the established criteria for approval of a Planned Development. These and no other zoning controls shall apply to the area delineated herein.
4. The following uses shall be permitted within the areas delineated herein as a Residential Planned Development:
 - Subarea A: Townhome units; accessory parking; accessory uses; and related uses.
 - Subarea B: Single-family residential units; accessory parking; accessory uses; and related uses.
5. Identification and business signs shall be permitted within the Planned Development subject to the review and approval of the Department of Planning and Development. Temporary signs, such as construction and marketing signs shall be permitted within the Planned Development subject to the review and approval of the Department of Planning and Development. Off-premise signage is prohibited.
6. Off-street parking and loading facilities shall be provided in compliance with the Site Plan and this Planned Development, and not subject to the further review and approval of the Department of Transportation and/or Planning and Development.

7. Any service drives or other ingress or egress including emergency vehicle access shall be adequately designed, constructed and paved in accordance with the Municipal Code of Chicago and the regulations of the Department of Transportation in effect at the time of construction. Ingress and egress shall be in conformance with this Planned Development. Closure of all or part of any public streets or alleys during demolition or construction shall be subject to the review and approval of Chicago Department of Transportation. All work in the public way must be designed and constructed in accordance with the Chicago Department of Transportation Construction Standards for Work in the Public Way and in accordance with the Municipal Code of the City of Chicago in effect at the time any permits for such work are granted.
8. In addition to the maximum height of any building or any appurtenance depicted on the Building Elevations attached hereto the height of any improvement shall also be subject to height limitations as approved by the Federal Aviation Administration.
9. The maximum permitted floor area ratio ("F.A.R.") shall be in accordance with the attached Bulk Regulations and Data Table. For purposes of F.A.R. calculations and floor area measurements, the definition in the City of Chicago Zoning Ordinance shall apply.
10. Improvements of the Property, including on-site exterior landscaping and the landscaping along the adjacent rights-of-way, and all entrances and exits shall be designed, installed and maintained in substantial conformance with the Site, Landscape Plan and the Bulk Regulations and Data Table attached hereto and made a part hereof. Landscaping shall be installed and maintained at all times in accordance with the Site Plan and the Parkway Tree Provisions of the Chicago Zoning Ordinance and corresponding regulations and guidelines.

Prior to issuance by the Department of Planning and Development of a determination pursuant to Section 17-13-0610 of the Chicago Zoning Ordinance ("Part II Approval") for any future development of the single-family homes of this Planned Development, plans for each single-family home shall be submitted to and approved by the Commissioner of the Department of Planning and Development ("Site Plan Approval"). Site Plan Approval is intended to ensure that the specific development proposal is consistent with the provisions of this Planned Development, specifically the Single-Family Home Design Standards (as detailed in Statement Number 11) as well as relevant ordinances.

11. Except as set forth herein, the Single-Family Homes shall conform to the requirements of the RM4.5 zoning classification. The following building standards shall be applied at the time of Part II submission for the Single-Family Home lots:

a. Height:

- i. Building heights shall not exceed forty (40) feet maximum. Building height shall be determined as defined in the Chicago Zoning Ordinance.

b. Setbacks:

- i. Each building shall have a minimum front setback of fifteen (15) feet from the front lot line and be in accordance with the Site Plan. Entry porches and stairs shall be allowed to project into the front yard setbacks for a distance of nine (9) feet, four (4) inches.
- ii. Lots twenty-five (25) feet in width may have a "bay window" that is no more than forty percent (40%) of the building's front facade in width and may project into thirty percent (30%) of the required front yard.
- iii. Lots fifty (50) feet in width or more may have a "bay window" that is no more than fifty percent (50%) of the building's front facade in width and may project into thirty percent (30%) of the required front yard.
- iv. Each building having three (3) stories shall have the third (3rd) story setback at least fifteen (15) feet from the front facade of the two (2) floors below.
- v. Balconies, decks and porches shall not be closer than three (3) feet from any side lot line.
- vi. Chimneys may project into side yards so long as they are not closer than eighteen (18) inches from a property line.
- vii. Other obstructions permitted in required yards shall be as defined in the Chicago Zoning Ordinance.

c. Parking:

- i. Two (2) cars minimum per single-family home shall be provided within a enclosed attached or detached garage structure. All garages shall be of a size to accommodate refuse containers within the property lines.
- ii. Parking stalls shall be eight (8) feet multiplied by nineteen (19) feet minimum.
- iii. Roof slopes on pitched roofs of detached garages shall be not less than a 8:12 pitch and the ridge of the gable roof shall be oriented so that the gable ends face the street and house. Garages with flat roofs and roof decks are allowed as defined in and subject to the Chicago Building Code.
- iv. All garage doors to be provided with one seventy-five (75) watt high pressure sodium light fixture at alley, which shall be activated by photoelectric cell switch.

d. Landscaping:

- i. Fencing along east property line (facing North Lakewood Avenue) shall conform to a standard design (to be determined). All gangway fencing and gates between homes shall be ornamental iron or cedar board.
- ii. No more than twenty percent (20%) of front yard shall be hard surface paving.
- iii. Sod or ivy ground cover shall be provided at all non-paved areas of the site.
- iv. All utility meters in front yards to be fully screened with shrubs or other landscaping.
- v. All exposed foundations at front facades shall be screened with landscaping.
- vi. The front and rear yards of all single-family lots shall have one two and one-half (2½) inch caliper tree minimum.

- vii. Depressed window or area wells are not permitted in front yards.

e. **Construction Standards:**

- i. All street facades at the lower level will be either masonry face brick, limestone or manufactured stone. Brick shall be of modular size. No concrete or concrete masonry unit (C.M.U.), or synthetic stucco (EIFS) materials will be allowed. Metal trim (pre-finished or copper) is permitted. Facade materials shall extend back from front facades a minimum of eight (8) feet, zero (0) inches at both side facades. Upper floors shall be clad in the same or wood siding. No vinyl or aluminum siding shall be allowed. Wood or vinyl horizontal lap siding are not permitted facade materials.
- ii. Permitted chimney projections into side yards shall match front facade materials if at or within ten (10) feet, zero (0) inch of front facade.
- iii. In masonry facades, all windows and doors shall have eight (8) inch to twelve (12) inch stone lintels and four (4) inch stone sills.
- iv. Horizontal lap siding is allowed on detached garages. Horizontal lap siding shall have a maximum four (4) inch lap and be of wood. Door, window and corner trim shall be four (4) inches nominal, at minimum.
- v. Exhaust vents for fans or appliances shall not be allowed along front facades. All roof penetrations, such as vents and flues shall be located on the rear one-third ($\frac{1}{3}$) of the residence.
- vi. Gutters and downspouts shall be pre-finished aluminum and/or copper. Decorative leader boxes shall be permitted along the front and side facades.
- vii. No sliding doors or windows shall be permitted along the front and side facades.

- viii. Pitched roof slopes shall be not less than a 10:12 pitch. Roof coverings shall be a three (3) tab asphaltic shingle with granular face and shadow lines. Flat roofs shall be single-ply membrane in white and shall carry an Energy Star rating.
- ix. Adjacent buildings shall have dissimilar facades, finishes, window configurations and material colors. No more than two (2) of the same facade shall be allowed on North Lakewood Avenue.
- x. All principal entrance doors shall face the street.
- xi. All exterior patios, terraces and similar spaces shall be located only in the rear of the building. Patios, terraces and similar spaces in the front yard are not allowed.
- xii. All front entry doors shall be located at the first (1st) floor above grade. Front entry doors below sidewalk grade are not allowed.
- xiii. All satellite dishes, aerials and antennas shall be located in the rear one-third (1/3) of the residence. Satellite dishes shall not exceed two (2) feet in diameter.

Following issuance of Site Plan Approval by the Commissioner, the approved Site Plans shall be kept on permanent file with the Department of Planning and Development and shall be deemed to be an integral part of this Planned Development. The approved Site Plans may be changed or modified pursuant to the minor change provisions of Section 17-13-0611 of the Chicago Zoning Ordinance.

- 12. The applicant acknowledges that it is in the public interest to design, construct and maintain the project in a manner that promotes, enables and maximizes universal access throughout the Property. Therefore, at the time when building permits are sought, the plans for all buildings and improvements on the Property shall be reviewed and approved by the Mayor's Office for People with Disabilities ("M.O.P.D.") to ensure compliance with all applicable laws and regulations related to access for persons with disabilities and to promote the highest standard of accessibility.

13. The terms, conditions and exhibits of this Planned Development ordinance may be modified, administratively, by the Commissioner of the Department of Planning and Development upon the written request for such modification by the applicant and after a determination by the Commissioner of the Department of Planning and Development, that such a modification is minor, appropriate and is consistent with the nature of the improvements contemplated in this Planned Development. Any such modification of the requirements of this statement by the Commissioner of the Department of Planning and Development shall be deemed to be a minor change in the Planned Development as contemplated by Section 17-13-0611 of the Chicago Zoning Ordinance.
14. The applicant acknowledges that it is in the public interest to design, construct and maintain all buildings in a manner which promotes and maximizes the conservation of natural resources. The applicant shall use commercially reasonable efforts to design, construct and maintain all buildings located within this Planned Development in a manner generally consistent with the Leadership in Energy and Environmental Design ("L.E.E.D.") Green Building Rating. Copies of these standards may be obtained from the Department of Planning and Development. The townhomes in subarea shall have a minimum of twenty-five percent (25%) of the penthouse roof area, or one thousand six hundred twenty-four (1,624) square feet, as green roof.
15. Unless substantial construction of the project has commenced within the Planned Development within six (6) years of the passage of the Residential Planned Development, the zoning of that property shall revert to the M1-2 Limited Manufacturing/Business Park District. The six (6) year period may be extended for one (1) additional year if, before expiration, the Commissioner of the Department of Planning and Development determines that there is good cause for such an extension.

[Existing Zoning Map; Surrounding Land-Use Map; Planned Development Boundary, Subarea and Property Line Map; Site Plan; Subarea A -- Townhouse Building Plan; Landscape Plan; and Subarea A -- Exterior Elevations referred to in these Plan of Development Statements printed on pages 5314 through 5323 of this *Journal*.]

Bulk Regulations and Data Table referred to in these Plan of Development Statements reads as follows:

7/19/2007

REPORTS OF COMMITTEES

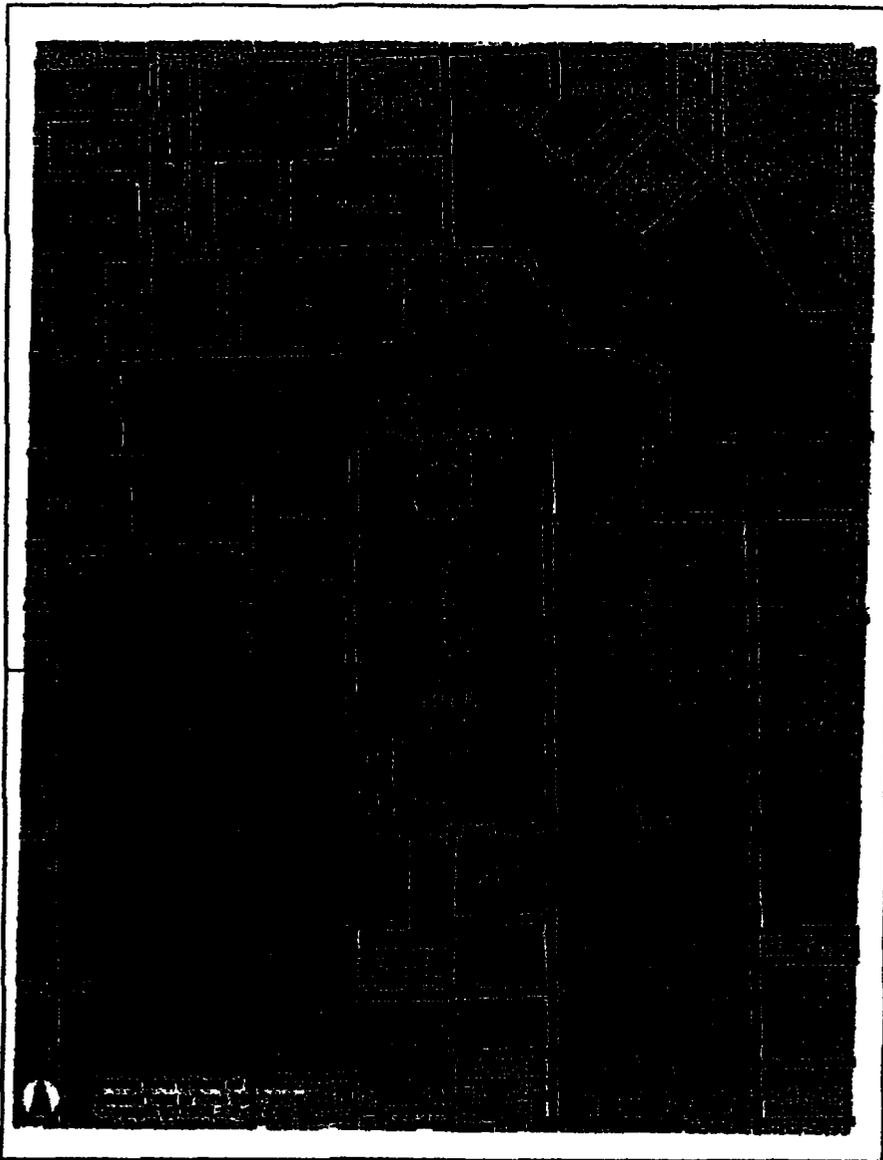
15923
5313

Residential Planned Development Number 1068.

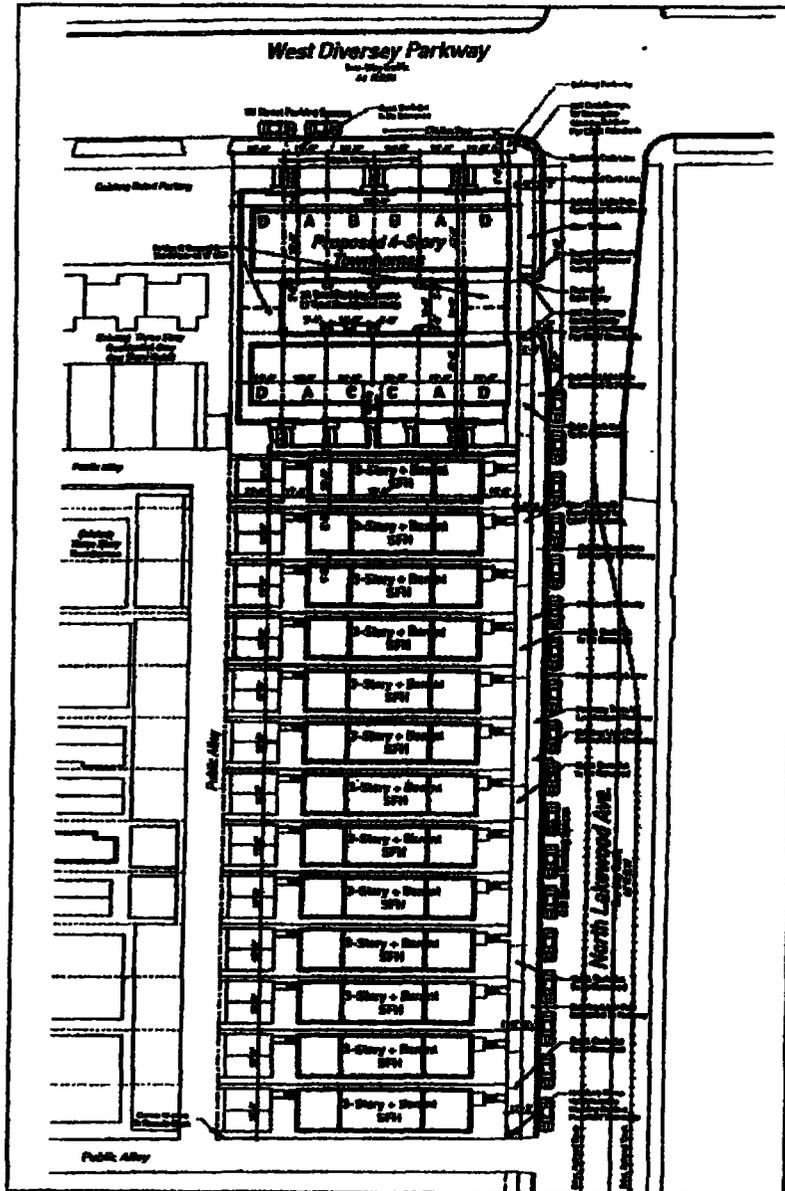
Bulk Regulations And Data Table.

Gross Site Area:	81,448 square feet
Net Site Area: 81,448 square feet - Area in Public Way (24,275 square feet) =	57,173 square feet
Maximum Floor Area Ratio:	1.7
Maximum Site Coverage:	65%
Maximum Number of Residential Units:	25 dwelling units
Subarea A:	12 townhouse units
Subarea B:	13 single-family homes
Minimum Number of Residential Off-Street Parking Spaces:	50 spaces
Subarea A:	24
Subarea B:	26
	Note: In the event that fewer units are constructed, the number of parking spaces shall be reduced, so long as a 2:1 ratio is maintained
Minimum Number of Off-Street Loading Areas:	0
Minimum Building Setbacks:	Per Site Plan and Design Guidelines
Maximum Building Height:	
Subarea A:	42 feet
Subarea B:	40 feet

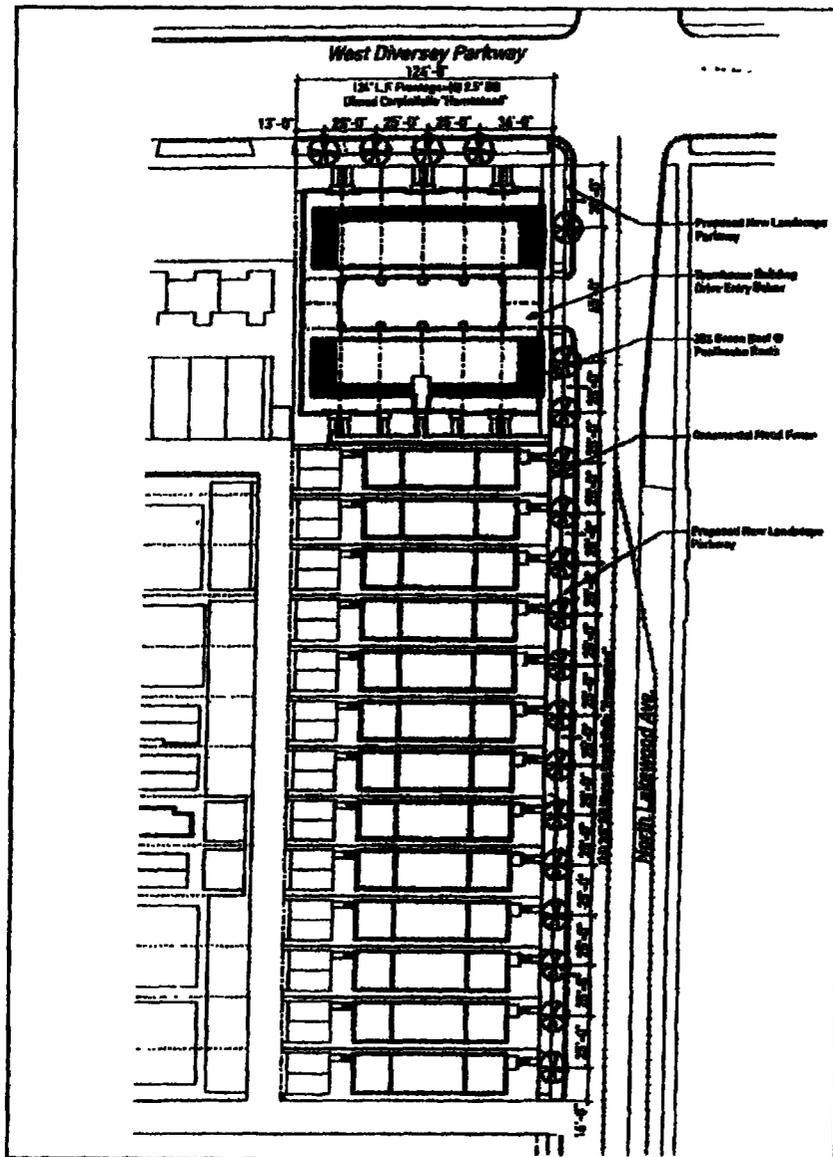
Existing Zoning Map.



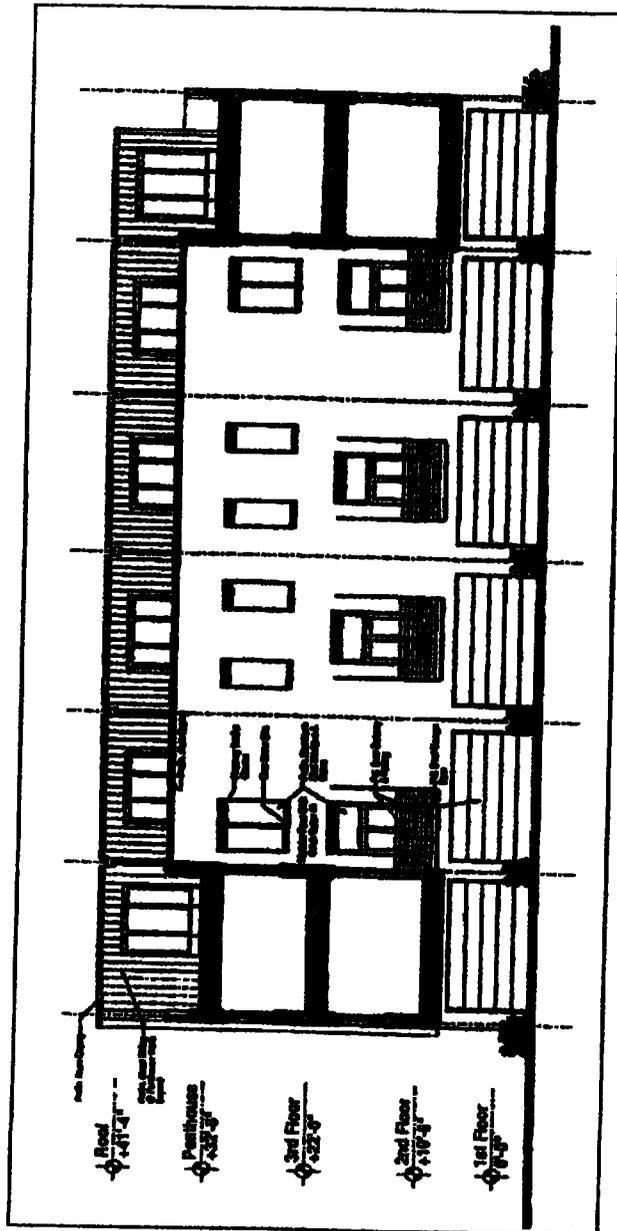
Site Plan.



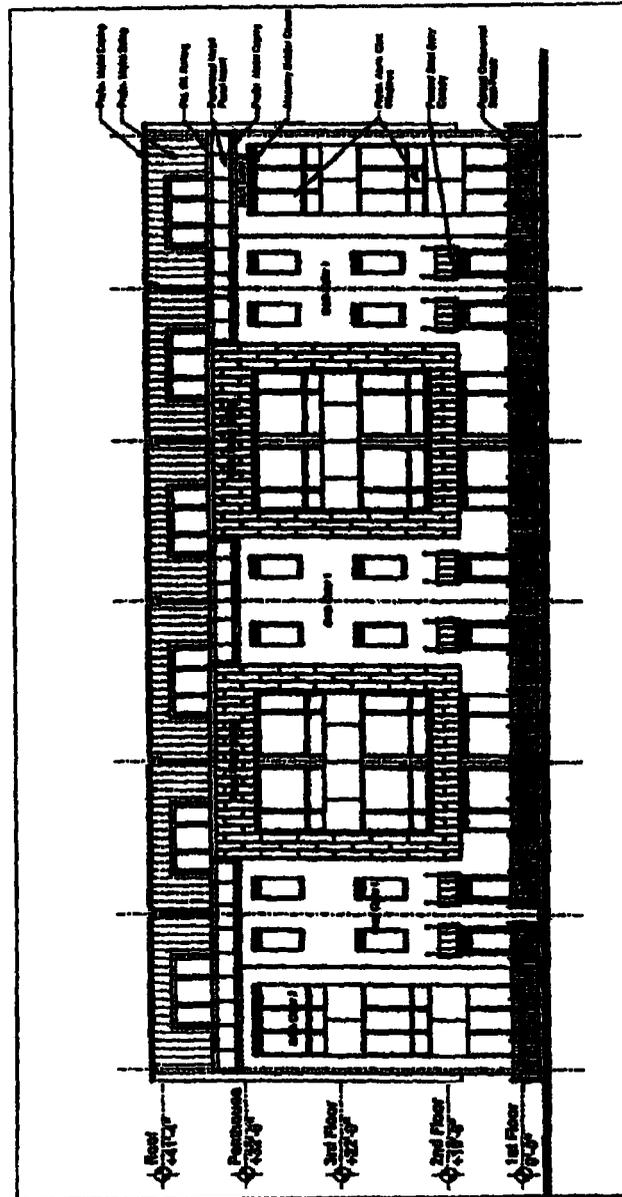
Landscape Plan.



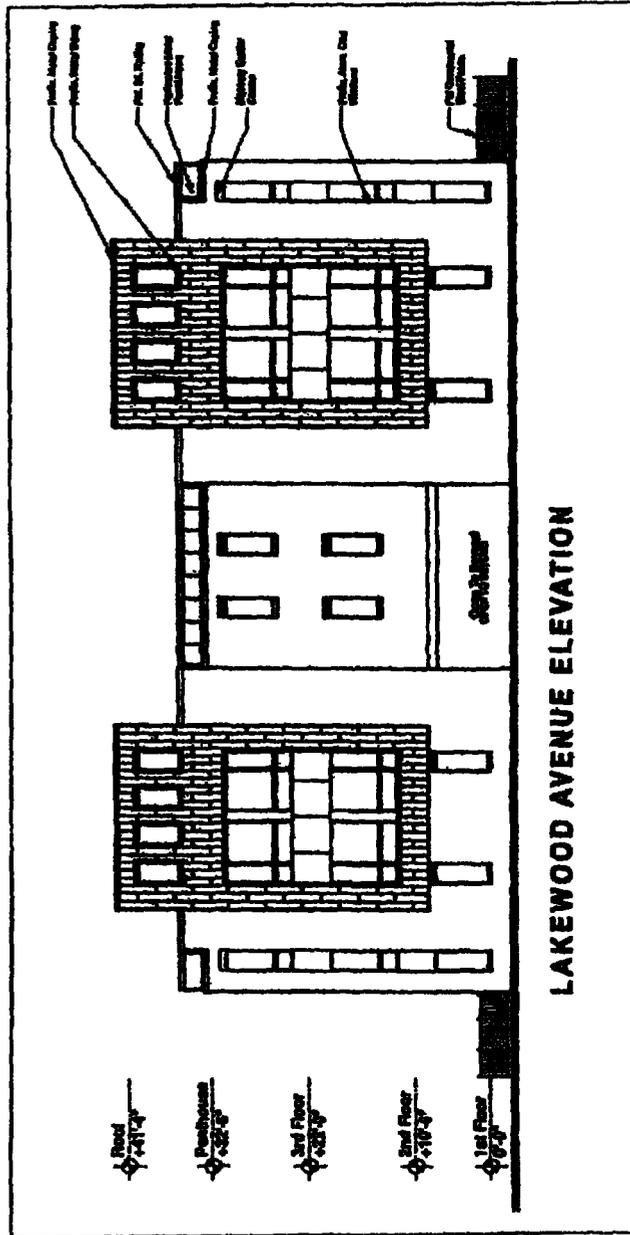
Subarea A -- Exterior Elevations.
(Page 1 of 4)



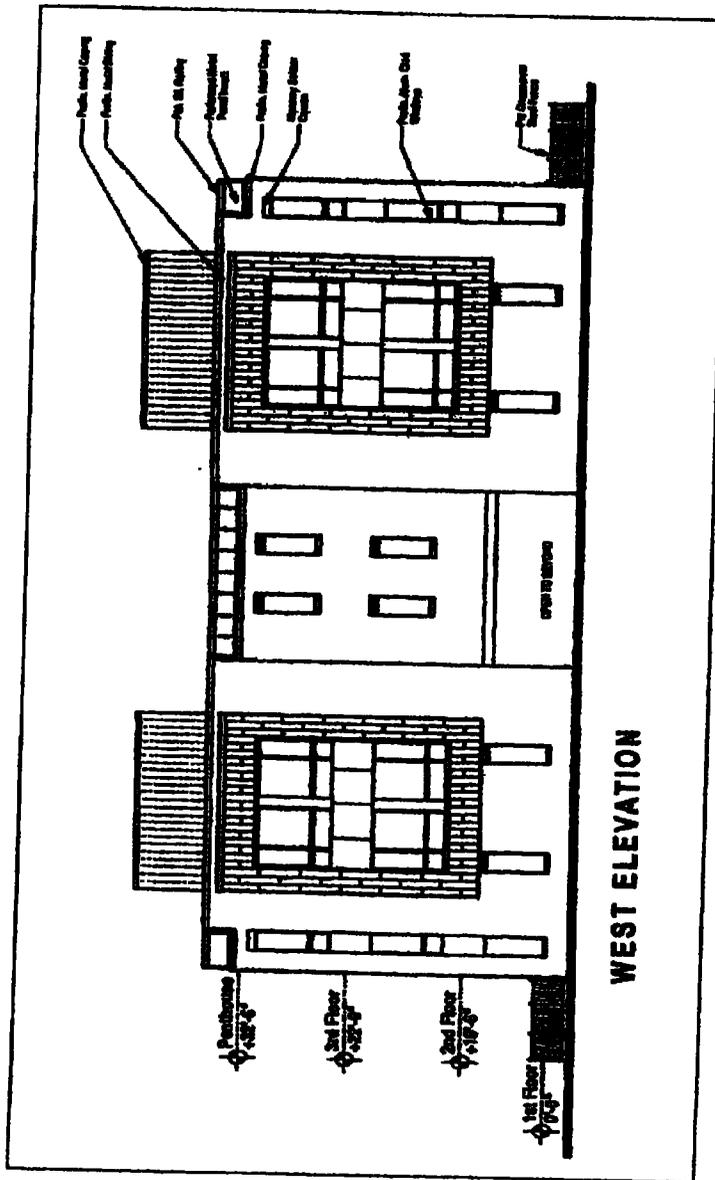
Subarea A -- Exterior Elevations.
(Page 2 of 4)



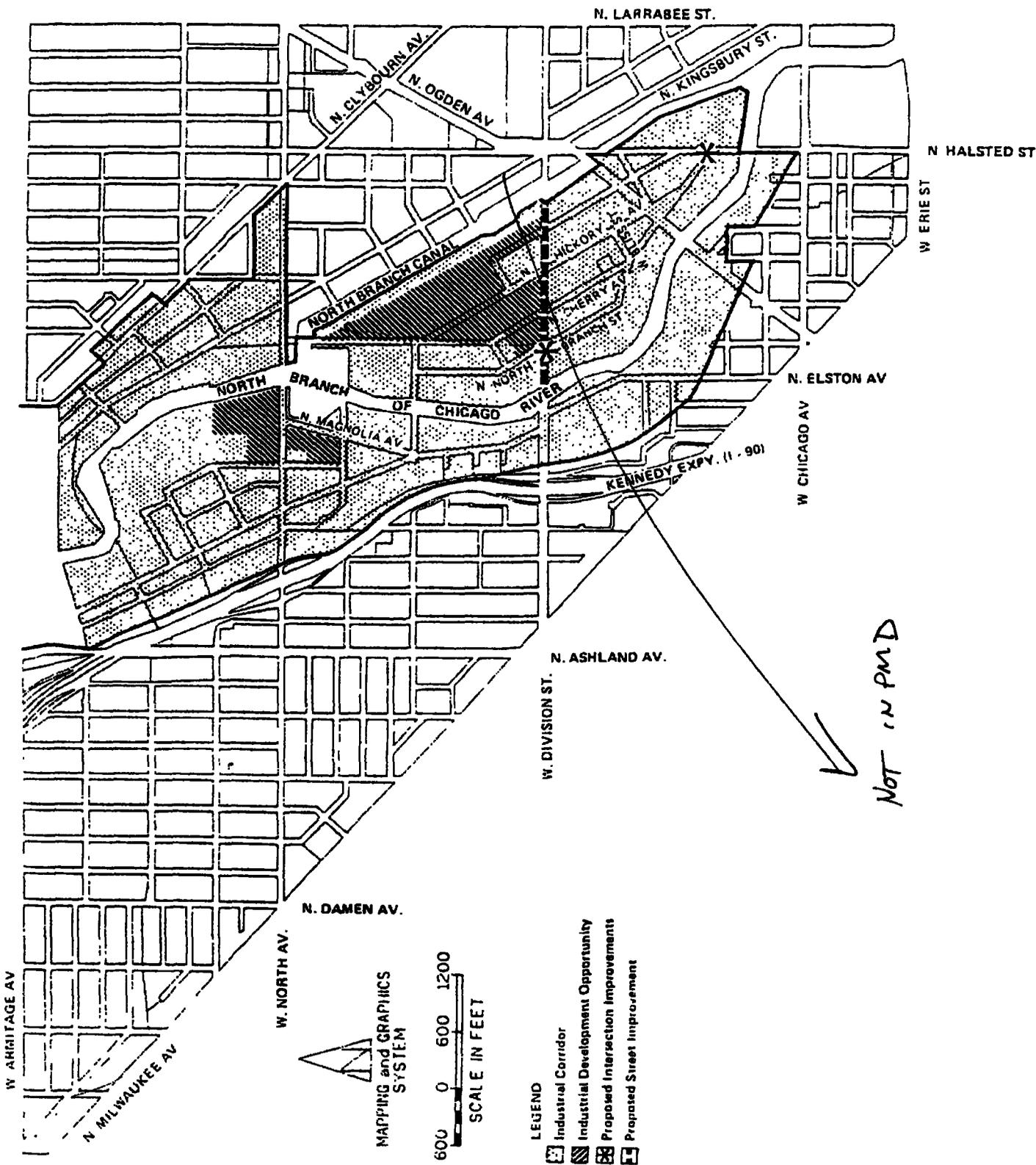
Subarea A -- Exterior Elevations.
(Page 3 of 4)



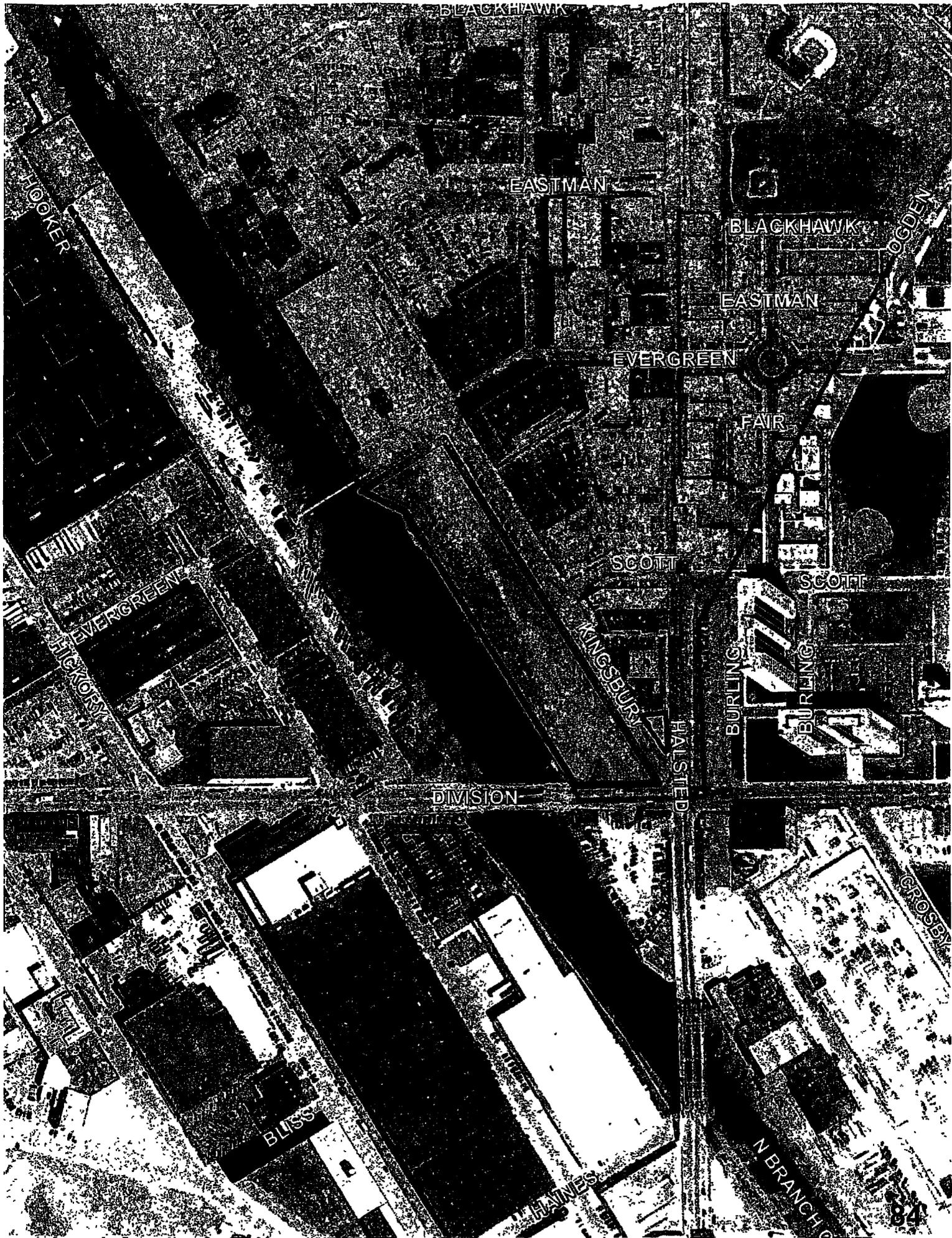
Subarea A -- Exterior Elevations.
(Page 4 of 4)



APPENDIX PZ-10



APPENDIX PZ-11



APPENDIX PZ-12

Parcel Detail 17-05-225-019

Assessor

Addresses

PIN: 1705225019

Tax Address: 1210 N Halsted St

Land Area: 2,689 (Sq.Ft.)

City Owned: No

Other Addresses

1210 N Halsted St

Chicago Geography

Political

Ward: 32

Illinois House: 10

Illinois Senate: 5

Incentive Programs

TIF: Near North

Redevelopment Area: Clybourn - Ogden

Enterprise Zone: 4

Empowerment Zone: No Empowerment Zone

Enterprise Community: **No Enterprise Comm.**

Boundaries

Zoning: M2-3

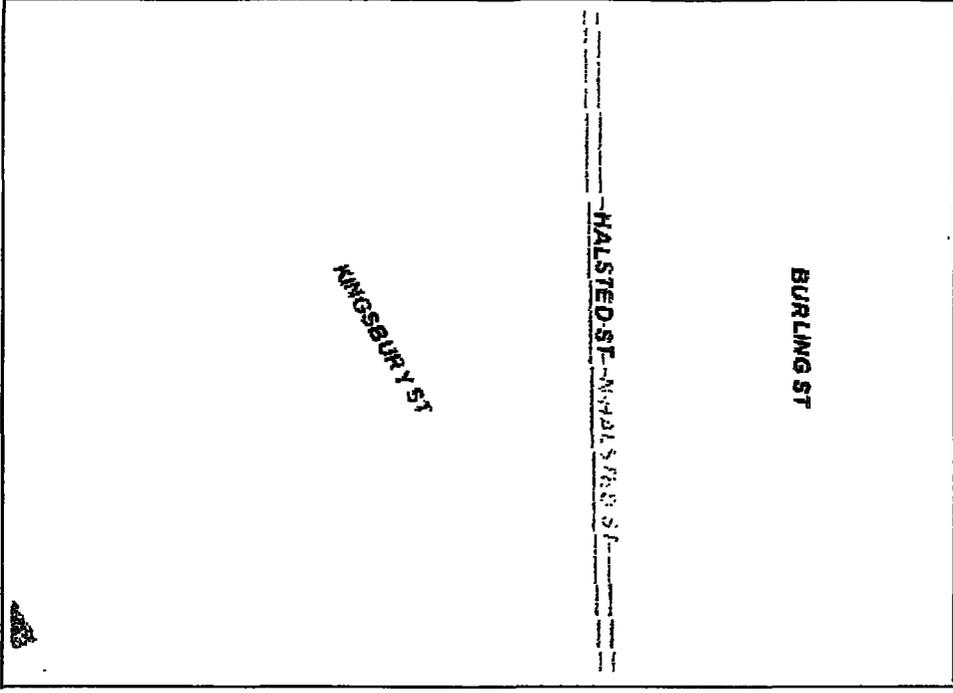
Planning District: Northwest

Community Area: Near North Side (8)

Neighborhood: **Goose Island**

Census Tract: **080600**

Census Block: **080600 1011**

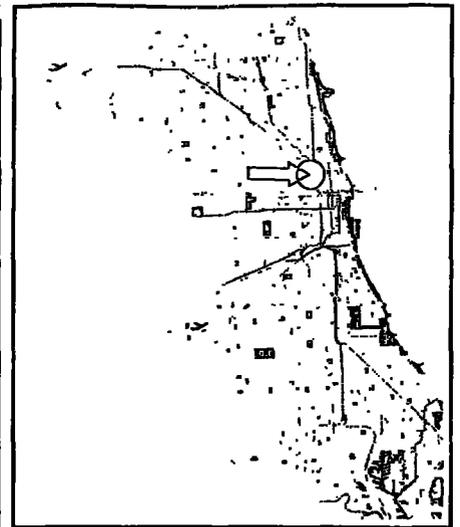
Detailed Map			Show Aerial
		 Assessor Photo	
Units (Buildings and Condominiums)			
Unit	Taxpayer	Taxpayer Address	Ownership
0000	Zafar Hussasin	1234 N Halsted Chicago Il 60622	Title Search

APPENDIX PZ-13

CITY OF CHICAGO

Ready for Commercial, Light Industrial or Retail Development

Division and Kingsbury streets



The City of Chicago Department of Planning and Development is seeking redevelopment proposals for 3.4 acres of vacant land on the northwest corner of Division and Kingsbury streets.

The site represents a unique opportunity for either commercial office, light industrial or retail uses at a key location among major Near North Side thoroughfares.

Part of the Near North Tax Increment Financing (TIF) district, the site is vacant and privately owned. The City will encourage the selected respondent to privately negotiate the purchase of the property. If such negotiations are not successful, the City will acquire the property and convey it under the terms of a redevelopment agreement.

TIF assistance will be considered for proposals that provide tangible public benefits, however, such assistance is not guaranteed. Public benefits may consist of new or retained permanent jobs, fiscal benefits, innovative environmentally sustainable features or other attributes. Proposals that request TIF assistance must demonstrate the need for such assistance.



Location: 2 miles northwest of the Loop
Size: 3.4 acres
Preferred Use: Light industrial, commercial or retail
Target Price: To be determined

Key Dates:

Request for Proposals Issued: Aug. 21st, 2006
Pre-Submittal Conference: 11 a.m. Sept. 20, 2006
Proposal Due Date: 12 p.m. Nov. 17, 2006

Complete copies of the Request for Proposals are available at City Hall, Room 1006.



Department of Planning and Development

Lori T. Healey, Commissioner
121 N. LaSalle St. #1000
Chicago, IL 60602

FOR MORE INFORMATION

Nora Curry (312) 742-0830
ncurry@cityofchicago.org

City of Chicago
Richard M. Daley, Mayor

www.cityofchicago.org
planning@cityofchicago.org

**REQUEST FOR PROPOSALS
for the
Purchase and Development
of the
Kingsbury and Division site
Chicago, IL**

August 21, 2006

**City of Chicago
Richard M. Daley, Mayor**

**Department of Planning and Development
Lori T. Healey, Commissioner**



EXECUTIVE SUMMARY

The Department of Planning and Development (DPD) of the City of Chicago requests the submission of proposals for the purchase and development of the Kingsbury and Division site located at 800 West Division Street and 1300, 1312, 1322, and 1346 North Kingsbury Street. This 3.4 acre vacant site is a prime location for light industrial, commercial or retail development in an active development market.

Property Type:	Commercial, Manufacturing, and Employment										
Street Address:	800 West Division Street and 1300, 1312, 1322, and 1346 North Kingsbury Street, Chicago, IL 60622										
Location:	Northwest corner of Division and Kingsbury streets										
Redevelopment Area:	Clybourn-Ogden Redevelopment Area and Near North Tax Increment Financing Area										
Ward and Alderman:	32, Alderman Ted Matlak										
Development Goals and Objectives:	The primary goal of the RFP is to create employment opportunities by soliciting proposals for light industrial, commercial or retail development consistent with the surrounding area. The goals of the Near North TIF Plan include “employing residents of the Redevelopment Project Area in jobs in the Redevelopment Project Area and in future adjacent redevelopment project areas and reducing or eliminating the blighting conditions in the Redevelopment Project Area which qualified the area as a tax increment financing district.”										
Site Description:	<table><tr><td>Size:</td><td>147,650 square feet or 3.4 acres</td></tr><tr><td>Shape:</td><td>Irregular Rectangle</td></tr><tr><td>Frontage:</td><td>Approximately 184 feet along Division Street Approximately 938 feet along Kingsbury *</td></tr><tr><td>Condition:</td><td>Vacant land</td></tr><tr><td>Zoning:</td><td>M3-3. Waterway Planned Development will be required. DPD will consider uses consistent with a C3 zoning. Residential proposals will not be considered.</td></tr></table> <p><i>* The City plans to replace the Division Street bridge and must acquire about five feet along the length of Division Street for right of way. The development plan should take this into account and assume frontage along Kingsbury actually will be about 933 feet.</i></p>	Size:	147,650 square feet or 3.4 acres	Shape:	Irregular Rectangle	Frontage:	Approximately 184 feet along Division Street Approximately 938 feet along Kingsbury *	Condition:	Vacant land	Zoning:	M3-3. Waterway Planned Development will be required. DPD will consider uses consistent with a C3 zoning. Residential proposals will not be considered.
Size:	147,650 square feet or 3.4 acres										
Shape:	Irregular Rectangle										
Frontage:	Approximately 184 feet along Division Street Approximately 938 feet along Kingsbury *										
Condition:	Vacant land										
Zoning:	M3-3. Waterway Planned Development will be required. DPD will consider uses consistent with a C3 zoning. Residential proposals will not be considered.										
Target Price:	No target price has been established for this RFP. The City does										

not own this site, but has the authority to acquire it. The City will encourage the selected respondent to privately negotiate the purchase of the property; however if such negotiations are not successful the City will acquire the property and convey it under the terms of the executed Redevelopment Agreement.

Good Faith Deposit: DPD will not collect a deposit at this time.

Financial Incentives: TIF assistance will be considered for proposals that provide tangible public benefits; however, such assistance is not guaranteed. Public benefits may consist of new or retained permanent jobs, fiscal benefits, innovative environmentally sustainable features or other desired benefits identified in the TIF district's redevelopment plan. Proposals that request TIF assistance must demonstrate the need for such assistance.

Evaluation and Selection: The Department of Planning and Development will review the proposals based on the evaluation criteria and submission requirements outlined in this RFP. Among the criteria to be considered will be the completeness of the submission, purchase price, quality of the development and responsiveness to goals of the RFP, appropriateness of the proposed use relative to the surrounding community, proposed design, and the experience and financial capacity of the development team.

Key Dates: Release of RFP August 21, 2006
Pre-Submittal Conference September 20, 2006
Response Due Date November 17, 2006

DECLARATION

Pursuant to 28 U.S.C. § 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing statement is true and correct.

Executed on: 1-14-2010


PAUL ZALMEZAK

VERIFIED STATEMENT OF JOSEPH B. ALONZO

My name is Joseph B. Alonzo. I am Coordinating Planner in the City of Chicago's Department of Transportation (CDOT), Division of Property Development. My business address is 30 North LaSalle Street, Suite 500, Chicago, IL 60602. I have been employed by the City of Chicago for more than 15 years. In my current position, I am responsible for program and planning activities involving freight railroads and other modes of transportation. As a result, I am familiar with the trackage and operations of Chicago Terminal Railroad (CTM), and the City's Application for Adverse Abandonment of the Kingsbury Street and Lakewood Avenue segments of CTM's rail line that are not being used to provide rail service.

If the City's Application were to be granted so that trackage in the Kingsbury Street Segment could be removed or paved over, the City would save approximately \$1.3 million in reconstruction of Kingsbury Street between North Avenue and Scott Street that is scheduled to commence in late Spring of 2010. A change of elevation that would result from installation of curbs as part of that reconstruction project would require that the CTM railroad trackage first be removed, and that replacement trackage then be reinstalled, unless abandonment permits that trackage to be permanently removed or paved over. Attached to my Statement as Appendix JBA-1 is a copy of CDOT's estimate that the City would save \$1,348,721.18 if it were not necessary to remove and reinstall railroad trackage and track materials as part of the Kingsbury Street Reconstruction Project. That estimate is based on the City's cost experience when it removed and reinstalled tracks and track materials as part of reconstruction of Cherry Avenue in 2000.

CTM's tracks are located in the middle of Lakewood Avenue for two full blocks south of Diversey Parkway. While there is no imminent project for reconstruction of that part of Lakewood Avenue, such reconstruction is likely to occur in the foreseeable future. When such construction occurs, the City would again be able to realize proportionate savings if that trackage were to have been permanently removed or paved over as a result of abandonment.

Permanent removal or paving over of the trackage in Kingsbury Street and Lakewood Avenue as a result of abandonment would also substantially benefit public safety. Attached to my Statement as Appendix JBA-2 are photographs of existing dangerous conditions (resulting from separations and ruts between trackage and pavement in the Kingsbury Street Segment (page 1) and the Lakewood Avenue Segment (page 2). Page 3 of Appendix JBA-2 shows a full-grown tree that has grown between the rails in a sidetrack on the Kingsbury Segment. Those photographs were taken on October 29, 2009. Those conditions are especially dangerous for bicyclists, but also for motorists and pedestrians.

Attached to my Statement as Appendix JBA-3 is a copy of a letter dated November 4, 2009 from Mr. John Nedeau, Vice President-Sales of SRAM Corporation, to Mr. Paul Sajovec, Chief of Staff for the Alderman of the 32nd Ward in Chicago, in which the Kingsbury Street Segment is located. Mr. Nedeau provided a copy of that letter to me. SRAM is a bicycle equipment company whose place of business is located adjacent to the Kingsbury Segment. As stated by Mr. Nedeau, "(t)he tracks pose a huge risk to bicycle riders." According to an employee survey conducted by Mr. Nedeau, SRAM employees have experienced 50 falls in the past seven years as a result of the bad condition of the trackage and pavement, 19 of which resulted in

injuries to those employees. One of those injuries required emergency neural surgery. That strong potential for personal injury and property damage would be eliminated if the CTM tracks were to be permanently removed or paved over.

CDOT and the Alderman's Office have received numerous complaints about the danger posed by separations and ruts between the tracks and pavement in the Lakewood Avenue Segment. There have also been numerous instances of personal injury and property damage on the Lakewood Avenue Segment caused by those dangerous conditions. Abandonment of the Lakewood Avenue Segment and resulting permanent removal or paving over of the trackage would eliminate those instances of personal injury and property damage.

APPENDIX JBA-1

**Kingsbury Av. Improvements
North Av. to Scott St.
CDOT Project No. U-7-115**

Estimated cost of installing new railroad track and associated roadway pavement at a lower elevation to allow for construction of the desired Kingsbury Av. cross-section. Estimate is based on costs of similar work from CDOT's Cherry Av. improvement project, which was completed in 2001.

The scope of work considered in this estimate is shown as Item K-High Early Strength P.C.C Railroad Track Pavement on Attachment A with a detail drawing on Attachment B. High Early Strength P.C.C Railroad Track Pavement consists of work by Railroad Forces (Attachment B Items 1 thru 4) and work by the Contractor (Attachment B Items 6 thru 9).

Work by Railroad Forces

Cherry Av. Project total cost of work (see Attachment C-3) = \$678,168
Total length of track installed (see Attachment C-2) = 2,400
Cost per lineal foot = \$678,168/2400 = \$282.57

Work by CDOT Contractor

Cost per lineal foot of 9'-9" wide RR Track Base and Pavement = \$97.50

Total cost of Railroad Force and CDOT Contract work

Total cost per lineal foot of RR Track and Pavement = \$282.57 + \$97.50 = \$380.07

Adjust for inflation (assume 5% increase per year)

2001 to 2009 = 8 years x 5% per year = 40%

40% of \$380.97 = \$152.39

2009 cost = 2001 cost + 40% increase = \$380.07 + \$152.39 = \$532.46

Calculate cost of work on Kingsbury Av.

Total length of track on Kingsbury = 2533 lineal feet

Total estimated cost of RR Track and Pavement = 2533 x \$532.46 = \$1,348,721.18



CANADIAN
PACIFIC
RAILWAY

Operating Department
San Diego

500 Line Building
105 South Fifth Street (SS402)
PO Box 530 (SS440)
Minneapolis Minnesota

FAX TRANSMITTAL

TO: JEFF PETTY
CITY OF CHICAGO
D.O.T.
FAX: 312-744-6438

FROM: BILL BRENNY
PHONE: 612-337-7668
FAX: 612 - 347 - 8243
3 pages, including this sheet.

Comments:

RE: DETAILED ESTIMATE DATED DECEMBER 6, 2000
FOR CHERRY AVENUE RECONSTRUCTION.

ATTACHED IS COPY OF ESTIMATE.

Canadian Pacific Railway
 File No:
 Est. by WJB
 Sponsor: Public Works

PROJECT: CHERRY AVENUE RECONSTRUCTION
 NETWORK: 4007022
 WBS: 104445

State: Illinois
 Station: Chicago
 (Goose Island)

100% BILLABLE VS. CITY OF CHICAGO
 (BILLABLE PER GMA BASIS)

Description Of work:

Existing trackage within project limits to be removed and salvaged by Midwest Rail

Install 2 - #9 - 115# Ballasted Turnouts
 Construct 1,300 T.F. Slab Track
 Construct 1,100 T.F. Ballasted Track

<u>DESCRIPTION</u>	<u>UNIT</u>	<u>QUANT.</u>	<u>UNIT PRICE</u>	<u>LABOR</u>	<u>MATL</u>	<u>TOTAL</u>
<u>MATERIAL</u>						
Tie Pkg, #9 - 115# - Steel	EA	2	9,784		19,568	
Cross Ties 7"x 9" (Gr 5)	EA	1,400	28.45		39,830	
(19 - 1/2" Spacing In Slab Track)						
(22" Spacing In Ballasted Track)						
Turnout Pkg #9 - 115#, Steel	EA	2	8,580		17,160	
Rail Pkg. #9 - 115#	EA	2	3,534		7,068	
Switch Stand, Inc. Connecting Rod	EA	2	850		1,700	
Rail 115# Premium (8 - 80' Rails)	LF	640	11.16		7,142	
Rail 115# Intermediate (60 Ea. - 80' Rails)	LF	4,800	9.28		44,544	
Tie Plates DS 115# New	EA	3,200	4.66		14,912	
Joint Bars 115# New	PR	80	28.00		2,240	
Track Bolts 1 x 5 1/2	EA	480	1.22		586	
Washers	EA	480	0.42		202	
Field Welds 115#	EA	70	72.00		5,040	
Rail Anchors 115# New	EA	5,600	0.90		5,040	
Joint, Comp, 100/115	EA	2	150		300	
Spikes 9/16" x 5 1/2"	LB	4,400	0.32		1,408	
Spikes 5/8" x 6"	LB	5,800	0.30		1,740	
Ballast - Michels gr 5 - 12"	CAR	15	860		12,750	
Material Additive	\$	181,230	16.8%		30,447	
Transportation Of Material	NTM	200,000	0.021		4,200	215,876
<u>LABOR AND EQUIPMENT</u>						
Construct # 9 Turnouts	EA	2	12,400	24,800		
Construct "Slab" Track	TF	1,300	14.31	18,603		
Construct Ballasted Track	TF	1,100	16.91	18,601		
Field Welds	EA	70	171.43	12,000		

March 7, 2000
 REV. June 28, 2000
 REV. December 8, 2000

PROJECT: CHERRY AVENUE RECONSTRUCTION

<u>DESCRIPTION</u>	<u>UNIT</u>	<u>QUANT.</u>	<u>UNIT PRICE</u>	<u>LABOR</u>	<u>MAT'L</u>	<u>TOTAL</u>
<u>LABOR AND EQUIPMENT (CONTINUED)</u>						
Labor Additives	\$	74,004	115.10%	85,179		
Insurance	\$	74,004	18.15%	13,432		
Admin And FELA Additives (Inc. In 115.10% Additive)						
Crew Expenses	LS	1	EST.	5,000		
Crew Meals	LS	1	EST.	12,500		
Crew Boarding	LS	1	EST.	12,000		
Company Equipment Costs	LS	1	EST.	35,000		
Small Tools & Supplies (Inc. In 115.10% Additive)						
Work Equipment Fuel	LS	1	EST.	567		
Equipment Rental	LS	1	EST.	20,000		257,682
<u>OTHER EXPENSES</u>						
On Site Project Management	LS	1	EST.	80,624		
Security	LS	1	EST.	15,000		
Additional Expense By Big Bay Lumber Company To Transload Shipments	CAR	30	400	12,000		
Engineering And Accounting	LS	1	EST.	10,000		
Labor Additives	\$	10,000	115.10%	11,510		
Insurance	\$	10,000	18.15%	1,815		
Personal Expenses	LS	1	EST.	1,000		131,948
CONTINGENCIES	\$	605,507	12%			72,661
Gross Cost Of Project						678,168
Less Salvage: Salvage to be retained by Midwest Rail						

March 7, 2000
 REV. June 28, 2000
 REV. December 6, 2000

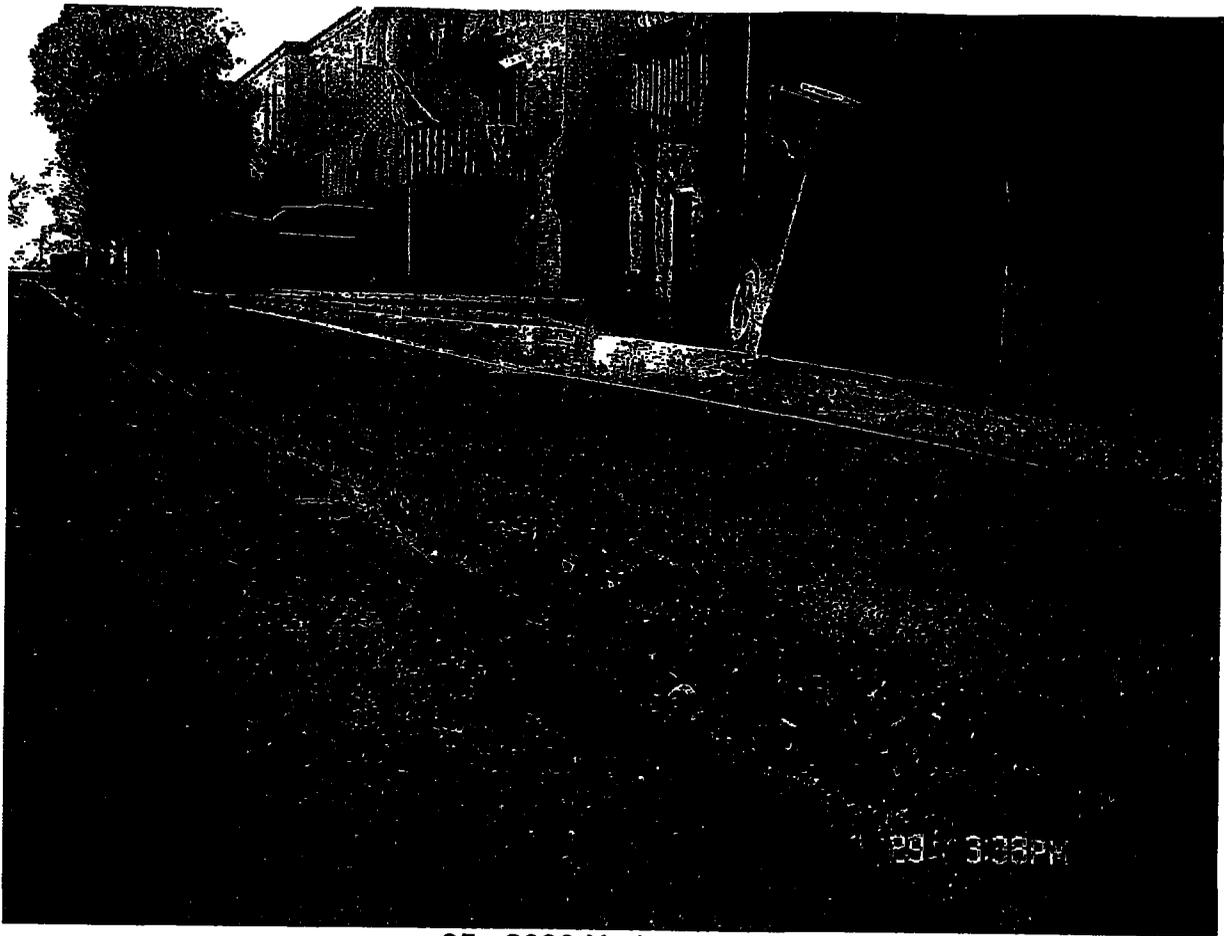
APPENDIX JBA-2



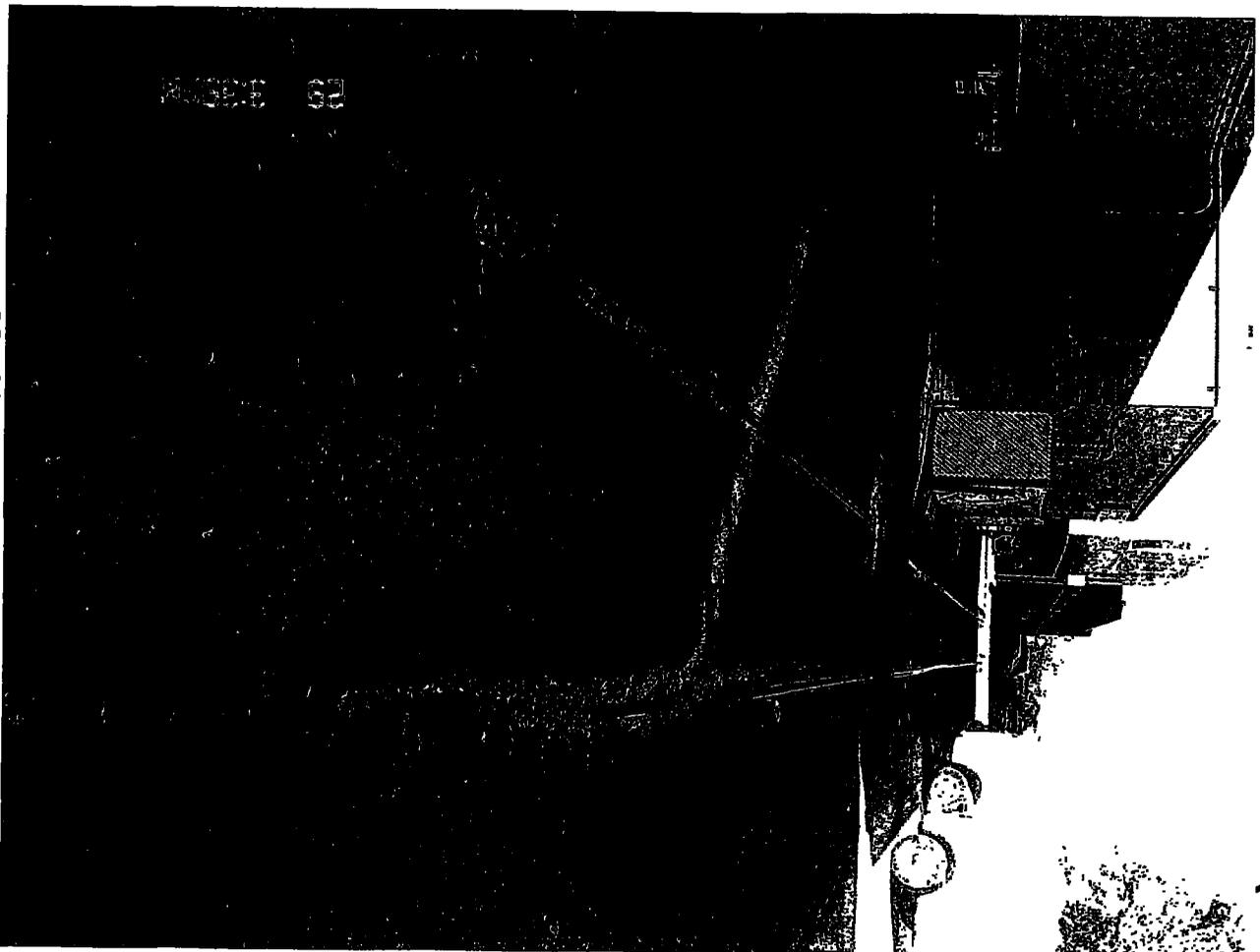
13 - Looking N from Whole Foods



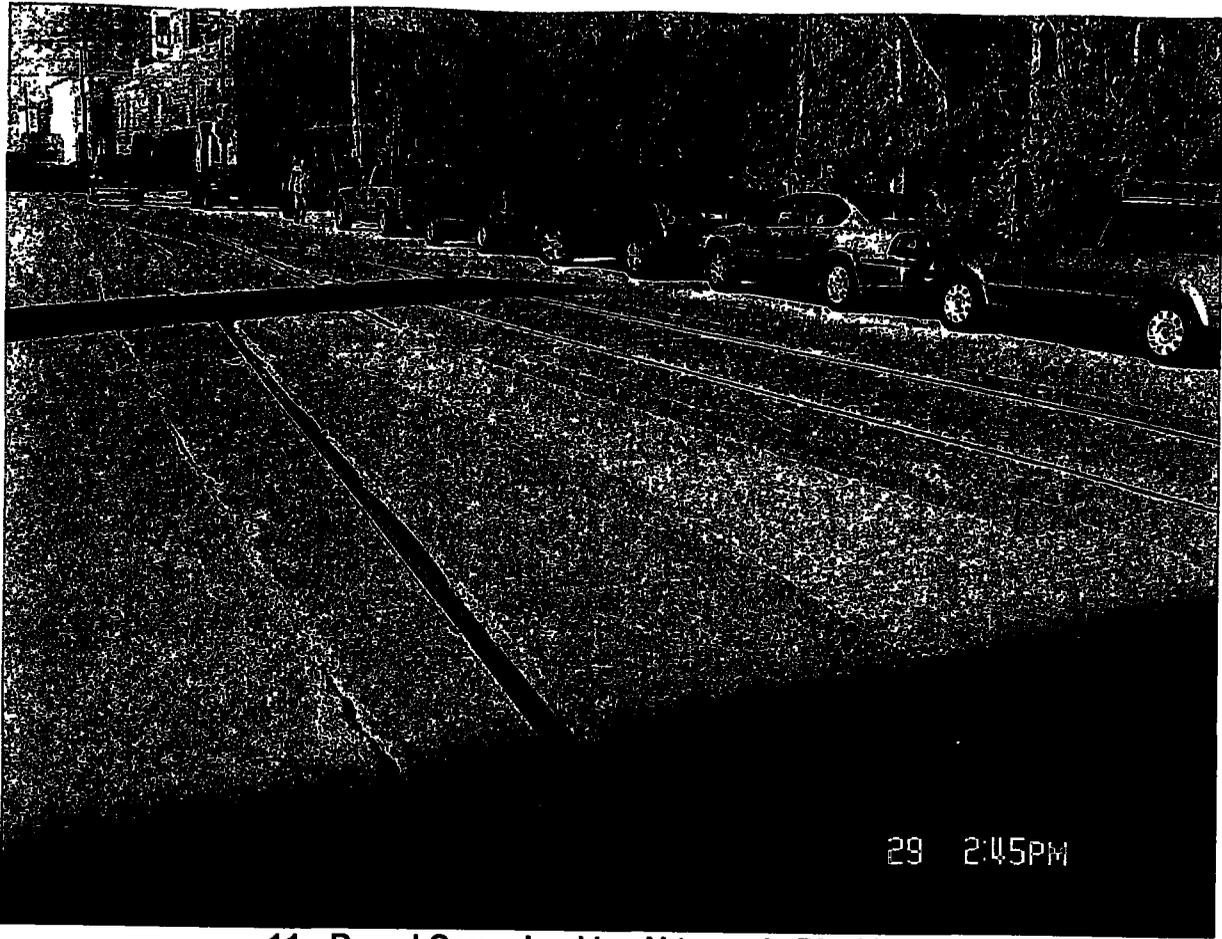
14 - Pavement intruding on tracks 1- 1500 N Kingsbury



35 - 2330 N - Looking S



36 - 2349 N - Looking N



11 - Paved Spur - Looking N towards Blackhawk



12 - Spur into trees - 1441 N Kingsbury

APPENDIX JBA-3



To: Paul Sajovec, Chief of Staff , 32nd Ward, City of Chicago
 From: John Nedeau, Vice President of Sales, SRAM Corporation
 Date: November 4, 2009

SRAM Corporation is a bicycle equipment company headquartered at 1333 N. Kingsbury. We employ about 85 professionals at this location. This location exists amongst 2500 employees we employ globally.

I recently attended a LEED meeting where a lot of the discussion focused on; traffic, parking, and pedestrian safety issues in the area. My primary concern was the safety risk associated with the rail road tracks that run up Kingsbury from Division to North Ave. These tracks are not used commercially. The tracks pose a huge risk to bicycle riders. Subsequent to the meeting, I decided to poll my colleagues at SRAM with regards to accidents they've personally experienced or witnessed. While it was an informal survey – the results are shocking. These accidents happened over a seven year period. But, the frequency is increasing given the increased traffic on Kingsbury (Whole Foods).

This is for your reference as planning associated with Kingsbury is considered.

Here's a quick summary of SRAM's internal survey.

<u>SRAM CORP KINGSBURY ACCIDENT REPORT</u>	<u>Qty</u>
Oct. 15, 2009	
Number of falls experienced by SRAM employees	50
Number of falls resulting in injuries to SRAM employees	19
Number of falls witnessed to non SRAM employees	134
Number of falls witnessed that resulted in injuries to non SRAM employees	51

Note – some of these injuries have been serious resulting in hospitalization including a recent one where the injured cyclist required emergency neural surgery.

SRAM is anxious to learn what the city is doing to improve the safety of the roadway urgently.

Sincerely,

John Nedeau
 Vice President, Sales
 SRAM Corporation



DECLARATION

Pursuant to 28 U.S.C. § 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing statement is true and correct.

Executed on: 12/14/09


JOSEPH B. ALONZO

LEGAL ARGUMENT

I. Decisional Standards For Adverse Abandonment

Under 49 U.S.C. § 10903(d), the standard governing any application for authority to abandon a line of railroad is whether "the present or future public convenience and necessity require or permit the abandonment." In applying that standard in an adverse abandonment context, the Board considers (1) whether there is a present or future public need for rail service over the line; and (2) if so, whether that need is outweighed by other interests. *Denver & Rio Grande Railway Historical Foundation - Adverse Abandonment - in Mineral County, CO*, ___ STB ___; 2008 STB LEXIS 284 at *12 (Docket No. AB-1014, decision served May 23, 2008), referred to hereafter as "*Denver & Rio Grande*".

The Board has exclusive and plenary jurisdiction over abandonments to protect the public from an unnecessary discontinuance of available rail service. Accordingly, the Board typically preserves and promotes continued rail service where a carrier has expressed a desire to continue operations and has taken reasonable steps to acquire traffic. On the other hand, the Board does not allow its jurisdiction to be used to shield a line from the legitimate processes of state law where no overriding Federal interest exists. If the Board concludes, in an adverse abandonment case, that public convenience and necessity do not require or permit continued operation over a rail line, the Board's decision removes the shield of its jurisdiction, enabling the applicant to pursue other legal remedies to force the rail carrier off the line. *Denver & Rio Grande, supra*, 2008 STB LEXIS 284 at *13.

II. Application of Decisional Standards to the Facts

In seeking rejection of the City's Petition for Waiver, CTM argued that Board and ICC precedent would compel denial of the Application for Adverse Abandonment. (CTM Response at 6-10). On the contrary, as the Board correctly stated in refusing to reject the Petition, "applications for adverse abandonment are heavily fact-based". (Decision served July 10, 2009 at 3). Consequently, there is no hard-and-fast precedent to be applied in determining the merits of applications for adverse abandonment.

The most that can be said is that the Board will grant such applications where the record as a whole supports findings that there is no present or future public need for rail service over the line or that any such need is outweighed by other interests (*see, e.g., Denver & Rio Grande, supra; Chelsea Property Owners - Aban - The Consol. R. Corp.*, 8 I.C.C.2d 773 [1992], *aff'd sub nom. Consolidated Rail Corp. v. ICC*, 29 F.3d 706 [DC Cir, 1994]; and *Modern Handcraft, Inc. - Abandonment*, 363 I.C.C. 969 [1981]), and will deny such applications where the record supports findings to the contrary (*see, e.g., Norfolk Southern Ry. Co. - Adverse Aban. - St. Joseph County, IN*, 2008 STB LEXIS 83 [Docket No. AB-290 [Sub-No. 286], decision served Feb. 14, 2008, 2008 STB LEXIS 525, *id.*, decision served Aug. 27, 2008), *aff'd sub nom., City of South Bend v. STB*, 566 F.3d 1166 [DC Cir., 2009]; and *Seminole Gulf Ry. - Adv. Aban. - in Lee County, FL*, 2004 STB LEXIS 742 [Docket No. AB-400], decision served Nov. 18, 2004).

In the present case, the record strongly supports findings that there is no present or future public need for rail service over the Kingsbury and Lakewood Segments, and that there are other compelling factors that militate in favor of approval of the proposed abandonment.

A. No Present Public Need For Rail Service

CTM acknowledges that at present no rail traffic is originated, terminated, or bridged over the Kingsbury or Lakewood Segments. (CTM Response, Ellis Aff. at 2 - "... (T)here are no customers at present on either the Kingsbury Branch or the Lakewood Avenue Segment . . .," emphasis in original). Indeed, the last regular shipment over the Kingsbury Segment occurred approximately 10 years ago, and there has been no freight traffic over the Lakewood Segment since Peerless Confection Co. ceased operations three years ago. (VS Zalmezak, Tab 1 at 2-3).

The arranged "test shipment" of firewood over the Kingsbury Segment three years ago does not establish a public need for continued rail service. An isolated shipment of that nature does not support a finding that public convenience and necessity require denial of a proposed abandonment. *See, e.g., Denver & Rio Grande, supra*, 2008 STB LEXIS 284 at *25 ("... if the prospect for traffic were to materialize some day, it would amount to only 1-3 carloads per year, an amount so small that it does not weigh against abandonment under the PC&N test").

The record also establishes convincingly that abandonment of the Kingsbury and Lakewood Segments would not harm CTM operationally by depriving CTM of needed track space for storage of CTM's 25 leased gondola cars in times of low traffic volume. As explained in the Verified Statement of City Witness Zalmezak (Tab 1 at 6-9), it is highly unlikely that CTM would be required to store all 25 of those railcars at the same time, but there is adequate track space on CTM even in that unlikely event, *viz.*:

<u>Location of Track on CTM</u>	<u>Railcar Storage Capacity (52-foot cars)</u>
(1) Unused Main Track and Sidetrack on Goose Island south of Division Street	18 railcars
(2) Sidetrack Adjacent to Bloomingdale Line between East Bank of Chicago River and C&E Jct.	9 railcars
(3) Tracks in North Avenue Yard	7 railcars
(4) Curved Main Track north of Cortland Street and southwest of Clybourn Avenue	5 railcars
(5) Tracks partially in ground north and west of Sidetrack in No. 2 above	4 railcars
TOTAL	43 railcars

Even if it were to be found that the track space identified above is not adequate for storage of all 25 leased CTM railcars at the same time, it is clear that only a few feet of the Kingsbury or Lakewood Segments would be required to provide any such storage shortfall. Those Segments total 1.625 miles in length, corresponding to 8,580 feet of main track, not including sidetracks. The main track in those Segments could accommodate 165 railcars of 52-foot length for storage ($8,580 \text{ ft.} \div 52 \text{ ft.} = 165$). Only a very small fraction of that length could conceivably be required for railcar storage in addition to the extensive track space off the Segments that is available for storage. (See above table). If it were to be found that a short stretch of trackage from one of those Segments is required for storage of CTM's leased railcars, the trackage to be retained for that purpose should be several feet of trackage at the beginning of the Lakewood Segment immediately northeast of Clybourn Avenue because such track is located in the least residentially-oriented part of that Segment (first choice), or several feet of trackage in the Kingsbury Segment between North Avenue and Willow Street because such track will not be

part of the Kingsbury Street reconstruction project (second choice). Under this worst-case scenario, the remainder of those Segments should be abandoned.

B. No Future Public Need For Rail Service

1. No Prospect For Rail-Oriented Industrial Development Of Adjacent Property

CTM concedes that retail and residential uses now dominate the properties adjacent to the Kingsbury and Lakewood Segments. (CTM Response at 5 - ". . . the City is correct in stating that the character of the neighborhood has become more residential and retail in nature over the years . . ."). Thus, commercial enterprises that do not need rail service such as Whole Foods, Fantasy Kingdom, and The British School have located along the Kingsbury Segment, and new townhomes and condos are planned or are under development adjacent to the Lakewood Segment.

Nevertheless, CTM has argued inconsistently that "(i)t is possible that a rail user may locate in the vacant property at Diversey and Lakewood" or in "the Peerless property that has not been built on." (CTM Response, Ellis Aff. at 4). The short and complete answer to that contention is that both of those properties have been rezoned for residential use, and industrial activity is not a permitted use for that residentially-zoned property. (VS Zalmezak, Tab 1 at 10-11). Thus, contrary to CTM's argument, it is not possible for a rail user to locate on either of those properties.

Similarly, there is no merit to CTM's equally-inconsistent argument that "Kingsbury is zoned for development that could include rail-oriented businesses" (CTM Response, Ellis Aff. at 4). The properties adjacent to the Kingsbury Segment are not located in a Planned

Manufacturing District (PMD), as are the properties adjacent to CTM's Goose Island Branch north of Division Street. That explains why Serious Materials chose to be located in the Goose Island PMD rather than adjacent to the Kingsbury Segment. (VS Zalmezak, Tab 1 at 11-12).

Two parcels adjacent to the Kingsbury Segment that abut Division Street have zoning that would permit commercial office, light industrial, or retail uses, but market realities preclude rail-oriented industrial development of those properties. CTM falsely claims to own one of those parcels, *viz.* (CTM Response, Ellis Aff. at 2 - ". . . CTR has marketed to several potential transload users the availability of a small parcel of land it owns at the intersection of Kingsbury and Division Streets on the Kingsbury Branch . . ."). Contrary to that claim, the smaller of the two parcels is owned by Zafar Hussasin; the larger parcel is owned by Howard Garoon. (VS Zalmezak, Tab 1 at 12-13). There are no other parcels adjacent to the Kingsbury Segment that abut Division Street. CTM's false claim undermines its credibility on that and other subject matter.

Even if CTM owned either of those parcels, neither is likely to be developed for an activity involving rail transportation. The sliver of triangular-shaped land east of the Kingsbury Segment is far too small to accommodate any meaningful industrial activity. A mere glance at that tiny parcel on the overhead map (Appdx. PZ-11) is convincing that it would not be possible to locate a building or a transloading facility on that property. The only logical development of that parcel is for expansion of the gasoline service station that abuts the property on its north. (VS Zalmezak, Tab 1 at 13).

The other parcel located west of the Kingsbury Segment is owned by an individual who is not interested in building on it or in selling it. The parcel is environmentally contaminated. It has been vacant for 20 years. A zoning requirement for a 30-foot setback from the adjacent North Branch Canal poses a serious impediment to development of that parcel, especially because the parcel is quite narrow to begin with. In 2006, the City attempted unsuccessfully to obtain development proposals for this parcel. The only response to the City's Request for Proposals was to lease the parcel for an outdoor music venue. Thereafter, a retailer of chocolate candy and an automobile dealer expressed some interest in the property, but no agreement for acquisition could be reached. There was absolutely no expression of interest in rail-oriented industrial development of that property. In 2007, the owner paved the property with asphalt and is operating it as a parking lot, a use that is consistent with the demand for parking by customers of nearby retail and entertainment outlets. (VS Zalmezak, Tab 1 at 13-14).

In view of all of the foregoing evidence, a finding is warranted that there is no realistic prospect for rail-oriented industrial development adjacent to either the Lakewood Segment or the Kingsbury Segment.

2. No Public Need For Rail-Truck Transloading Activity

The overall thrust of CTM's position in this case is that there is a prospective public need for rail-truck transloading on the Kingsbury and Lakewood Segments. (CTM Response, Ellis Aff. at 5 - "... the City of Chicago should instead be encouraging and developing rail transloads at both ends of this line ...").

However, there is no such need, nor is there likely to be any such need in the future. CTM has been operating the Kingsbury and Lakewood Segments for three years. During all of

that time, not one CTM shipment has been transloaded between a rail car and truck on either Segment (with the possible exception of the arranged test shipment of firewood, which clearly does not represent a demand). The absence of transloading activity on the Segments under consideration during that lengthy period is strongly indicative of an absence of present or future public need for such transloading. (VS Zalmezak, Tab 1 at 14-15).

Moreover, even if there were a demand for rail-truck transloading in the general area, such transloading could be much better accommodated in the nearby Goose Island PMD, or in the area of industrial activity between the Kingsbury and Lakewood Segments, or in the area near the soon-to-be-vacated property of A. Finkl & Sons or in North Avenue Yard, rather than in the residential and retail-oriented streets of the Kingsbury and Lakewood Segments. (VS Zalmezak, Tab 1 at 15-16).

A demand for rail-truck transloading service does not establish a public need for a particular rail line where such transloading can be performed as efficiently on other nearby rail lines of the same carrier and especially where, as here, such transloading would be far more appropriately performed in nearby areas of industrial activity than in the middle of streets in densely-populated retail and residential areas. That is evident from the following Board findings in *Denver & Rio Grande, supra*:

Based on the record here, it appears that, even if mining activities were to resume, it would be just as easy for the trucks to take the mine products an additional mile or two up the line, especially because there is no transloading facility on the stretch of track for which the City seeks abandonment authority, or anywhere else in the City . . . (footnote omitted)" (2008 STB LEXIS 284 at *20).

* * *

... (M)ost of the potential shippers identified would need to transload in order to use the D&RGHF line. There is no reason why D&RGHF could not use a location outside the City, just 1 or 2 miles further up on the Creede Branch for transloading. Indeed, as the City notes, there is no transloading facility in the City ... (footnote omitted) (2008 STB LEXIS 284 at *29-30).

Thus, the record in the present case is much more like the record in the *Denver & Rio Grande* than the record in the decisions identified earlier in this Argument in which adverse abandonment was denied. In particular, there was a more realistic potential for freight traffic in those cases than existed in *Denver & Rio Grande* or that exists in the present case. See *Denver & Rio Grande, supra*, 2008 STB LEXIS 284 at *28, n.35 ("D&RGHF also argues that this case is similar to *St. Joseph County*. In that case, however, the Board found (in the decision served on February 14, 2008) that there is a more realistic potential for freight traffic than exists here").

3. Summary and Conclusion On Public Need

Based on all of the foregoing, the Board is urged to find that there is no present or future public need for rail service over the Kingsbury or Lakewood Segments.

C. Other Compelling Factors That Militate In Favor Of Abandonment

Inasmuch as there is no present or prospective public need for rail service over the Kingsbury or Lakewood Segments, the Application for Adverse Abandonment should be granted on that basis alone, without regard to other factors in favor of abandonment that might outweigh a minimal public need. Nevertheless, there are other compelling factors that militate in favor of abandonment.

One such factor is a saving of over \$1.3 million that the City would achieve as a result of abandonment in conjunction with an imminent project to reconstruct Kingsbury Street between North Avenue and Scott Street. (VS Alonzo, Tab 2 at 1). The City could achieve lesser, but still

significant, additional savings in relation to future reconstruction of Lakewood Avenue if the trackage in the Lakewood Segment were to be abandoned and removed or paved over. (*Id.*).

As the Supreme Court held in *Purcell v. United States*, 315 U.S. 381 (1942), the Board should take those significant financial savings into account in finding that public convenience and necessity permit or require abandonment, notwithstanding that such savings would accrue to the citizens of Chicago rather than to CTM. In that case, a flood control project of the U.S. War Department partially inundated a rail line that had been operated profitably. In refusing to condition abandonment of that line on a requirement that the War Department construct a relocation of the inundated segment, the Interstate Commerce Commission took into account the substantial cost of that relocation. Opponents of abandonment contended that such cost was not a proper consideration under the public-convenience-and-necessity standard because the relocation cost would be borne by the U.S. Government rather than by the rail carrier. In upholding the ICC's decision, the Supreme Court said (at 385):

As the court below pointed out, however, 'an uneconomic outlay of funds would not be in the interests of transportation even though the money be derived from the national government' . . . When materials and labor are devoted to the building of a line in an amount that cannot be justified in terms of reasonably predictable revenues, there is ample ground to support a conclusion that the expenditures are wasteful whoever foots the bill. The fostering care of the railroad system entrusted to the Commission is not so circumscribed as to leave it without authority to pass on the economic advisability of relocation in a situation where someone other than the carrier provides the money . . .

In addition, the record warrants a finding that abandonment and removal or paving over of the trackage in the Kingsbury and Lakewood Segments would materially alleviate unsafe conditions for motorists, bicyclists, and pedestrians traversing the streets in which those tracks are located by eliminating dangerous ruts in the space between the trackage and pavement that

have caused numerous personal injuries and property damage in recent years. (VS Alonzo, Tab 2 at 2-3).

Those significant factors would outweigh a minimal public need for rail service over the Kingsbury and Lakewood Segments had there been any basis for the Board to have found any such public need. However, inasmuch as there is no such present or prospective need, the Abandonment Application should be granted on that basis alone. The public interest factors identified in this section of Argument bolster the Board's finding that the present and future public convenience and necessity permit or require abandonment of those Segments.

D. Conclusion And Requested Relief

WHEREFORE, for all of the foregoing reasons, the Board should find that the present and future public convenience and necessity permit or require abandonment of the Kingsbury and Lakewood Segments. Accordingly, the Application for Adverse Abandonment should be granted.

Respectfully submitted,

Mara Georges TM
Steven J. Holler TM

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Attorneys for Applicant

DATE FILED: February 1, 2010

INFORMATION REQUIRED BY 49 CFR 1152.22 - CONTENTS OF APPLICATION

(a) General.

(1) Exact name of applicant.

Applicant is the City of Chicago, Illinois (the City).

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

Applicant is not a common carrier by railroad. This is an "adverse abandonment" proceeding. The City has a legitimate interest in seeking the proposed abandonment in that it is the owner of the streets in which the rail lines are located.

(3) Relief sought (abandonment of line or discontinuance of service).

Applicant seeks a determination that the present or future public convenience and necessity permit or require abandonment of the following rail line segments:

- (1) a portion of CTM's Kingsbury Branch from its southern terminus at the intersection of Kingsbury, Division, and Halsted Streets, to, but not including, the point at which CTM's Goose Island Branch diverges from the Kingsbury Branch at or near Willow Street, a distance of approximately 6 city blocks (.75-mile) ("the Kingsbury Segment"); and
- (2) a portion of CTM's Lakewood Avenue Line between the southwest right-of-way line of Clybourn Avenue and the Line's northern terminus at Diversey Parkway, a distance of approximately 7 city blocks (.875-mile) ("the Lakewood Segment").

(4) Detailed map of the subject line on a sheet not larger than 8××10 ½ inches, drawn to scale, and with the scale shown thereon. The map must show, in clear relief, the exact location of the rail line to be abandoned or over which service is to be discontinued and its relation to other rail lines in the area, highways, water routes, and population centers.

The required map is attached hereto as Contents - Appendix 1.

(5) Reference to inclusion of the rail line to be abandoned or over which service is to be discontinued on the carrier's system diagram map or narrative, in compliance with §§§§1152.10 through 1152.13, and the date upon which such line was first listed on the system diagram map or included in the narrative in category 1 in accordance with §§1152.10(b)(1). A copy of the line description which accompanies the system diagram map shall also be submitted.

Not applicable - compliance was waived in a Board decision served July 10, 2009.

(6) Detailed statement of reasons for filing application.

The application has been filed because there is no present or prospective public need for rail service over the Kingsbury or Lakewood Segments, and because significant nonrail benefits would be furthered by abandonment of those Segments.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent.

Applicants's representatives are: Mara S. Georges, Corporation Counsel, Steven J. Holler, Deputy Corporation Counsel, City of Chicago, Law Department, 121 North LaSalle Street, Room 600, Chicago, IL 60602, and Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112.

(8) List of all United States Postal Service ZIP Codes that the line proposed for abandonment traverses.

The Kingsbury and Lakewood Segments traverse US Postal Service ZIP Codes 60614 and 60622.

(b) Condition of properties. The present physical condition of the line including any operating restrictions and estimate of deferred maintenance and rehabilitation costs (e.g., number of ties that need replacing, miles of rail that need replacing and/or new ballast, bridge repairs or replacement needed, and estimated labor expenses necessary to upgrade the line to minimum Federal Railroad Administration class 1 safety standards). The bases for the estimates shall be stated with particularity, and workpapers shall be filed with the application.

Not applicable - compliance was waived in a Board decision served July 10, 2009.

(c) Service provided. Description of the service performed on the line during the Base Year (as defined by §§1152.2(c)), including the actual:

- (1) Number of trains operated and their frequency.*
- (2) Miles of track operated (include main line and all railroad-owned sidings).*
- (3) Average number of locomotive units operated.*
- (4) Total tonnage and carloads by each commodity group on the line.*
- (5) Overhead or bridge traffic by carload commodity group that will not be retained by the carrier.*
- (6) Average crew size.*
- (7) Level of maintenance.*
- (8) Any important changes in train service undertaken in the 2 calendar years immediately preceding the filing of the application.*
- (9) Reasons for decline in traffic, if any, in the best judgment of applicant.*

Not applicable. There has been no service provided over either Segment in a Base Year.

(d) Revenue and cost data.

(1) Computation of the revenues attributable and avoidable costs for the line to be abandoned for the Base Year (as defined by §§1152.2(c) and to the extent such branch level data are available), in accordance with the methodology prescribed in §§§§1152.31 through 1152.33, as applicable, and submitted in the form called for in §1152.36, as Exhibit 1.

(2) The carrier shall compute an estimate of the future revenues attributable, avoidable costs and reasonable return on the value for the line to be abandoned, for the Forecast Year (as defined in §1152.2(h)) in the form called for in Exhibit 1. The carrier shall fully support and document all dollar amounts shown in the Forecast Year column including an explanation of the rationale and key assumptions used to determine the Forecast Year amounts.

(3) The carrier shall also compute an ""Estimated Subsidy Payment"" for the Base Year in the form called for in Exhibit 1 and an alternate payment to reflect:

(i) Increases or decreases in attributable revenues and avoidable costs projected for the subsidy year; and

(ii) An estimate, in reasonable detail, of the cash income tax reductions, Federal and state, to be realized in the subsidy year. The bases for the adjustment, e.g., rate increase, changes in traffic level, necessary maintenance to comply with minimum Federal Railroad Administration class 1 safety standards, shall be stated with particularity.

Not applicable - see response to (c) above.

(e) Rural and community impact.

(1) The name and population (identify source and date of figures) of each community in which a station on the line is located.

The Segments are located in Chicago, Illinois, which had a population of 2,833,321 as of July 1, 2006 U.S. Census Bureau estimate.

(2) Identification of significant users, as defined in §§1152.2(l), by name, address, principal commodity, and by tonnage and carloads for each of the 2 calendar years immediately preceding the filing of the abandonment or discontinuance application, for that part of the current year for which information is available, and for the Base Year. In addition, the total tonnage and carloads for each commodity group originating and/or terminating on the line segment shall also be shown for the same time periods as those of the significant users.

There are no significant users of the Segments - see response to (c) above.

(3) General description of the alternate sources of transportation service (rail, motor, water, air) available, and the highway network in the proximate area.

Rail service and/or rail-truck transloading service is available at other nearby rail lines of Chicago Terminal Railroad (CTM), i.e., CTM's Goose Island Branch and the rail line located between the Kingsbury and Lakewood Segments. Truck service is readily available in the area.

(4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads or 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.

The Kingsbury and Lakewood Segments are not believed to be appropriate for use for other public purposes. The adjacent properties are being developed for retail and residential purposes.

(f) Environmental impact. The applicant shall submit information regarding the environmental impact of the proposed abandonment or discontinuance in compliance with §§1105.7 and 1105.8. If certain information required by the environmental regulations duplicates information required elsewhere in the application, the environmental information requirements may be met by a specific reference to the location of the information elsewhere in the application.

A Draft Environmental and Historic Report submitted by the City, dated September 10, 2009, is attached as Contents - Appendix 2.

Comments received in regard to the Draft Report are attached as Contents - Appendix 3.

(g) Passenger service. If passenger service is provided on the line, the applicant shall state whether appropriate steps have been taken for discontinuance pursuant to the Rail Passenger Service Act. (45 U.S.C. 501 et seq .)

Passenger service is not provided over the Segments on a regular basis.

(h) Additional information. The applicant shall submit such additional information to support its application as the Board may require.

None at this time.

(i) Draft Federal Register notice. The applicant shall submit a draft notice of its application to be published by the Board. In addition to the regular number of copies that must be filed with the Board, the applicant must submit a copy of the draft notice as data contained on a computer diskette compatible with the Board's current word processing capabilities. The Board will publish the notice in the Federal Register within 20 days of the application's filing with the Board.

The required Draft Federal Register Notice, including items required in the Board's decision served July 10, 2009, is attached as Contents - Appendix 4.

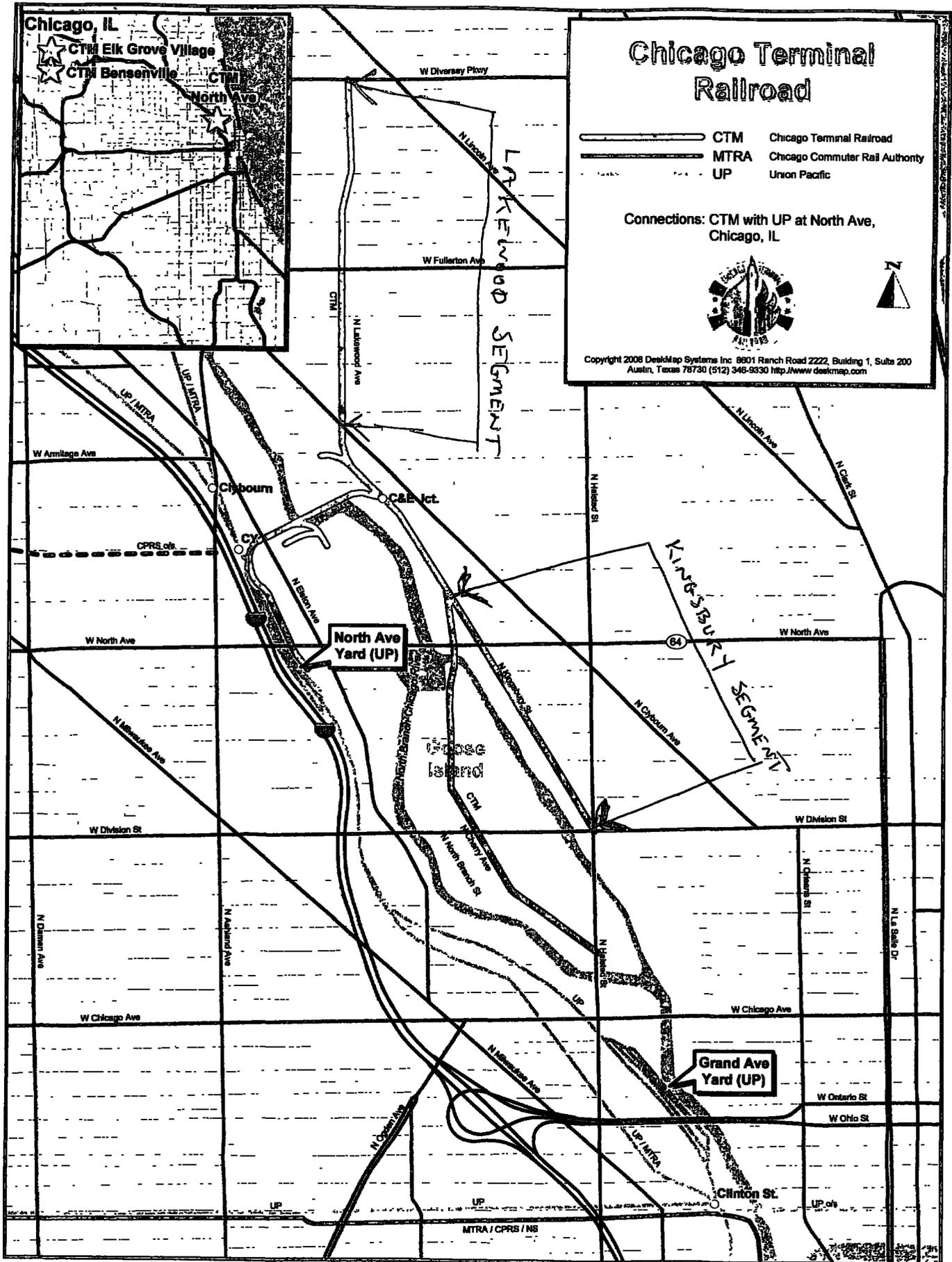
(j) Verification. The original application shall be executed and verified by an officer of the carrier having knowledge of the facts and matters relied upon.

The required Verification is attached as Contents - Appendix 5.

SERVICE AND PUBLICATION OF NOTICE OF INTENT TO FILE AN APPLICATION FOR ADVERSE ABANDONMENT

An Affidavit of Service and Publication of a Notice of Intent to File an Adverse Abandonment Application is attached as Contents - Appendix 6.

CONTENTS - APPENDIX 1



CONTENTS - APPENDIX 2

1277

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 208 SOUTH LASALLE STREET - SUITE 1890
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 TELEPHONE (312) 236-0204
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mcfarland@aol.com

THOMAS F. MCFARLAND

September 10, 2009

State Clearinghouse

Office of the Governor
State of Illinois
207 Statehouse
Springfield, IL 62706

State Environmental Protection Agency

Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, IL 62794-9276

County Commissioners:

Maurice S. Jones, Director
Department of Planning & Development
County of Cook
69 West Washington Street, Suite 2900
Chicago, IL 60602

City Planner:

Commissioner
Department of Community Development
City of Chicago
121 North LaSalle Street, Rm. 100
Chicago, IL 60602

**Environmental Protection Agency
(regional office):**

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

U.S. Fish & Wildlife Service:

U.S. Fish & Wildlife Service - Region 3
One Federal Drive
BHW Federal Building
Fort Snelling, MN 55111-4056

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers
Chicago District (CELR-PA)
111 North Canal Street
Chicago, IL 60606-7206

National Park Service:

Nick Chevance, Environmental Coordinator
Planning and Compliance Office
National Park Service - Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

Natural Resources Conservation Service:

Natural Resources Conservation Service
USDA
2118 West Park Court
Champaign, IL 61821

National Oceanic & Atmospheric Admin.:

NGS Information Services, NOAA, N/NGS12
National Geodetic Survey SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Illinois Historical Preservation Office:

Illinois Historic Preservation Agency
1 Old State Capitol Plaza
Springfield, IL 62701

Atty for CTR:

John D. Heffner, Esq.
John D. Heffner PLLC
1750 K Street, NW, Suite 350
Washington, DC 20006

Re: STB Docket No. AB-1036, *The City of Chicago, Illinois -- Adverse Abandonment*
-- *Chicago Terminal Railroad in Chicago, IL*

THOMAS F. MCFARLAND

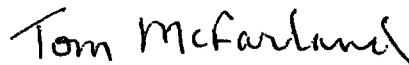
September 10, 2009

Page 2

Dear Agency or Department Representative:

Hereby transmitted is a Draft Environmental and Historic Report prepared by the City of Chicago, Illinois in conjunction with the captioned matter. Your comments are solicited in regard to content of the Report that is within your jurisdiction.

Very truly yours,



Thomas F. McFarland
*Attorney for the City
of Chicago, Illinois*

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cc: Ms. Victoria Rutson

BEFORE THE
SURFACE TRANSPORTATION BOARD

THE CITY OF CHICAGO, ILLINOIS --)
ADVERSE ABANDONMENT --) DOCKET NO. AB-1036
CHICAGO TERMINAL RAILROAD IN)
CHICAGO, IL)

DRAFT ENVIRONMENTAL AND HISTORIC REPORT

Pursuant to 49 C.F.R. § 1105.7 and 1105.8, the CITY OF CHICAGO (the City) hereby submits this Draft Environmental and Historic Report.

I. Environmental Report

The City hereby submits the following information required by 49 C.F.R. § 1105.7(e):

(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.

The City proposes to file an application under 49 U.S.C. § 10903 for adverse abandonment of the authority of Chicago Terminal Railway (CTR) to operate over two rail lines in Chicago, Illinois, viz.:

- (1) the Kingsbury Branch between its point of connection to the Goose Island Branch north of North Avenue and its terminus at the junction of Division and Halsted Streets (“Kingsbury Segment”); and

- (2) a portion of the Lakewood Avenue Line between the south right-of-way line of Clybourn Avenue and the terminus of that Line at Diversey Parkway (the “Lakewood Avenue Segment”).

CTR has not transported revenue traffic over the Kingsbury Segment in recent years.^{1/}

The sole traffic transported by CTR over the Lakewood Segment in recent years was for Peerless Candy Company, but the Peerless Candy manufacturing facility has been closed and dismantled, and the property has been rezoned from industrial to residential, including a mixed-use building with 1,400 square feet of retail.

The Kingsbury Segment is located in Kingsbury Street, which is a public right of way owned by the City, and which serves as a heavily trafficked arterial street. If the application is granted, such right-of-way, which CTR’s predecessor was authorized to use pursuant to a grant of easement in an ordinance passed by the City over eight decades ago, will be owned by the City free and clear of CTR’s use easement. The City would require CTR to remove the track materials from the Kingsbury Segment. The Lakewood Segment is located partly within public right of way and partly on private property. The land in the right-of-way and the track materials in the Lakewood Segment were previously sold by a CTR predecessor to landowners adjoining the right-of-way, to be effective upon abandonment.

As noted, rail operations over the Segments have been minimal and have now ceased. Track maintenance has similarly been minimal. Rail operations and track maintenance would permanently cease if the adverse abandonment application were to be granted.

^{1/} There may have been a single arranged shipment of firewood to give the appearance of an active customer.

There is no reasonable alternative to the proposed abandonment. There is no public need for rail freight service on either Segment -- the basis on which the use easement was granted. The abandonment of the Lakewood Segment would enable the narrowing of the Street to a proper width for maximizing pedestrian safety adjacent to the significant residential development planned for both sides of the Street. Abandonment would result in approximately \$1.3 million of savings in the City's imminent reconstruction of Kingsbury Street, in the middle of which the Kingsbury Segment is located. Abandonment would eliminate unsafe conditions that exist along both the Kingsbury Segment and the Lakewood Segment.

A map of the Kingsbury Segment in yellow and the Lakewood Segment in blue is attached to this Report as Appendix 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.

The City believes that the proposed exemption will have a minimal effect on regional or local transportation systems and patterns. No rail traffic is currently moving over either Segment, so there would be no diversion of rail traffic to other modes of transportation.

(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.

The proposed abandonment will be consistent with existing land use plans and recent rezonings to parcels adjacent to the CTR spurs, which are located in old industrial corridors that have changed to residential, entertainment and retail uses.

The Chicago Department of Community Development has stated that development trends in the area of the rail lines have moved away from industrial toward retail, entertainment, and residential. ~~commercial~~. As to an undeveloped site located along the Chicago River near the northwest corner of Halsted, Division, and Kingsbury Streets, the City's Halsted Triangle Plan recommends commercial, office, or distribution-light industrial uses. The owner of that site has not expressed an interest in developing it. The most logical use of that site is for parking to relieve the parking pressures created by the nearby entertainment-retail district.

(3)(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

The proposed abandonment would have no effect on prime agricultural land. The rail line segments proposed for abandonment are located in urban settings in which there is no farm land. Therefore, removal of trackage from those segments should not have any effect on prime agricultural land. In accordance with this regulation, the City has consulted by letter with the Natural Resources Conservation Service (Appendix 2 hereto).

(3)(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by §1105.9.

The proposed abandonment does not affect land or water uses in a designated coastal zone.

(3)(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. 10906 and explain why.

In the City's opinion, the rights-of-way in the segments would not be suitable for alternative public use. There are ample roadways and utility corridors in the area of the proposed abandonment. The Kingsbury Segment is located in existing public right of way.

(4) Energy. (i) Describe the effect of the proposed action on transportation of energy resources.

The proposed abandonment will have no effect on transportation of energy resources.

(4)(ii) Describe the effect of the proposed action on recyclable commodities.

The proposed abandonment will have no effect on recyclable commodities.

(4)(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The proposed abandonment will not result in a change in overall energy efficiency because no rail traffic would be diverted to truck transportation.

(4)(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. To minimize the production of repetitive data, the information on overall energy efficiency in §§1105.7(e)(4)(iii) need not be supplied if the more detailed information in §§1105.7(e)(4)(iv) is required.

Not applicable, as no such diversions shall occur.

(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 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

Not applicable, as no such increases will occur.

(5)(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. 10502), 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.

Not applicable, as no such increases will occur.

(5)(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.

Not applicable, as no such transportation will occur.

(6) Noise. If any of the thresholds identified in item (5)(i) 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, as no such thresholds will be surpassed.

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

The proposed exemption and the resulting abandonment will have a beneficial effect on public health and safety. Removal of rails and track materials from the middle of Kingsbury Street and from areas near Lakewood Avenue would eliminate accidents that occur when bicycles and pedestrians come in contact with such rails and track materials and will also eliminate damage to bicycles and vehicles.

The recently approved plans to convert both sides of Lakewood Avenue between Diversey Avenue and Schubert Avenue from manufacturing to residential calls for the narrowing of Lakewood Avenue to help reduce vehicle speeds in a dense residential area. Currently, Lakewood Avenue is unusually wide to accommodate the rails that run down its center.

(7)(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.

Not applicable, as hazardous materials will not be transported.

(7)(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.

Not applicable, as no such sites are affected.

(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.

The proposed exemption is unlikely to adversely affect endangered or threatened species or areas designated as critical habitat. In accordance with this regulation, the City has consulted by letter with the U.S. Fish and Wildlife Service (Appendix 2).

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

The proposed exemption will not affect wildlife sanctuaries or refuges, nor National or state parks or forests.

(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.

The proposed exemption will be consistent with applicable Federal, State or local water quality standards. In accordance with this regulation, the City has consulted by letter with local water quality officials (Appendix 2).

(9)(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.

The City believes that permits under section 404 of the Clean Water Act are not required for the proposed exemption. The proposed exemption will not affect any designated wetlands or 100-year flood plains. In accordance with this regulation, the City has consulted by letter with the U.S. Army Corps of Engineers (Appendix 2).

(9)(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

Permits under section 402 of the Clean Water Act are not required for the proposed exemption. In accordance with this regulation, the City has consulted by letter with the U.S. Environmental Protection Agency (Appendix 2).

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

Not applicable, as there will be no adverse environmental impacts to mitigate.

II. Historic Report

The City hereby submits the following information required by 49 C.F.R. § 1105.8(d):

(d)(1) A U.S.G.S. topographic map (or an 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;

The required topographic map is attached to this Report as Appendix 3.

(d)(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 use easement and ancillary rail tracks in the Kingsbury Segment comprise a narrow corridor in the middle of Kingsbury Street, an existing public right of way that is approximately 66 feet wide. The use easement and ancillary rail tracks in the Lakewood Segment similarly comprise a narrow corridor primarily located in proximity to Lakewood Avenue, which is also public right of way.

(d)(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;

Attached to this Report as Appendix 4 are photographs of the Segment. There are no bridges on either Segment.

(d)(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;

Not applicable.

(d)(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 Segments were originally a part of a line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee Road). The Segments were acquired by Soo Line Railroad Company in the early 1980's following Milwaukee Road's bankruptcy. CTR acquired the Segments from Soo Line Railroad Company.

(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;

Not applicable, as no historic structures are involved.

(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 CFR 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);

Not applicable. There are no such structures on either Segment.

(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 wastes), and the surrounding terrain.

The City has no knowledge of any prior subsurface ground disturbance or fill, or environmental conditions that might affect the archeological recovery of resources and the surrounding terrain.

Respectfully submitted,

THE CITY OF CHICAGO, ILLINOIS
CITY HALL
121 North LaSalle Street
Chicago, IL 60602

Petitioner

Mara S. Georges tm
Steven J. Holler tm

MARA S. GEORGES, Corporation Counsel
STEVEN J. HOLLER, Deputy Corporation Counsel
City of Chicago, Law Department
121 North LaSalle Street, Room 600
Chicago, IL 60602

Thomas F. McFarland

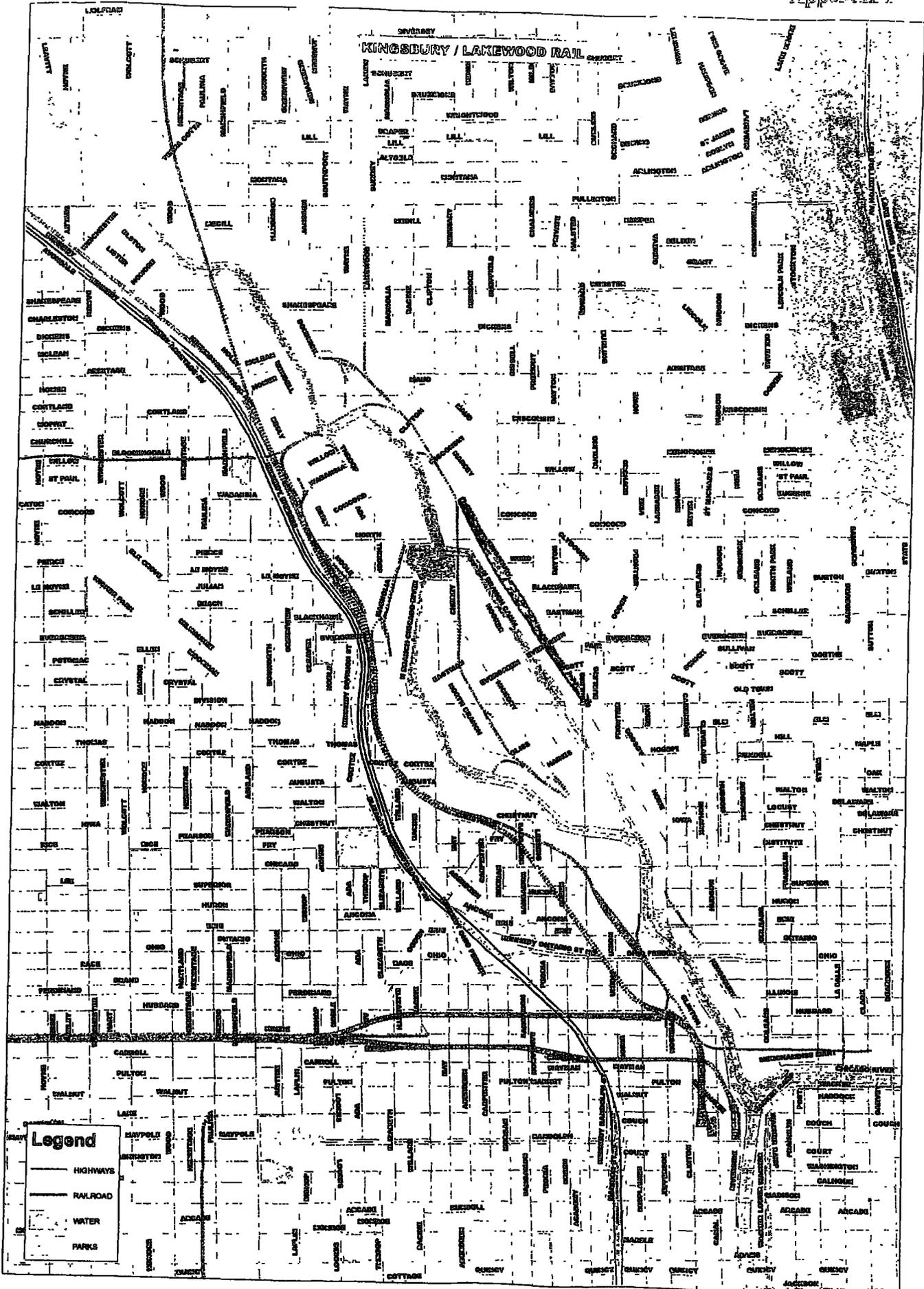
THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 fax
mcfarland@aol.com

Attorneys for Petitioner

Date Submitted: September 10, 2009

DRAFT ENVIRONMENTAL AND HISTORIC REPORT

APPENDIX 1



DRAFT ENVIRONMENTAL AND HISTORIC REPORT

APPENDIX 2

LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1890
CHICAGO, ILLINOIS 60604-1112
TELEPHONE (312) 236-0204
FAX (312) 201-9695
mcfarland@aol.com

THOMAS F. MCFARLAND

August 25, 2009

State Clearinghouse

Office of the Governor
State of Illinois
207 Statehouse
Springfield, IL 62706

State Environmental Protection Agency

Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, IL 62794-9276

County Commissioners:

Maurice S. Jones, Director
Department of Planning & Development
County of Cook
69 West Washington Street, Suite 2900
Chicago, IL 60602

City Planner:

Commissioner
Department of Community Development
City of Chicago
121 North LaSalle Street, Rm. 100
Chicago, IL 60602

Environmental Protection Agency

(regional office):
Environmental Protection Agency - Region 5
Metcalf Building
Office of Strategic Environmental Analysis
77 West Jackson Boulevard, Mailcode B-19J
Chicago, IL 60604

U.S. Fish & Wildlife Service:

U.S. Fish & Wildlife Service - Region 3
One Federal Drive
BHW Federal Building
Fort Snelling, MN 55111-4056

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers
Chicago District (CELRC-PA)
111 North Canal Street
Chicago, IL 60606-7206

National Park Service:

Nick Chevance, Environmental Coordinator
Planning and Compliance Office
National Park Service - Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

Natural Resources Conservation Service:

Natural Resources Conservation Service
USDA
2118 West Park Court
Champaign, IL 61821

National Oceanic & Atmospheric Admin.:

NGS Information Services, NOAA, N/NGS12
National Geodetic Survey SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Illinois Historical Preservation Office:

Illinois Historic Preservation Agency
1 Old State Capitol Plaza
Springfield, IL 62701

Re: STB Docket No. AB-1036, *The City of Chicago, Illinois -- Adverse Abandonment*
-- Chicago Terminal Railroad in Chicago, IL

August 25, 2009

Page 2

Dear Agency or Governmental Representative:

The City of Chicago, Illinois (the "City") plans to file an application for adverse abandonment of the authority of Chicago Terminal Railroad (CTR) to operate over two unused rail lines in Chicago, i.e.:

- (1) the Kingsbury Branch between its point of connection to the Goose Island Branch north of North Avenue and its terminus at the junction of Division and Halsted Streets ("Kingsbury Segment"); and
- (2) a portion of the Lakewood Avenue Line between the south right-of-way line of Clybourn Avenue and the terminus of that Line at Diversey Parkway (the "Lakewood Avenue Segment").

The Kingsbury Branch is shaded in blue on a print that is attached to this Petition as Appendix 1. The Lakewood Avenue Segment is shaded in yellow on Appendix 1.

Pursuant to STB regulations at 49 C.F.R. § 1105.7, this letter is to request your assistance in identifying potential environmental and historic effects of the proposed abandonment. The City does not anticipate any adverse environmental or historic impacts; however, if you identify any such adverse impacts, please describe any action that could be taken to mitigate such adverse impacts. Please provide a written response to this letter so that it can be included in a Draft Environmental and Historic Report that the City will prepare and file with the STB.

COUNTY AND CITY PLANNING AGENCIES. Please state whether the proposed abandonment would be consistent with existing land-use plans. Describe any inconsistencies.

US SOIL CONSERVATION SERVICE. Please state the effect of the proposed abandonment on any prime agricultural land.

US FISH AND WILDLIFE SERVICE. Please state (1) whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat and, if so, please describe such effects; and (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected and, if so, please describe such effects.

August 25, 2009

Page 3

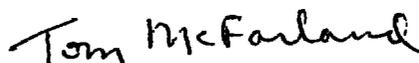
STATE WATER QUALITY OFFICIALS. Please state whether the proposed abandonment would be consistent with applicable Federal, State or Local water quality standards. Please describe any inconsistencies.

US AND STATE ENVIRONMENTAL PROTECTION AGENCIES (OR EQUIVALENT AGENCY). Please (1) identify any potential adverse environmental effects of the proposed abandonment on the surrounding area, and (2) identify the location of any known hazardous materials spills on the right-of-way of the Rail Line, and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed abandonment.

STATE HISTORICAL PRESERVATION OFFICE. Please identify any known bridges and/or structures located on the Rail Line that are 50 years old or older, and which are historically significant. Please state whether the proposed abandonment would have an adverse effect on such bridges and/or structures and, if so, please describe efforts that can be taken during removal of the tracks in the Rail Line to mitigate any such adverse effects.

Please send your reply to me as the City's attorney to: Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112. You may reach me by telephone at (312) 236-0204 if you have any questions or need further information. The City appreciates your assistance in furnishing a reply to this letter.

Very truly yours,



Thomas F. McFarland
Attorney for the City of Chicago, Illinois

THOMAS E. MCFARLAND

August 25, 2009

Page 4

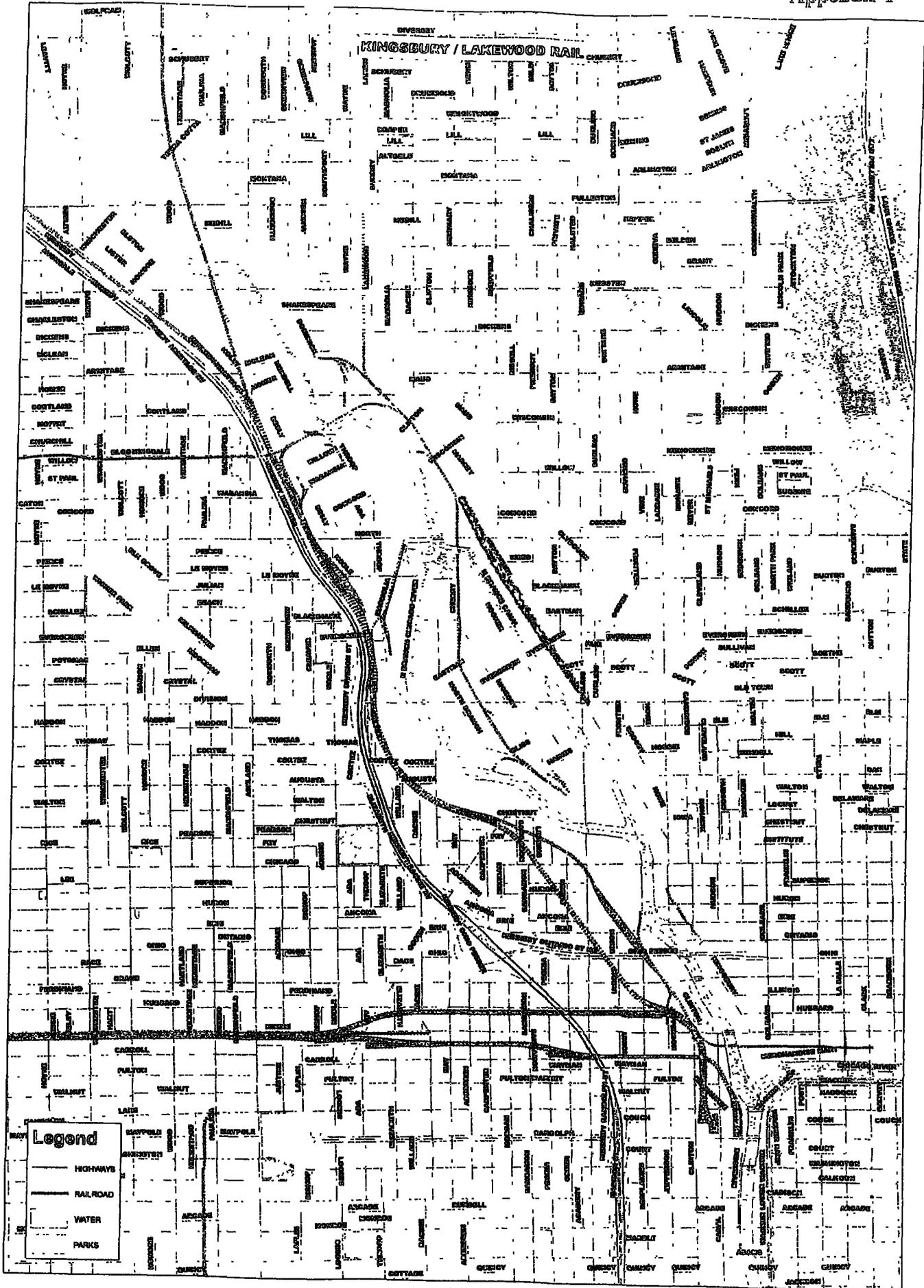
cc: *(by e-mail)*

Steven Holler, Esq., *steven.holler@cityofchicago.org*

Mr. Chris Wuellner, *chris.wuellner@cityofchicago.org*

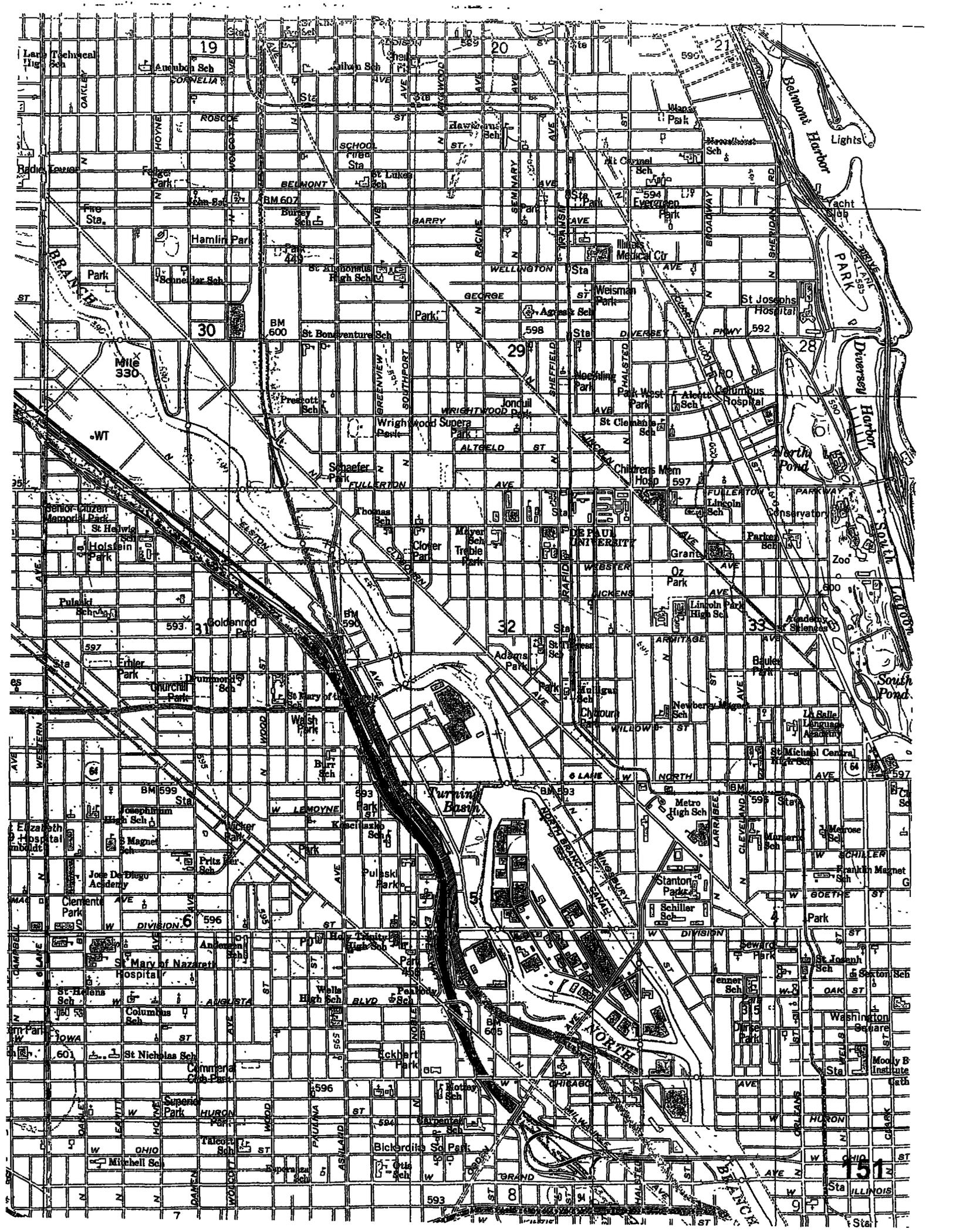
Mr. Paul Zalmezak, *paul.zalmezak@cityofchicago.org*

Mr. Joe Alonzo, *joe.alonzo@cityofchicago.org*



DRAFT ENVIRONMENTAL AND HISTORIC REPORT

APPENDIX 3



19

20

21

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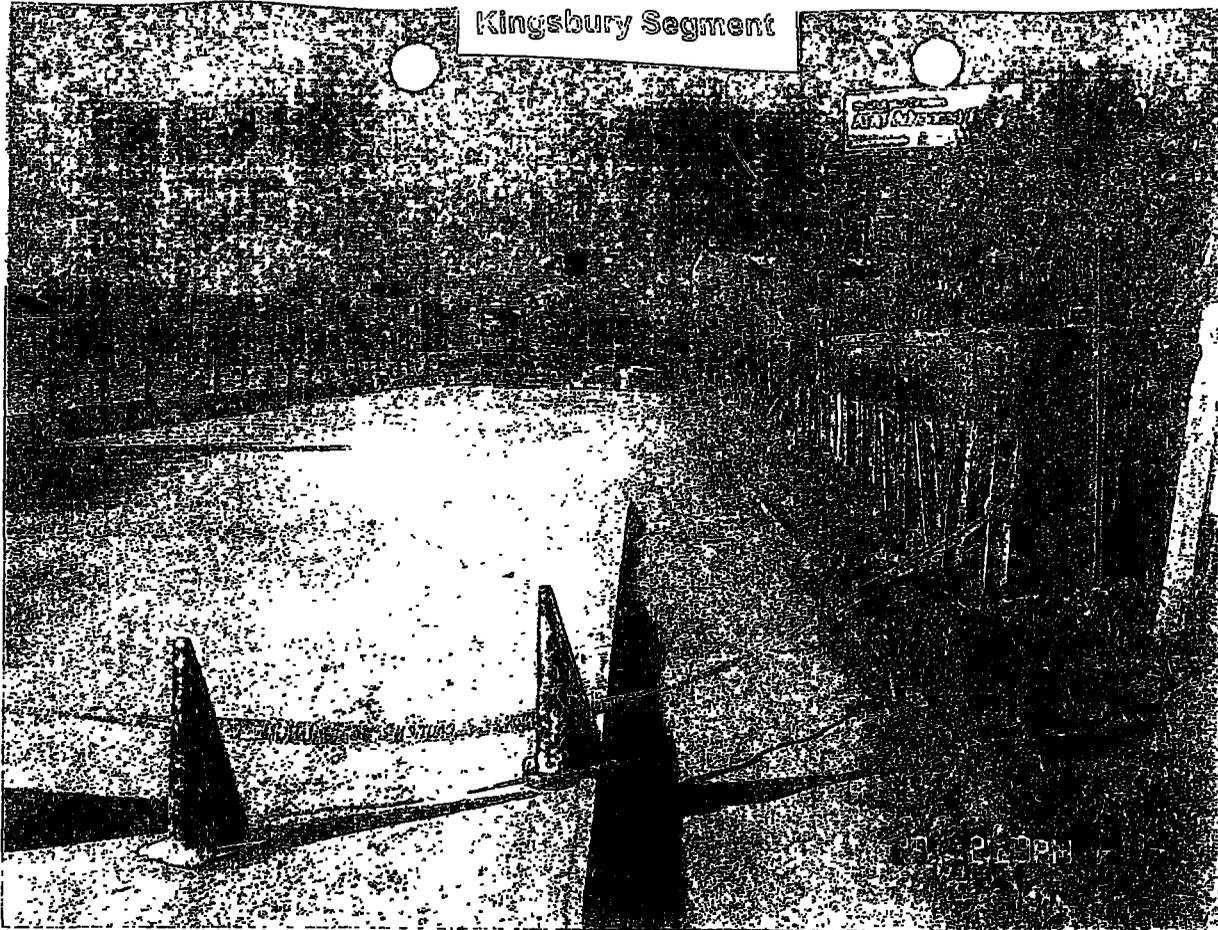
33

151

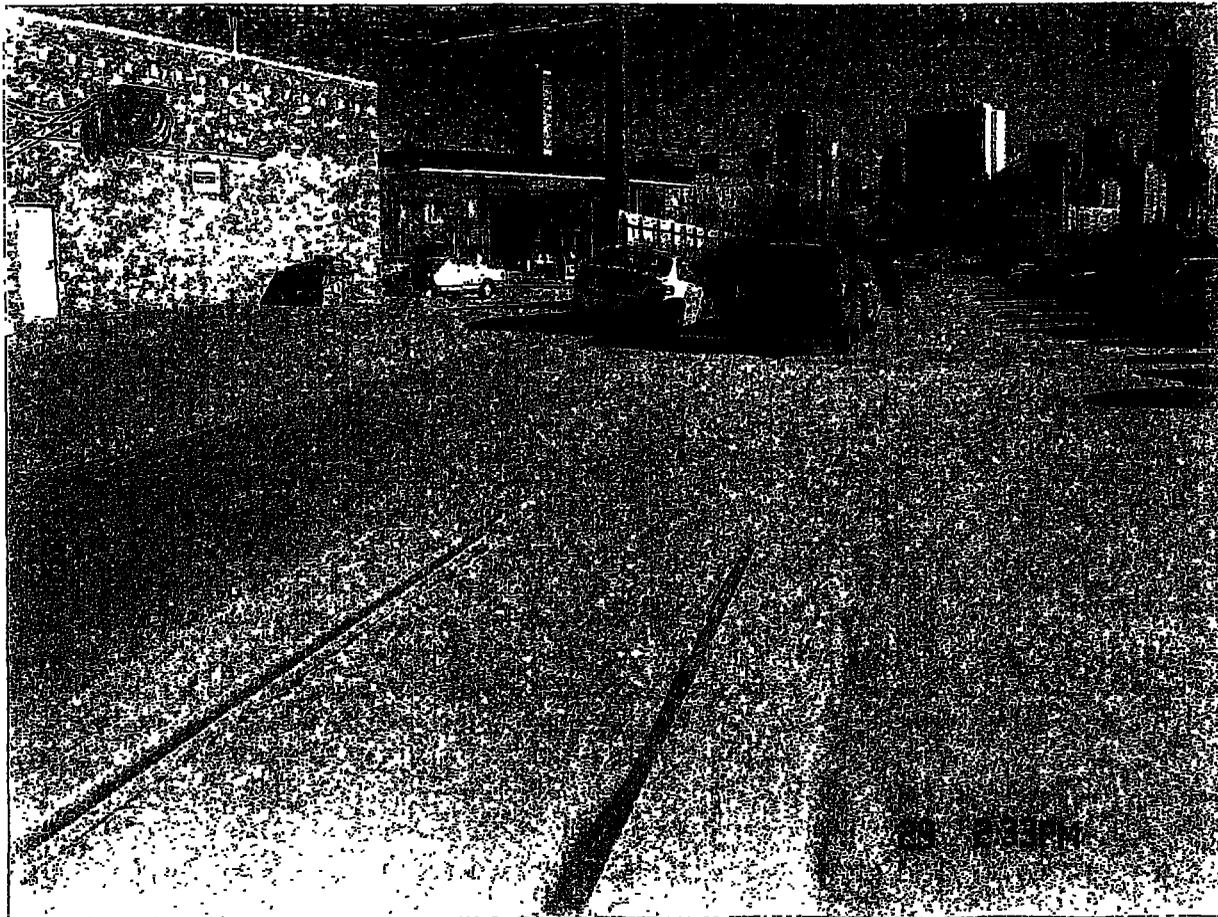
Map labels including streets (Belmont, Barry, Wellington, George, Fullerton, etc.), parks (Wrightwood, Lincoln, etc.), schools (St. Joseph's, etc.), and landmarks (St. Joseph's Hospital, etc.).

DRAFT ENVIRONMENTAL AND HISTORIC REPORT

APPENDIX 4

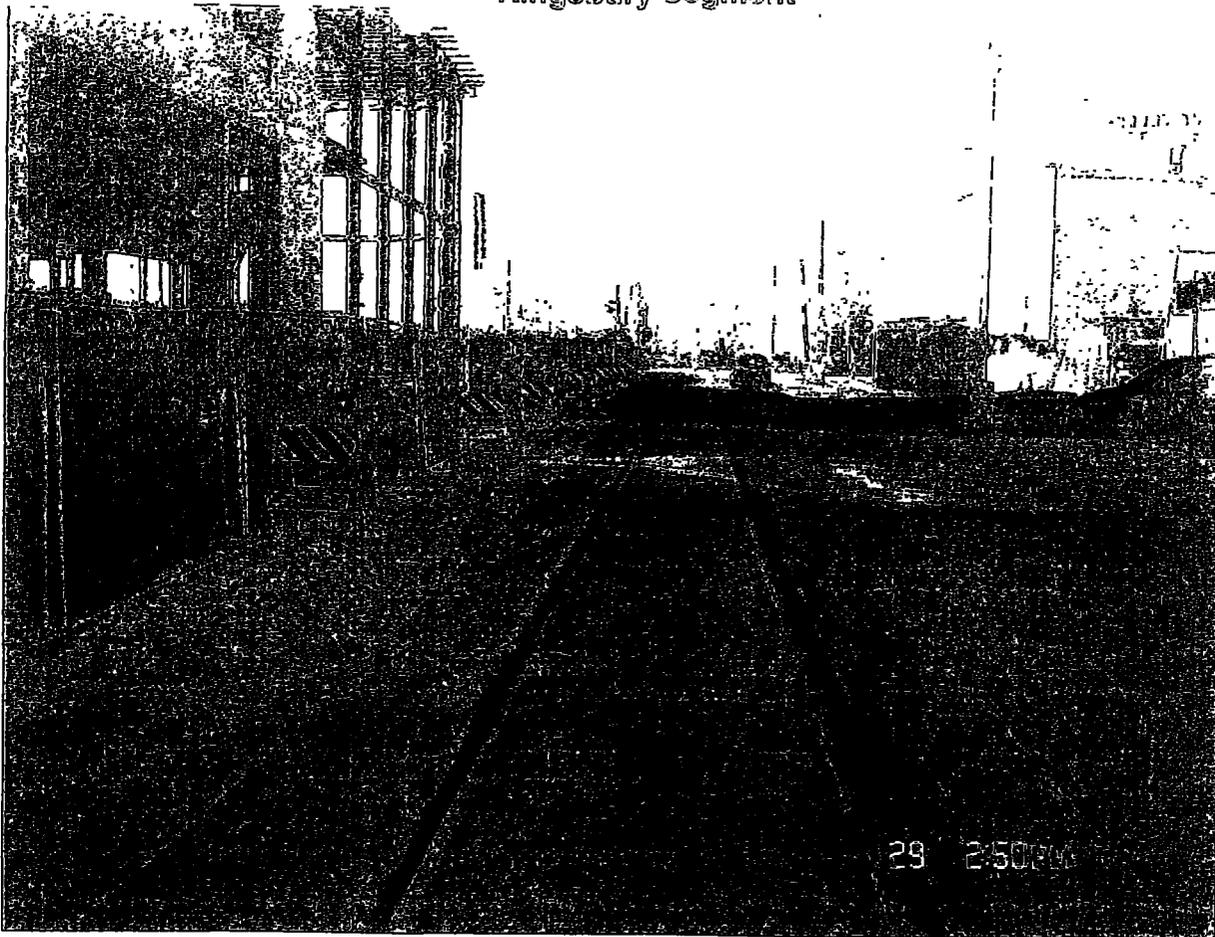


2 - Looking NW from NW corner of Division

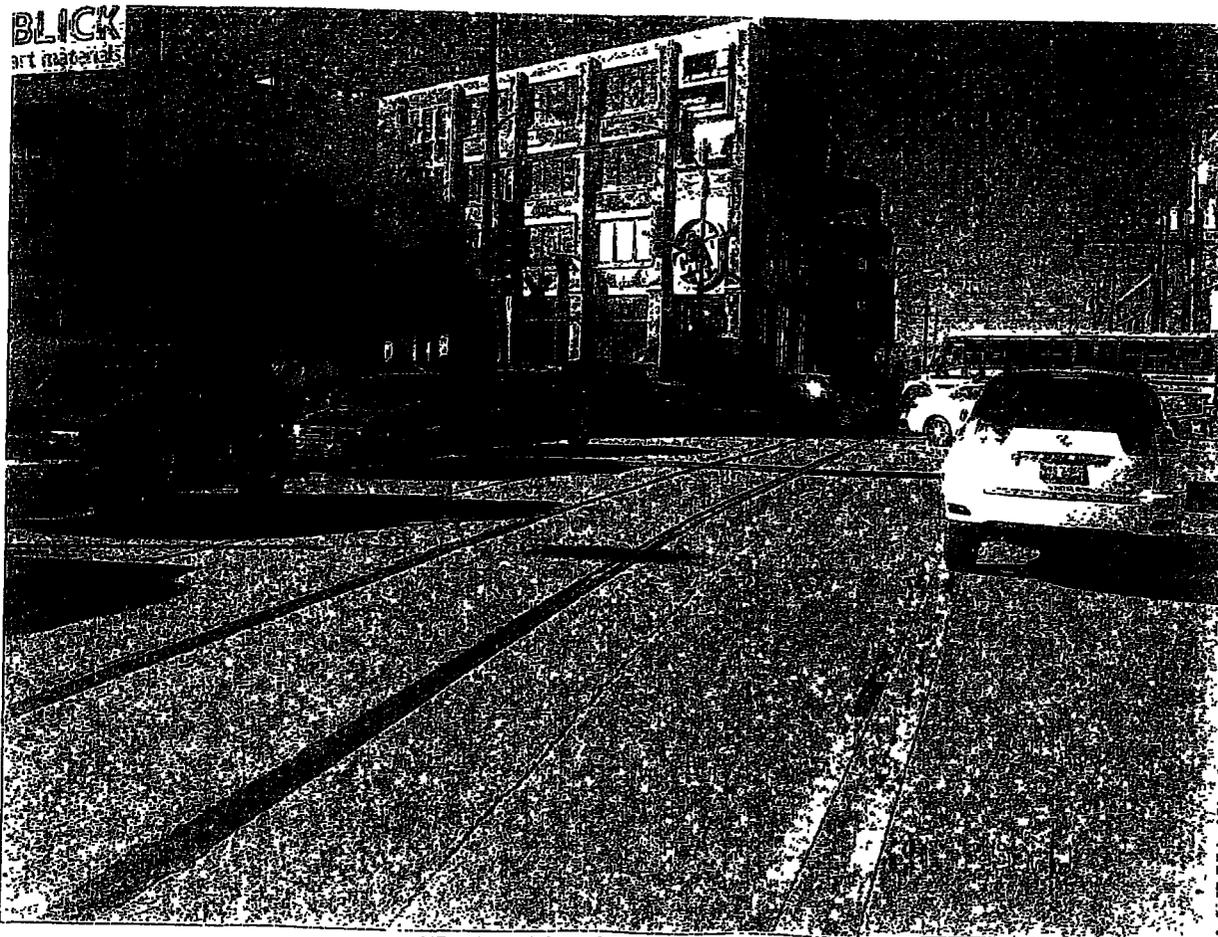


6 - End of Tracks - N of Division, W of Halsted

Kingsbury Segment



13 - Looking N from Whole Foods

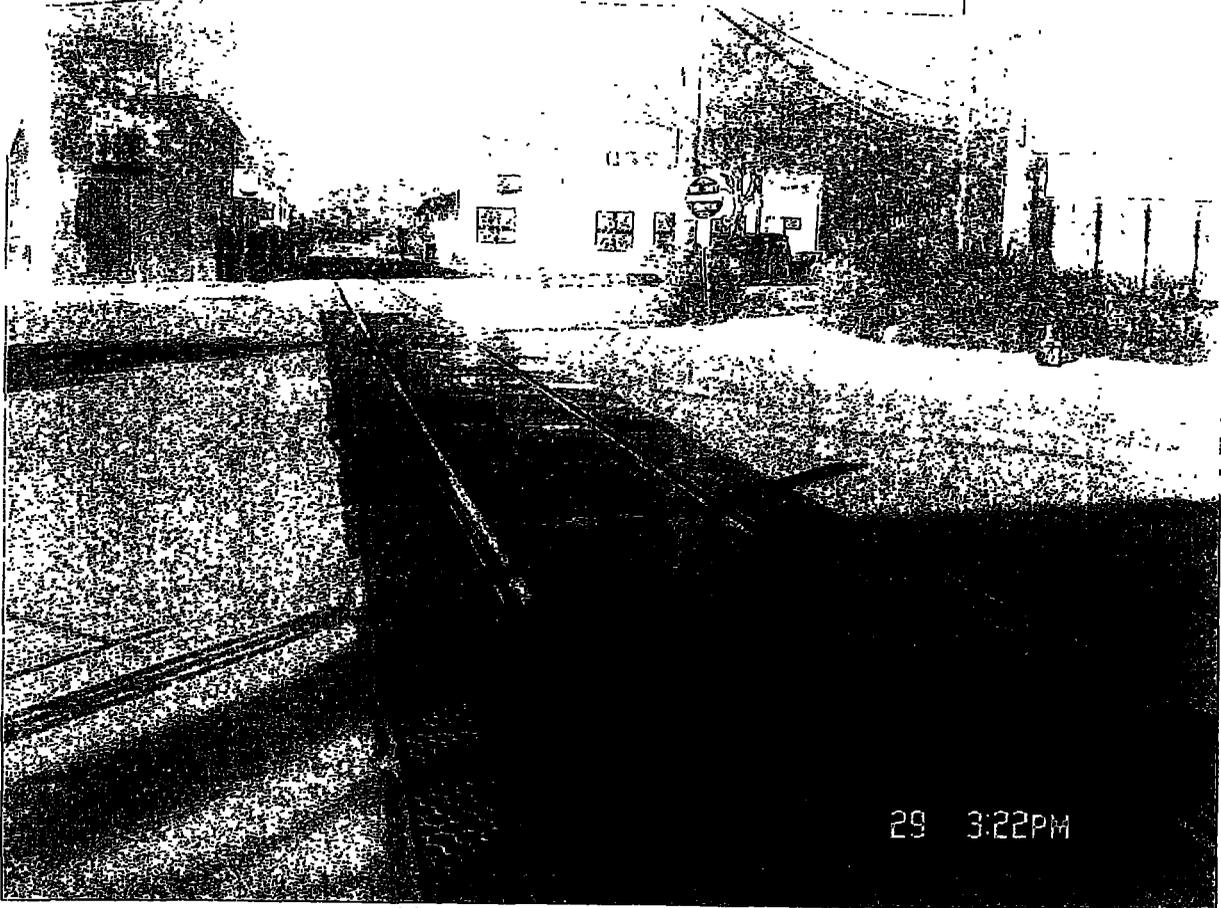


17 - Looking North at N Ave

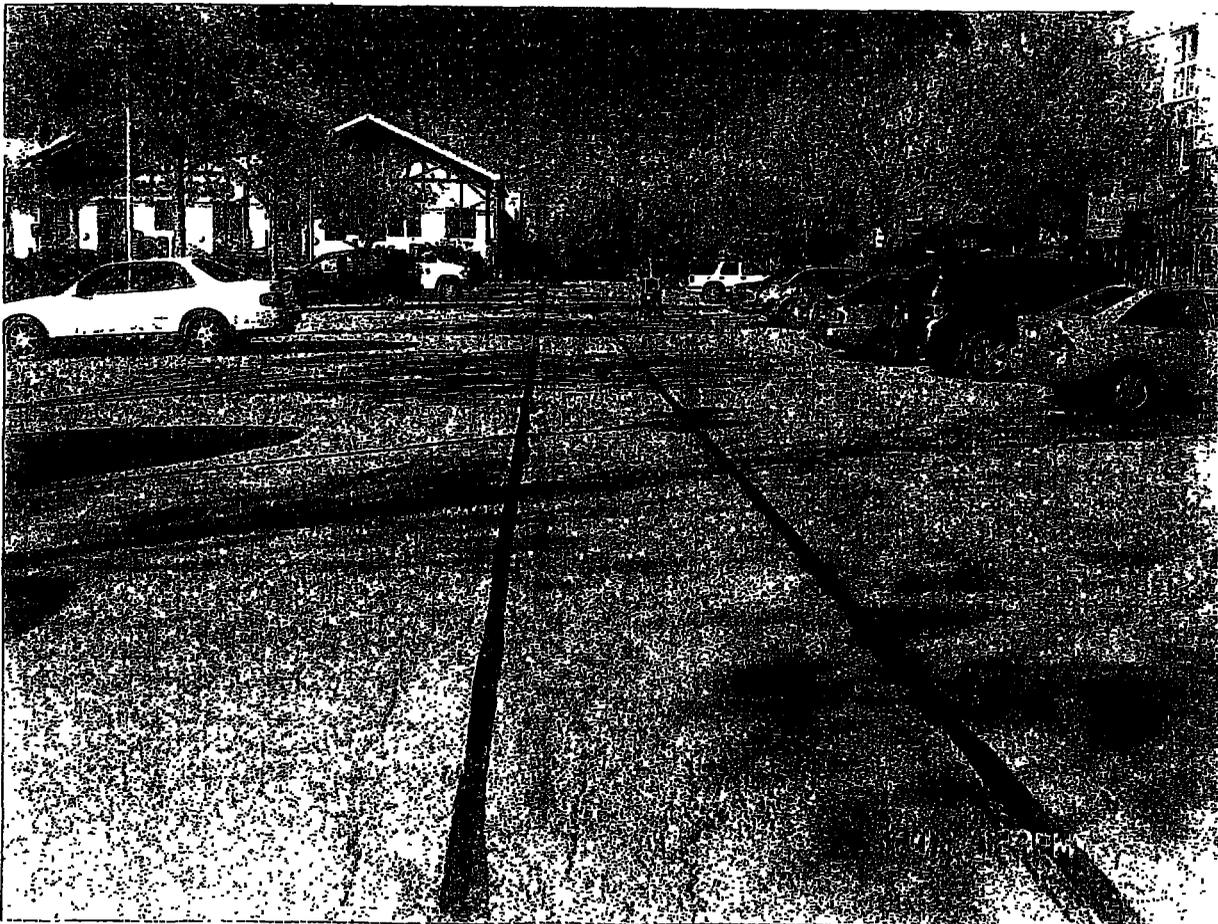
Kingsbury Segment



18 - Looking S at North Ave



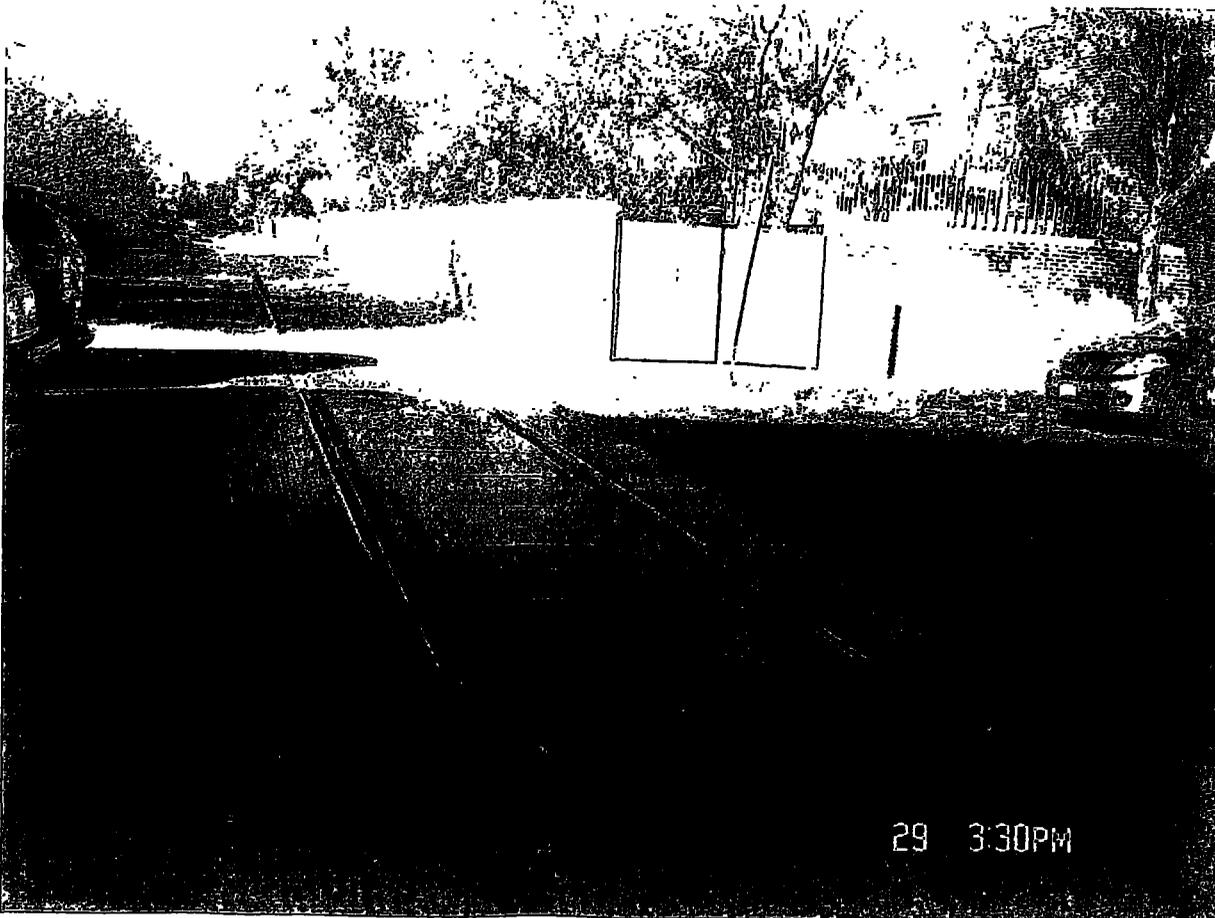
23 - Clybourn Xing - Looking N



24 - Tracks at Strip Mall - behind 2102 N Lakewood



27 - S of Webster - Looking S

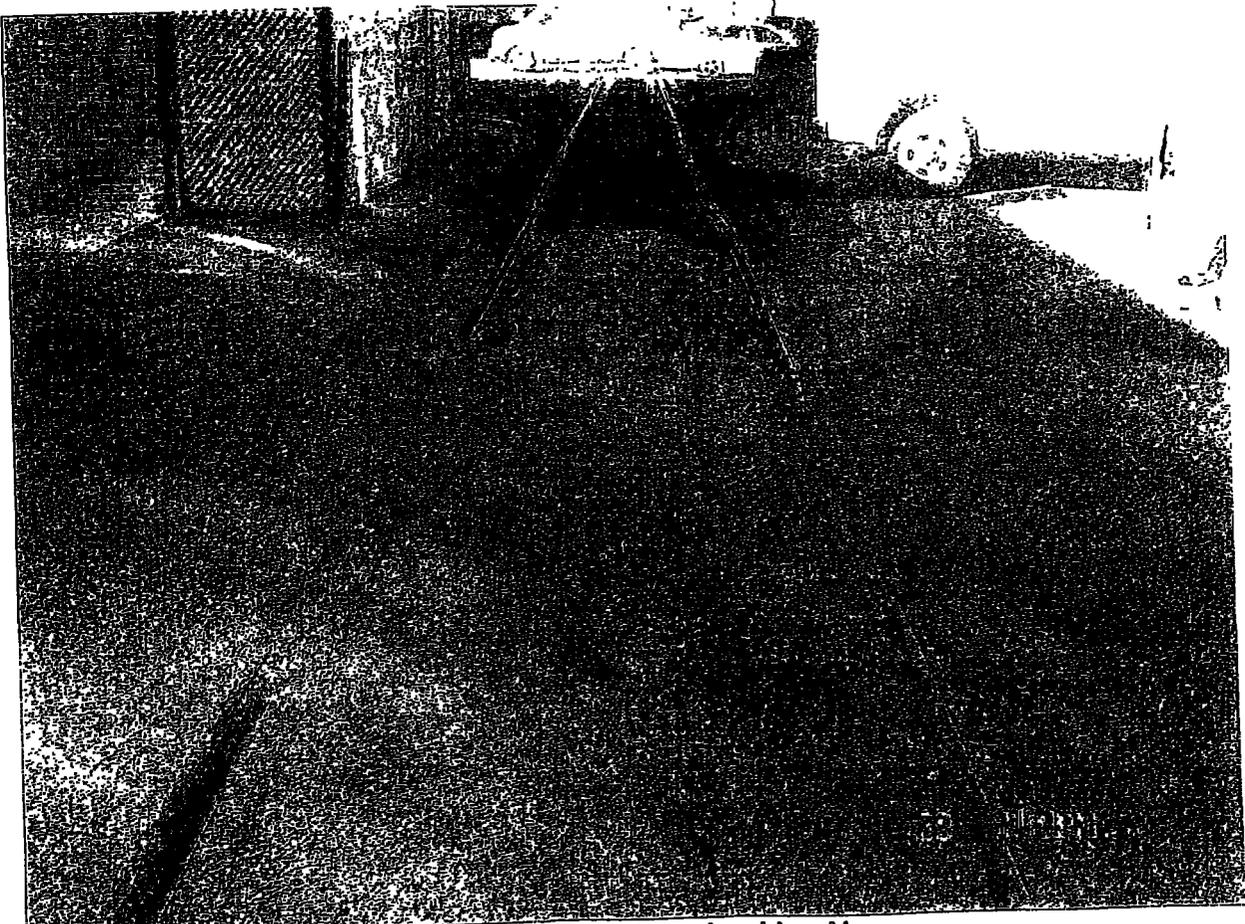


28 - Webster Xing - Looking N

Lakewood Avenue Segment |



32 - S of Belden - Looking N

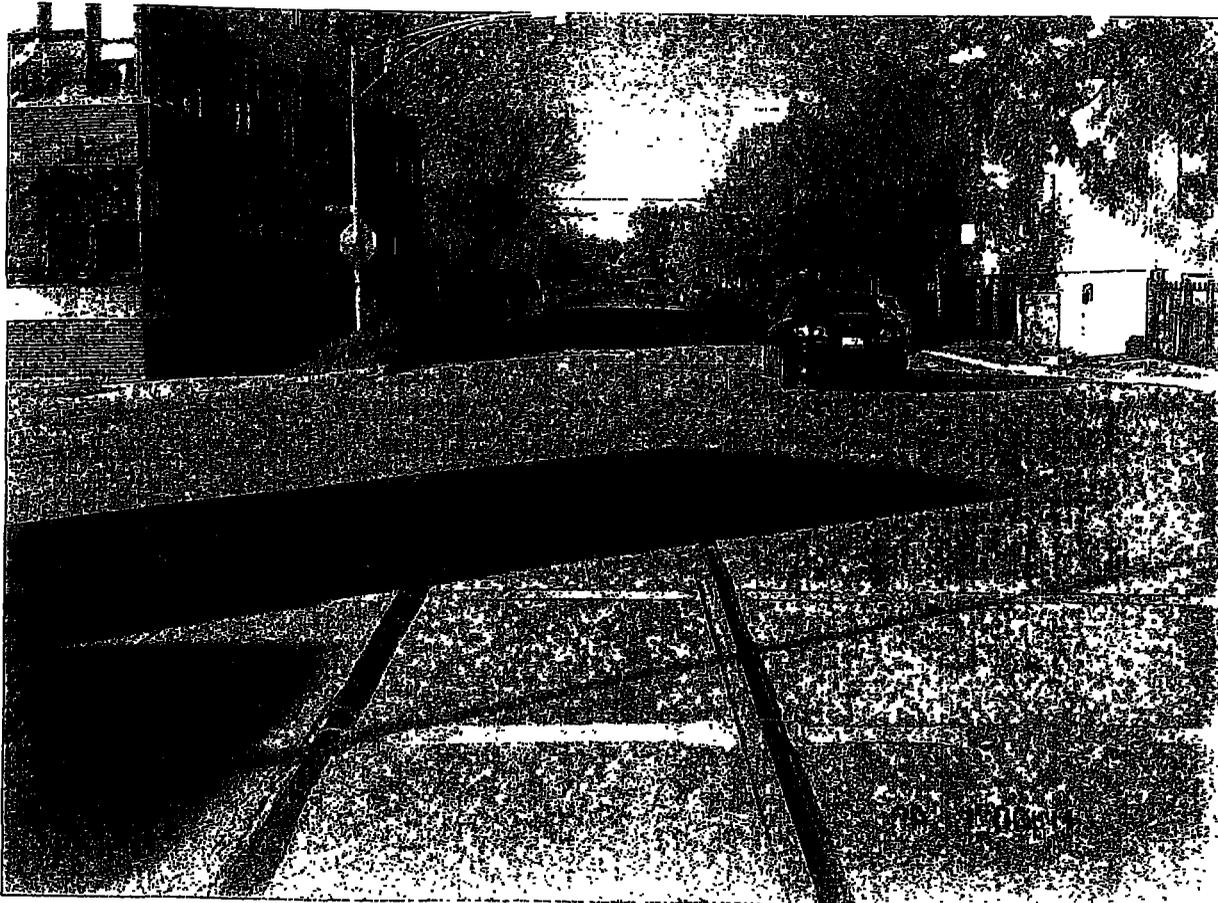


37 - S of Fullerton - Looking N

Lakewood Avenue Segment



43 - Tracks in Altgeld Court Parking Lot



48 - Lakewood at Diversey - Looking N

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2009, I served the foregoing document, Draft

Environmental and Historic Report, by first-class, U.S. mail, postage prepaid, on the following:

State Clearinghouse
Office of the Governor
State of Illinois
207 Statehouse
Springfield, IL 62706

State Environmental Protection Agency
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, IL 62794-9276

County Commissioners:
Maurice S. Jones, Director
Department of Planning & Development
County of Cook
69 West Washington Street, Suite 2900
Chicago, IL 60602

City Planner:
Commissioner
Department of Community Development
City of Chicago
121 North LaSalle Street, Rm. 100
Chicago, IL 60602

Environmental Protection Agency
(regional office):
Environmental Protection Agency - Region 5
Metcalf Building
Office of Strategic Environmental Analysis
77 West Jackson Boulevard, Mailcode B-19J
Chicago, IL 60604

U.S. Fish & Wildlife Service:
U.S. Fish & Wildlife Service - Region 3
One Federal Drive
BHW Federal Building
Fort Snelling, MN 55111-4056

U.S. Army Corps of Engineers
U.S. Army Corps of Engineers
Chicago District (CELRC-PA)
111 North Canal Street
Chicago, IL 60606-7206

National Park Service:
Nick Chevance, Environmental Coordinator
Planning and Compliance Office
National Park Service - Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

Natural Resources Conservation Service:
Natural Resources Conservation Service
USDA
2118 West Park Court
Champaign, IL 61821

National Oceanic & Atmospheric Admin.:
NGS Information Services, NOAA, N/NGS12
National Geodetic Survey SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Illinois Historical Preservation Office:
Illinois Historic Preservation Agency
1 Old State Capitol Plaza
Springfield, IL 62701

Atty for CTR:
John D. Heffner, Esq.
John D. Heffner PLLC
1750 K Street, NW, Suite 350
Washington, DC 20006

Thomas F. McFarland

Thomas F. McFarland

CONTENTS - APPENDIX 3



**Illinois Historic
Preservation Agency**

FAX (217) 782-8161

1 Old State Capitol Plaza • Springfield, Illinois 62701-1512 • www.illinois-history.gov

Cook County
Chicago

Railway Abandonment

Kingsbury St. between Willow St. and Division St.; Lakewood Ave. between Diversey
Parkway and Clybourn Ave.

STB-AB-1036

IHPA Log #021091409

September 28, 2009

Thomas McFarland
208 S. LaSalle St., Suite 1890
Chicago, IL 60604-1112

Dear Mr. McFarland:

We have reviewed the documentation submitted for the referenced project(s) in accordance with 36 CFR Part 800.4. Based upon the information provided, no historic properties are affected. We, therefore, have no objection to the undertaking proceeding as planned.

Please retain this letter in your files as evidence of compliance with section 106 of the National Historic Preservation Act of 1966, as amended. This clearance remains in effect for two years from date of issuance. It does not pertain to any discovery during construction, nor is it a clearance for purposes of the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440).

If you have any further questions, please contact me at 217/785-5027.

Sincerely,

Anne E. Haaker

Anne E. Haaker
Deputy State Historic
Preservation Officer



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

RECEIVED

OCT 05 2009

McFARLAND, P.C

FWS/NWRS-RE - General
Railroad Abandonments

October 1, 2009

Mr. Thomas F. McFarland
Thomas F. McFarland, P.C.
208 South LaSalle Street, Suite 1890
Chicago, Illinois 60604-1112

Dear Mr. McFarland:

Thank you for the opportunity to comment on the proposed abandonment of service on two unused rail lines in Chicago, that is, the "Kingsbury Segment" and the "Lakewood Avenue Segment", STB Docket No. AB-1036.

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

A handwritten signature in cursive script that reads "Patrick G. Carroll".

Patrick G. Carroll
Senior Realty Officer
Division of Realty



United States Department of the Interior

FISH AND WILDLIFE SERVICE
 Chicago Ecological Services Field Office
 1250 South Grove Avenue, Suite 103
 Barrington, Illinois 60010
 Phone: (847) 381-2253 Fax: (847) 381-2285



RECEIVED

OCT 15 2009

McFARLAND, P.C.

October 14, 2009

IN REPLY REFER TO:
 FWS/AES-CIFO/9-FA-0549 / SL-0470

Mr. Thomas F. McFarland
 208 South LaSalle Street, Suite 1890
 Chicago, Illinois 60604-1112

Dear Mr. McFarland:

This responds to your letter dated August 25, 2009, but received in this office on September 4, 2009 requesting information on endangered or threatened species for the proposed adverse abandonment of the authority of Chicago Terminal Railroad to operate over two unused rail lines. Two locations are proposed: 1) the Kingsbury Segment located at T39N, R14E, Sections 4 & 5, and 2) the Lakewood Avenue Segment located at T40N, R14E, Sections 29 & 30. Both of these proposed project locations are located in the City of Chicago, Cook County, Illinois as depicted on the map you enclosed.

In an effort to streamline the Section 7 informal review process, we have developed a new on-line service. You can access it at <http://www.fws.gov/midwest/Endangered> and click on the Section 7 Technical Assistance green shaded box in the lower right portion of the screen. Then you should carefully follow the instructions. There are three steps to this process; however, your project may or may not reach step 3. Depending upon the outcome of the answers to specific questions for each project, you may determine that your project would have no effect on federally listed species (i.e., make a "no effect" finding for the project.). You can then actually print documentation of your "no effect" determination for a particular project to retain for your records. You may use this "no effect" determination as documentation when you apply for Federal permits (e.g., COE 404 permits) or Federal funding (e.g., HUD grants). We encourage you to use this new service, but feel free to contact this office if you have any questions.

Based on the information provided in your submittal and a review of our records, we do not believe that any federally endangered or threatened species occur in the vicinity of the site. This conclusion is based on the best available information, including information in your submittal, the scientific and technical literature, and our own files. Newer information based on updated surveys, changes in the abundance and distribution of listed species, changed habitat conditions,

Mr. Thomas F. McFarland

2

or other factors could change the conclusion. This could become more likely if projects experience significant delays in implementation. Feel free to contact us if you need more current information or assistance regarding the potential presence of federally listed species.

These comments only address federally listed species. Please contact the Illinois Department of Natural Resources for information on State-listed species. Also, we may have the opportunity to review the project for a broader range of fish and wildlife impacts if it requires a Section 404 permit. We are willing to work with you in advance of formal submittal if it would help streamline the approval process.

If you have any questions, please contact Ms. Cathy Pollack at 847/381-2253 ext.20, or me at 847/381-2253 ext. 12.

Sincerely,

A handwritten signature in black ink that reads "Karla J. Kramer". The signature is written in a cursive style with a large, prominent "K" at the beginning.

Karla J. Kramer
Assistant Field Supervisor

12 7

From: Simon Monroe <Simon.Monroe@noaa.gov>
 To: mcfarland@aol.com
 Cc: Surface Transportation Board <sea@stb.dot.gov>; Surveyorlady@yahoo.com; Chris Pearson <Chris.Pearson@noaa.gov>; Gilbert Mitchell <Gilbert.Mitchell@noaa.gov>; Simon Monroe <Simon.Monroe@noaa.gov>
 Subject: NGS Response, STB Docket AB-1036
 Date: Mon, Oct 5, 2009 4:20 pm

Thank you for sharing your railroad abandonment environmental report for Chicago, Cook County, ILLINOIS.

Approximately 01 geodetic survey marks may be located in the area described. If marks will be disturbed by the abandonment, [THE RAILROAD] shall consult with the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities that will disturb, or destroy any geodetic station

marks are described on the attached file. Additional advice is provided at <http://geodesy.noaa.gov/marks/railroads/>
 |Dist|PID...|H V|Vert_Source|Latitude.....|Longitude.....|Stab|Designation

|---|---|---|---|---|---|---|---|

|...|ME1631|. 1|88/ADJUSTED|N415438.....|W0873917.....|B...|X 134

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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

STB Docket No. AB-1036

**THE CITY OF CHICAGO, ILLINOIS
– ADVERSE ABANDONMENT –
CHICAGO TERMINAL RAILROAD IN CHICAGO, IL**

FEDERAL REGISTER NOTICE

THE CITY OF CHICAGO, ILLINOIS (the City) gives notice that on or about December 21, 2009, it filed with the Surface Transportation Board (“the Board”), Washington, D.C. 20423, an application seeking adverse abandonment of the authority of Chicago Terminal Railroad (CTM) to operate over two rail lines in Chicago, Illinois, i.e.: (1) a portion of CTM’s Kingsbury Branch from its southern terminus at the intersection of Kingsbury, Division, and Halsted Streets, to, but not including, the point at which CTM’s Goose Island Branch diverges from the Kingsbury Branch at or near Willow Street, a distance of approximately 6 city blocks (.75-mile) (“the Kingsbury Segment”); and (2) a portion of CTM’s Lakewood Avenue Line between the southwest right-of-way line of Clybourn Avenue and the Line’s northern terminus at Diversey Parkway, a distance of approximately 7 city blocks (.875-mile) (“the Lakewood Segment”). Those rail lines are situated in U.S. Postal Zip Codes 60614 and 60622. The lines include no stations, and are not described by mileposts.

There is no documentation in the City's possession that indicates that the line contains federally granted rights-of-way. Any such documentation relating to this abandonment in the Applicant's possession will be made available promptly to those requesting it. The application can be viewed on the Board's webpage, *www.stb.dot.gov*, or a copy can be secured from Applicant's counsel, whose name and address appear below. The Applicant's entire case for abandonment was filed with the application.

The interest of railroad employees will be protected by the employee protective conditions imposed in *Oregon Short Line R. Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979).

Any interested person may file with the Surface Transportation Board its protest of, or written comments concerning, the proposed abandonment identifying it by the proceeding's docket number. These filings are due 45 days after the application is filed. All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for railbanking and interim recreational trail use. Any request for a trail use condition under 16 U.S.C. § 1247(d) (§ 1152.29 of the Board's rules) must also be filed within 45 days from the date of filing of the application. Persons who may oppose the abandonment, but who do not wish to participate fully in the process by appearing at any oral hearings or by submitted verified statements of witnesses containing detailed evidence, should file comments. Persons interested in seeking trail use conditions should also file comments. Persons opposing the proposed abandonment who wish to participate actively and fully in the process should file a protest. Protests must contain that party's entire case in opposition including the following: (1) the protestant's name, address and business, (2) the protestant's interest in the proceeding, including their use of the line or the public interest represented, (3) the

protestant's reasons for protesting or commenting on the proposed abandonment, including their reliance on the involved service, and (4) any rebuttal of material submitted in the application.

Protests or comments need to be notarized or verified, and an unbound original and ten copies are required to be filed with the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, at 395 E Street, S.W., Washington, DC 20423, together with a certificate of service attesting that copies of the comments or protests have been served on Applicant's counsel in this matter, Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112, phone 312-236-0204, fax 312-201-9695, mcfarland@aol.com. Written comments and protests must indicate the proceeding designation STB AB-1036.

Except as otherwise set forth in 49 C.F.R. § 1152, each document filed with the Board must be served on all parties to the abandonment proceeding. Protests and comments will be considered by the Board in determining what disposition to make of the application. A commenting party or protestant may participate in the proceeding as its interest may appear.

If an oral hearing is desired, the requester must make a request for an oral hearing and provide reasons why an oral hearing is necessary. Oral hearing requests must be filed with the Board no later than 10 days after that application is filed.

Those parties filing protests to the proposed abandonment should be prepared to participate actively either in an oral hearing or through the submission of their entire opposition case in the form of verified statements and arguments at the time they file a protest. Parties seeking information concerning the filing of protests should refer to 49 C.F.R. § 1152.25.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Service at (202) 245-0230 or refer to the text of the abandonment regulations at 49 C.F.R. § 1152.1, *et seq.*

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Board's Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

CONTENTS - APPENDIX 5

VERIFICATION

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

STEVEN J. HOLLER makes oath and says that he is the Deputy Corporation Counsel of the City of Chicago; that he has been authorized by the applicant to verify and file with the Surface Transportation Board the foregoing application in STB AB-1036; that he has carefully examined all of the statements in the application as well as the exhibits attached thereto and made a part thereof; that he has knowledge of the facts and matters relied upon in the application; and that all representations set forth therein are true and correct to the best of his knowledge, information and belief.

Steven J. Holler

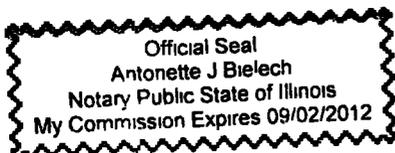
STEVEN J. HOLLER

Subscribed and sworn to
before me, in and for the
State and County above named,
this 14~~th~~ day of January, 2010.

Antonette J. Bielech

Notary Public

My Commission expires: 9/2/12



CONTENTS - APPENDIX 6

AFFIDAVIT OF PUBLICATION

Pursuant to 49 C.F.R. § 1152.24(b), the undersigned, in behalf of the City of Chicago, Illinois, certifies that a Notice of Intent to File an Application for Adverse Abandonment was served and published in compliance with 49 C.F.R. § 1152.20. That Notice was mailed on November 23, 2009 to the entities listed in 49 C.F.R. § 1152.20(a)(2) and to certain shippers as directed in the Board's decision in this proceeding served on July 10, 2009. The Notice was served on those entities again, and was filed at the Board on January 11, 2010. In accordance with 49 C.F.R. § 1152.20(a)(4), the Notice was published in the Chicago Sun-Times, a newspaper of general circulation in Cook County, Illinois, during each of three consecutive weeks as follows:

January 11, 2010

January 18, 2010

January 25, 2010

The requirement of posting the Notice in 49 C.F.R. § 1152.20(a)(3) was exempted in the decision served July 10, 2009.

Thomas F. McFarland
Thomas F. McFarland

SUBSCRIBED and SWORN
to before me this 20th day
of January, 2010.

Kathleen Lenhan
Notary Public



My Commission expires: 1/29/2010

#1277

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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

STB Docket No AB-1036

**THE CITY OF CHICAGO, ILLINOIS
-- ADVERSE ABANDONMENT --
CHICAGO TERMINAL RAILROAD IN CHICAGO, IL**

**NOTICE OF INTENT TO FILE AN APPLICATION
FOR ADVERSE ABANDONMENT**

THE CITY OF CHICAGO, ILLINOIS (the City) gives notice that on or about February 1, 2010, the City intends to file with the Surface Transportation Board ("the Board"), Washington, D.C. 20423, an application seeking adverse abandonment of the authority of Chicago Terminal Railroad (CTM) to operate over two unused rail lines in Chicago, Cook County, Illinois, i.e.:

(1) a portion of CTM's Kingsbury Branch from its southern terminus at the intersection of Kingsbury, Division, and Halsted Streets, to, but not including, the point at which CTM's Goose Island Branch diverges from the Kingsbury Branch at or near Willow Street, a distance of approximately 6 city blocks (.75-mile) ("the Kingsbury Segment"); and (2) a portion of CTM's Lakewood Avenue Line between the southwest right-of-way line of Clybourn Avenue and the Line's northern terminus at Diversey Parkway, a distance of approximately 7 city blocks (.875-mile) ("the Lakewood Segment"). The affected railroad lines are situated in U.S. Postal Zip Codes 60614 and 60622. The lines do not have stations and are not described by mileposts. The reasons for the proposed abandonment include (i) the absence of current use of the lines, (ii) the lack of any reasonably foreseeable future need for rail service on the lines; and (iii) the prospect for significant nonrail benefits from abandonment. In addition, there are significant safety concerns.

There are no documents in the City's possession that indicate that the lines contain federally granted rights-of-way. Any such documentation that might come into the City's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the employee protective conditions imposed in Oregon Short Line R. Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979).

The application, when filed, can be viewed following its filing on the Board's webpage, www.stb.dot.gov, or a copy can be secured from the City's counsel, whose name and address appear below. The application will include the City's entire case for abandonment. Any interested person, after the application is filed on or about February 1, 2010, may file with the Surface Transportation Board its protest of, or written comments concerning, the proposed abandonment identifying it by the proceeding's docket number.

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These filings are due 45 days from the date of filing of the application. All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for railbanking and interim recreational trail use. Any request for a trail use condition under 16 U.S.C. § 1247 (d) (§ 1152.29 of the Board's rules) must also be filed within 45 days from the date of filing of the application. Persons who may oppose the abandonment, but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses containing detailed evidence, should file comments. Persons interested in seeking trail use conditions should also file comments. Persons opposing the proposed abandonment who wish to participate actively and fully in the process should file a protest. Protests must contain that party's entire case in opposition including the following. (1) the protestant's name, address and business, (2) the protestant's interest in the proceeding, including their use of the line or the public interest represented, (3) the protestant's reasons for protesting or commenting on the proposed abandonment, including their reliance on the involved service, and (4) any rebuttal of material submitted in the application. Protests or comments need to be notarized or verified, and an unbound original and ten copies are required to be filed with the Chief, Section of Administration, of the Board's Office of Proceedings, at 395 E Street, S.W., Washington, DC 20423, together with a certificate of service attesting that copies of the comments or protests have been served on the City's counsel in this matter, Thomas F McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112, phone 312 236-0204, fax 312 201 9695, mcfarland@aol.com. Except as otherwise set forth in 49 C.F.R. § 1152, each document filed with the Board must be served on all parties to the abandonment proceeding. Protests and comments will be considered by the Board in determining what disposition to make of the application. A commenting party or protestant may participate in the proceeding as its interests may appear.

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Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Service at (202) 245-0230 or refer to the text of the abandonment regulations at 49 C.F.R. § 1152.1, et seq.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Board's Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.
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CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2010, I served the foregoing document, Application

For Adverse Abandonment, by first-class, U.S. mail, postage prepaid, on the following:

(by overnight mail)

John D. Heffner, Esq.
John D. Heffner, PLLC
1750 K Street, N.W., Suite 350
Washington, DC 20006

Hon. Pat Quinn, Governor
Office of the Governor
207 State House
Springfield, IL 62706

Illinois Department of Transportation
2300 South Dirksen Parkway
Springfield, IL 62764

Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701



Thomas F. McFarland