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April 20, 2010

Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

RE: Adverse Abandonment Petition of Cerro Gordo County, Iowa and regarding
Backtrack, Inc. best to be Docket No. AB-1063

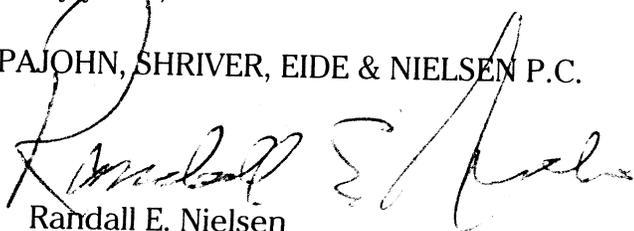
Dear Sir or Madam:

Enclosed please find the original and nine copies of a Petition for Waivers and Exemptions preliminary to the filing of an application for adverse abandonment on behalf of Cerro Gordo County, Iowa and concerning railroad right-of-way owned by Backtrack, Inc., an Iowa corporation. I have served a copy of the Petition for Waivers upon the principal of Backtrack, Inc. and upon the attorney last known to represent Backtrack, Inc. with respect to this matter. Please contact the undersigned with any questions or concerns.

Very truly yours,

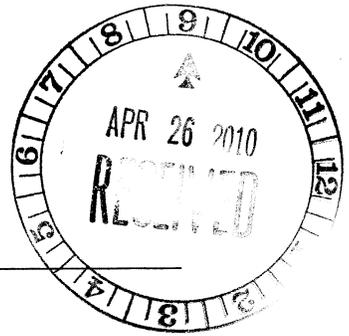
PAPPAJOHN, SHRIVER, EIDE & NIELSEN P.C.

By:


Randall E. Nielsen

REN/ajh
Enclosures

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



STB Docket No. AB-1063

BACKTRACK, INC. - ADVERSE ABANDONMENT

IN CERRO GORDO COUNTY, IOWA

PETITION FOR WAIVERS AND EXEMPTION

EXPEDITED CONSIDERATION REQUESTED

Cerro Gordo County, Iowa (the “County”), by and through the undersigned counsel, petitions the Surface Transportation Board (the “Board”) for the waiver of the Board’s abandonment regulations in 49 C.F.R. Parts 1152 and 1105, and for exemption from certain provisions of Subtitle IV of Title 49 of the U.S. Code. Because the County is a local government entity, it is entitled to a waiver of filing fees pursuant to the provisions of 49 CFR § 1002.2(e). In support of the Petition for Waivers, Petitioner states as follows:

I. INTRODUCTION

This matter involves the crossing of a county hard surface highway, locally known as Road B-20, also known locally as 300th Street, in Cerro Gordo County, Iowa. Said

county highway is intersected by an at-grade crossing of a railroad right-of-way owned by Backtrack, Inc. Cerro Gordo County has provisionally received commitments for federal highway monies committed to safety enhancements of rural highways for this project. The realignment of the roadway would require the installation of a banked curve where the Backtrack railroad right-of-way currently intersects Road B-20. In order to complete the realignment of the Road B-20, it will be necessary to permanently remove the crossing of B-20 by the Backtrack railroad right-of-way and to remove the railroad bed one hundred fifty feet north and south of the centerline of the reconfigured Road B-20. The Petitioner will request that the Board order the abandonment of the area of the Backtrack right-of-way necessary for the reconfiguration of Road B-20. The Petitioner will further request that the Board order that the area of the abandoned right-of-way, and the crossing itself, be conveyed to Cerro Gordo County, Iowa, pursuant to 49 U.S.C. 10905, which provides that if the Board finds that the rail property to be abandoned is appropriate for public purposes and not required for continued rail operations, the properties may be sold or “otherwise disposed of” under conditions contained in the order of the Board.

The Backtrack railroad right-of-way, at the point of its intersection with Road B-20, serves no useful purpose. No railroad traffic has utilized this crossing for decades. The track itself is in an extreme state of disrepair in the area of the crossing. In fact, to the north of the crossing with B-20, there appears to be no trackage at all. There is no basis to believe that there will be any railroad service over this particular portion of the line at

any time in the foreseeable future. This section of Road B-20 has been identified as a safety hazard and it is necessary to permanently remove the crossing of the Backtrack, Inc. railroad right-of-way from Road B-20 in order to reconfigure the road so as to enhance public safety.

Backtrack owns track in the City of Mason City, Iowa, and Cerro Gordo County, Iowa. To the knowledge of Cerro Gordo County, there has been no usage of the right-of-way which intersects Road B-20 by Backtrack, or any carrier, for more than two decades. It is the belief, knowledge, and information of Cerro Gordo County that the particular portion of the railroad right-of-way owned by Backtrack that intersects with Road B-20 has also not been used in several decades. The intersection of the railroad right-of-way with Road B-20 is at the northern end of this particular railroad right-of-way owned by Backtrack. The railroad right-of-way owned by Backtrack intersects with no other railroad north of B-20 and, in fact, the original railroad bed, a short distance north of Road B-20, has been formally abandoned. There is currently no connection, either on the north or south end of the line, nor at any point in between, that would allow any rolling stock to be placed upon any portion of the track that intersects Road B-20. There are no businesses served by this track nor does anyone depend upon this section of track for employment or commerce. This track, therefore, is physically severed from the nation's rail system.

At the point where the line intersects Road B-20, the line is lacking any evidence of maintenance. North of Road B-20, there appear to be no tracks or ties at all. South

of the intersection with Road B-20, there are missing rails, rocks in the roadbed, and trees and bushes in the roadbed. The particular crossing involved in this Application is signed as “exempt” which, under Iowa law, is posted only when tracks have been at least partially removed on either side of the roadway. *Iowa Code*, Section 321.343(3). Attached is an affidavit of Sandy Johnson indicating that there was no railroad traffic on the line as long ago as 1981. Exhibit C, attached hereto. Also attached hereto are photographs of the crossing and adjacent railroad right-of-way showing the current conditions. Exhibit D, attached hereto. An aerial photograph of the area, including the crossing, is attached as Exhibit E.

II. WAIVERS

The Board and its predecessor have consistently found that much of the information required by the Board’s governing regulations in an abandonment application is largely inapplicable or irrelevant to the issues in an adverse abandonment case. *CSX Corporation and CSX Transportation, Inc.-Adverse Abandonment-Canadian National Railway Company and Grand Trunk Western Railroad Inc.*, STB Docket No. AB-31 (Sub-No. 38) (served March 2, 2001); *Chelsea Property Owners-Abandonment-Portion of Consolidated Rail Corporation’s West 30th Street Secondary Track in New York, NY*, Docket No. AB-167 (Sub-No. 1094) (served July 19, 1989); and *City of Rochelle, Illinois-Adverse Discontinuance-Rochelle Railroad Company*, STB Docket No. AB-549 (served June 5, 1998). Consistent with the foregoing precedents, waiver of the following provisions is requested:

Waiver of filing fees.

Cerro Gordo County, Iowa is the applicant. Because the County is a local government entity, it is entitled to a waiver of the filing fees for the application (\$18,100) and for the instant waiver request (\$1,400), pursuant to the provisions of 49 CFR § 1002.2(e).

Contents of Notice of Intent.

Petitioner is prepared to file and publish a notice of the proposed adverse abandonment. Petitioner believes the wording of the notice, as prescribed in 49 C.F.R. 1152.21, is inappropriate for use in this proceeding. Petitioner therefore asks for the waiver of the provisions of 49 C.F.R. 1152.21, proposing instead to be allowed to use the form of notice as set forth in Attachment A. Such relief is consistent with the Board's decision in *Seminole Gulf Railway, L.P.-Adverse Abandonment-In Lee County FL*, STB Docket No. AB-400 (Sub-No. 4) (served June 9, 2004).

Waiver of Notice Requirements.

1. Significant Users. Petitioner requests a waiver of 1152.20(a)(2)(i) insofar as it requires service on significant users of the lines. There are no known users of this line as no rail service has been provided for as much as two decades.

2. Labor Organizations. Petitioner requests a waiver of 1152.20(a)(2)(xii), requiring the service of the notice on the headquarters of all duly certified labor organizations that represent employees on the affected rail line. Because no rail service has been performed over the rail line for some time, there are no known railroad employees who

would be affected by this adverse abandonment. Last, it has been consistently held that “employee protective conditions are not imposed in cases involving completed abandonments.” *Modern Handicraft, Inc. -Abandonment in Jackson County, MO*, 363 I.C.C. 969, 973 (1981). *See also, Northhampton and Bath R. Co.-Abandonment*, 354 I.C.C. 784, 785-787 (1978); *Wellsville, Addison & Galetton R. Corp.-Abandonment*, 354 I.C.C. 744, 745-746 (1978). The request of the County in this matter would result in the complete abandonment of a portion of the extreme northern portion of the railway right-of-way owned by Backtrack in the City of Mason City and in Cerro Gordo County. Most of said railway would not be affected.

3. Posting at Stations. Petitioner requests a waiver of 1152.20(a)(3), which requires that the notice be posted at each of the railroad’s stations. Upon information and belief, and inspection, the County believes that Backtrack does not have any agency stations or terminals through which business for the involved lines is received or forwarded on this railroad line.

4. Requirements of Carriers Pursuant to 49 U.S.C. 10903. Petitioner asserts that it is not necessary to seek an exemption from the provisions of 49 U.S.C. 10903 in general as the provisions of that statute apply only to carriers. *See, Napa Valley Wine Train, Inc.-Adverse Abandonment-In Napa Valley, CA*, STB Docket No. AB-582 (served March 30, 2001), “exemption requests [with respect to the underlying statutory provisions of 49 U.S.C. 10903(c) and the notice provisions in 49 U.S.C. 10903(a)(3)] are unnecessary because the statute imposes these requirements only on carriers.” Petitioner is not a

carrier and does not believe that Backtrack is a carrier. Certainly, no active commerce is being carried on upon the railroad line owned by Backtrack that is in question in this matter and no commerce has been carried on there for more than two decades. Petitioner asserts that there are no employees, shippers, businesses, nor aspects of commerce in general that will be affected by the abandonment being requested by the Petitioner. Except as specifically proposed herein, the notice and other provisions of 49 U.S.C. 10903 should be found inapplicable to this Petitioner.

5. Publication. Petitioner requests a specific waiver of 1152.20(a)(4), which requires newspaper publication of a notice of abandonment as there are no users of the line, no business that is affected by the line and no employees or other persons that are affected by the line. In seeking this exemption, Petitioner agrees to serve copies of their notice of intent to file an abandonment, this petition, and the related abandonment application on Backtrack, Inc. , which is the only conceivable entity with any remaining interest in this portion of the line. Petitioner requests waiver of the necessity of providing notice to the parties listed in 49 C.F.R. 1152.20(a)(i-xii), for the reasons stated in *Napa Valley, supra*, but also because the line is totally inactive and not connected to the national rail system.

Waiver of Environmental and Historic Requirements.

Petitioner requests a waiver of 1152.20(c), which requires service of copies of the Environmental and Historic Report at least 20 days in advance of the filing of the application, as well as a waiver of the provisions of 1105.7 and 1105.8 that describe and

pertain to the Environmental and Historic Reports. There are no railroad structures on the right-of-way in question and the actual amount of the railroad right-of-way requested to be adversely abandoned by the Petitioner is very small. In fact, there are no structures of any kind on or near the portion of the railroad right-of-way for which abandonment is requested.

Because the portion of the line in question has not been operated for over two decades, resulting in a *de facto* abandonment, the proposed adverse abandonment would not cause or change any carrier operations. The proposed adverse abandonment, therefore, will come within the provisions of 49 C.F.R. 1105.6(c)(2), requiring no environmental or historical documentation in any action that does not result in significant changes in carrier operations. *See, e.g., Salt Lake City Railroad Company, Inc.-Adverse Abandonment-Line of Utah Transit Authority in Salt Lake City, UT*, STB Docket No. AB-520 (served August 24, 1999).

In any event, the abandonment will not have any impact on any historic structures associated with the railroad, because there are none. Consistent with the provisions of 1105.8(e), the requirements related to the historic report should be waived because the information sought “is not necessary to determine the presence of historic properties and the effect of the proposed action on them.”

Petitioner asks for the waiver of 49 C.F.R. 1152.22(f), requiring the disclosure of the information relating to the environmental impact of the proposed adverse abandonment. Given the lack of rail freight service for over two decades at the point where the railroad

line intersects with Road B-20, it is again respectfully submitted that the adverse abandonment will clearly have no impact on the environment. The actual area over which abandonment is requested is so small that no environmental impact will result.

Content of the Application.

The applicant does not believe that the railroad line that will be affected by this proposed adverse abandonment is included in any system diagram map (“SDM”). Accordingly, Petitioner asks for the waiver of 49 C.F.R. 1152.22(a)(4) and (5), and 1152.24(e)(1), which requires submission of a detailed map of the subject line and reference to the carrier’s SDM. A waiver is consistent with the Board’s finding in *Napa Valley Wine Train, Inc.-Adverse Abandonment-Napa Valley, CA*, STB Docket AB-582 (served March 30, 2001), in which the Board states that compliance with the SDM requires “is not feasible by a third party applicant.” The public maps available to the Petitioner do not show the Backtrack right-of-way. The Petitioner does possess aerial photographs of the area that show the location of the Backtrack property, nearby railways, Road B20 and other physical features of the area. A copy of the aerial photograph is attached as Exhibit D.

System Diagram.

Petitioner also seeks a waiver of all requirements in 49 C.F.R. 1152.10-14. Said provisions relate to filing, amending and providing notice to the public through carrier’s SDM and establish a two-month waiting period between amendment of the SDM and

filing the corresponding abandonment application. Waiver of these regulations is appropriate because the Petitioner/Applicant does not own the affected line and cannot file or amend the SDM filings. As the Board recognized in *Napa Valley, supra*, “exemption requests [with respect to the underline statutory provisions of 49 U.S.C. 10903(c) and the notice provisions of 49 U.S.C. 10903(a)(3)] are unnecessary because the statute imposes these requirements only on carriers. Other adverse abandonment cases in which waivers and exemptions from SDM requirements have been granted include the following: *The Western Stock Show Association-Abandonment Exemption-In Denver, CO*, STB Docket No. AB-452 (Sub-No.1X) (served October 19, 1995); *Grand Trunk Western Railroad Incorporated-Adverse Discontinuance of Trackage Rights Application-A Line of Norfolk and Western Railway Company in Cincinnati, Hamilton County, OH*, STB Docket No. AB-31(Sub-No. 30) (served February 12, 1998), (the filing of a SDM is not appropriate in the context of an adverse abandonment).

Condition, Service Status, and Revenue.

Petitioner asks for the waiver of 49 C.F.R. 1152.22(b)-(d), relating to the condition of the line, the service provided, and revenue and cost data regarding the operation of the line. While Petitioner is aware that there is no rail operation over the line that will be affected by this abandonment request, and has not been for over two decades, the Petitioner is without knowledge of the underlying condition of the whole of the affected railroad line and the estimated costs of deferred maintenance and rehabilitation. The same is true regarding the revenue and cost data associated with the line, although it is

apparent that the line generates no revenue and has not for sometime. The Petitioner is aware that the line is in very poor maintenance at the point where it intersects Road B-20 and at various other points along the line. See Exhibit D. These requirements are also appropriate to be waived because the proposed abandonment involves only a very small portion of the right-of-way.

Public Use and Disposition.

The Board will be requested to find , pursuant to 49 U.S.C. 10905, that the crossing of Road B-20 and those areas immediately adjacent to the roadway contained in the Backtrack right-of-way are appropriate for public highway use and the Board should direct that ownership of said property be transferred to Cerro Gordo County to the extent necessary to complete the planned reconfiguration of Road B-20.

After completion of the roadway reconfiguration, nearly all of the Backtrack right-of way will remain available for other uses. Because the public highway use for this portion of the railroad right-of-way is clearly in the best interest of the public, Petitioner requests exemption from and wavier of the requirements and conditions of 49 C.F.R. 1152.28 (regarding public use procedures), 49 C.F.R. 1152.29 (regarding trail use and rail banking), and 49 C.F.R. 1152.27 (regarding financial assistance) , on the assumption that the Board will find, based upon Petitioner's application, that the abandonment of this small portion of the line is consistent with the present and future public convenience and necessity and that the public interest does not require retention of the Board's jurisdiction

over those portions of the line. *Union Pacific Railroad Company-Abandonment Exemption-In Monroe County, IA*, STB Docket No. AB-33 (Sub-No. 153X) (served September 1, 2000); *Doniphan, Kensett and Searcy Railway-Abandonment Exemption-In Searcy, White County, AR*, STB Docket No. AB-558X (served May 6, 199). Adherence to the procedures in these sections would serve no useful purpose in view of the findings to be requested by the Petitioner and would not be necessary to carry out the railroad transportation policy of 49 U.S.C. 10101.

The portion of the line that intersects Road B-20 in Cerro Gordo County, Iowa is requested to be dedicated to public use specifically for use in a reconfigured roadway. The Board will be requested to find that this small portion of the line, at the north end of the line, is appropriate for highway use and is not required, nor even foreseeably useful, for rail operations. The Board will be requested to order that the portion of the line required for the highway use be transferred to the Petitioner pursuant to the authority of the Board established by 49 U.S.C. 10905, which provides that if the Board finds rail property, determined appropriate to be abandoned, also to be appropriate for public purposes and not required for continued rail operations, the properties may be sold or “otherwise disposed of” under conditions provided in the order of the Board. In this case, the property, being of no discernable value, should simply be ordered conveyed to the Petitioner.

Other Authority Supporting Granting of Waiver Requests.

The foregoing waiver requests are consistent with the waivers heretofore granted by the Board in adverse abandonment proceedings. *See, e.g., Seminole Gulf Railway, L.P.-Adverse Abandonment-In Lee County, FL*, STB Docket No AB-400 (Sub-No. 4) (served June 9, 2004); *Napa Valley Wine Trains, Inc.-Adverse Abandonment-In Napa Valley, CA*, STB Docket No. AB-582 (served March 29, 2001); *CSX Corporation and CSX Transportation, Inc.-Adverse Abandonment-Canadian National Railway Company and Grand Trunk Western Railroad Inc.*, STB Docket No. AB-31 (Sub-No. 38) (served March 2, 2001); *Salt Lake City Railroad Company, Inc.-Adverse Abandonment-Line of Utah Transit Authority in Salt Lake City, UT*, STB Docket No. AB-520 (served August 24, 1999). Petitioner respectfully requests that its waiver requests be granted.

Contents of Abandonment Application.

Should the Board grant the requested waivers, the abandonment application will include only the following items of information:

- (a) General
 - (1) Exact name of applicant;
 - (2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105;
 - (3) Relief sought;
 - (4) Aerial photograph of the area of the line sought to be affected;

- (5) Photographs of the crossing itself and the state of the track in the area of the crossing and in other areas;
 - (6) Detailed statement of reasons for filing application;
 - (7) Name, title, and address of applicant's representative;
 - (8) List of all Postal Service ZIP Code that the line traverses;
- (b) Rural and community impact;
 - (c) Additional information that may be required by the Board; and
 - (d) Draft Federal Register notice.

The normal informational requirements of the Board's abandonment regulations should be waived to the extent described above for the reasons previously expressed. In the final analysis, because the line has been dormant for more than two decades, and because there is no indication that there is any need for future rail service over the line in question, because the applicant requires abandonment of the portion of the line that intersects Road B-20 for public safety purposes and because the adverse abandonment application will affect only a small portion of the northern end of the line, the public convenience and necessity requires and permits the abandonment of the line to the extent requested by the Petitioner.

Content of Federal Register Notice.

Petitioner is prepared to submit a draft Federal Register notice with its application. In view of its other waiver requests, Petitioner believes the wording of the notice, as prescribed in 49 C.F.R. 1152.22(i), is inappropriate for use in these proceedings.

Therefore, Petitioner asks for the waiver of 49 C.F.R. 1152.22(i) and proposes instead to be allowed to use the form of notice as set forth in Attachment B.

III. REQUEST FOR EXPEDITED CONSIDERATION AND WAIVER TIME PROVISIONS FOR SUBPART C

Petitioner intends to file their adverse abandonment application on or soon after May 5, 2010. All concerned will benefit from prompt consideration of the abandonment application. The County wishes to proceed with the reconfiguration of Road B-20 in the summer of 2010, thus expedited treatment of this matter is appropriate. Also, the time for filing of protests, comments, and replies contained in 49 C.F.R. § 1152.25(c) should be waived and reset for substantially reduced time periods. Because so much of the information that would otherwise be required in an abandonment proceeding may be waived by the Board in this matter, the full 45 days to reply to the County's application should be reduced. Backtrack has owned this property since 1996. Because there has been absolutely no railroad traffic or service on this portion of the railroad right-of-way in all of that time, and before, any reply to the Petitioner's application would necessarily be uncomplicated and brief. Reply to the Petitioner's application should take no more than 20 days. Backtrack is aware of the desire of the County to reconfigure the road and to remove the crossing from the roadway and has been aware of this intent for more than two years. No other party is expected to have any interest in this proposed adverse abandonment.

The Board's regulations and decisions indicate a preference that waivers be requested and obtained before an adverse application is filed. *See*, 49 C.F.R. 1152.24(e)(5); *Grand Trunk Western Railroad Incorporated-Adverse Discontinuance of Trackage Rights Application-A Line of Norfolk and Western Railway Company in Cincinnati, Hamilton County, OH*, STB Docket No. AB-31 (Sub-No. 30) (served February 12, 1998). Therefore, Petitioner respectfully requests the expedited consideration of this Waiver Petition and a Board decision be issued and made effective on or before April 28, 2010.

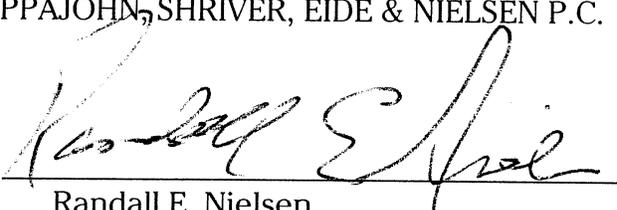
CONCLUSION

For all the above-stated reasons, the Board should grant the requested waivers of certain of the Board's abandonment regulations and exemption and also grant exemption from certain of the provisions of Subtitle IV of Title 49 of the U.S. Code in connection with the anticipated filing of an adverse abandonment application.

Respectfully submitted.

PAPPAJOHN, SHRIVER, EIDE & NIELSEN P.C.

By:


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Counsel to Cerro Gordo County, Iowa

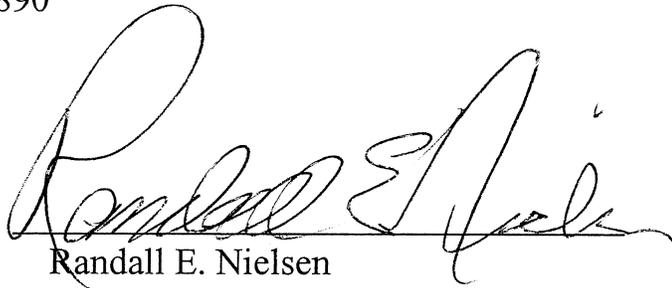
Dated: April 20, 2010

CERTIFICATE OF SERVICE

I, Randall E. Nielsen, do hereby certify that a true copy of the foregoing Petition for Waivers and Exemption was served this 20th day of April, 2010, by first-class mail on the following individuals:

Lynn Hawbaker
Backtrack, Inc.
P.O. Box 278
Bettendorf, IA 52722

Thomas McFarland, Attorney at Law
208 South LaSalle Street, Suite 1890
Chicago, IL 60604



Randall E. Nielsen

ATTACHMENT A
NOTICE OF ADVERSE ABANDONMENT

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

STB Docket No. AB-1063

Backtrack, Inc. - ADVERSE ABANDONMENT
IN CERRO GORDO COUNTY, IOWA

NOTICE OF ADVERSE ABANDONMENT
OF
CERRO GORDO COUNTY, IOWA

Cerro Gordo County, Iowa, (hereinafter "Applicant") hereby gives notice that on or about April 15, 2010, they intend to file with the Surface Transportation Board (the "Board"), Washington, D.C. 20423, an application seeking the adverse abandonment of approximately 300 feet of railroad right-of-way beginning 150 feet SSE of the proposed center line of the reconstructed county Road B-20 and extending 300 feet NNE across the proposed reconfiguration of county Road B-20, in the vicinity of the NW Corner of the NW $\frac{1}{4}$ of Section 27 and the NE Corner of the NE $\frac{1}{4}$ of Section 28, in the Township 97 North-Range 20 West in Cerro Gordo County, Iowa. The affected railroad line is situated in U.S. Postal Service ZIP Code 50401; the affected railroad way traverses no other U.S. Postal ZIP Codes and the line includes no stations. The reason for the proposed adverse

abandonment includes (i) the *de facto* abandonment of the line; (ii) the failure of the previous owner to maintain the line; (iii) the lack of any foreseeable future need for rail service, and (iv) the necessity of the use of the crossing of Road B-20 for the reconfiguration of Road B-20 in Cerro Gordo County, Iowa, to enhance public safety. The public safety concern is significant as Cerro Gordo County has received the conditional commitment of federal highway funds dedicated to the improvement of public highways necessitated by public safety concerns. Reconfiguration of Highway B-20 will require the installation of a bank curve and will not allow a crossing at grade level to exist after the completion of the reconfiguration of Road B-20. The line that intersects B-20 has been *de facto* abandoned for over two decades and the tracks and ties and line have not been maintained to any degree during that period of time. The railroad right-of-way north of B-20 has no rails or cross ties at all and, a short distance north of Road B-20, the railroad right-of-way has been formally abandoned. The right-of-way south of B-20 is missing a portion of the rail, has not been maintained to any degree, and is overgrown with trees and brush, including between the rails. The line that intersects Road B-20 is no longer physically connected with any other portion of the national rail system. The railroad line to be affected does not appear on any system diagram map of an operating railroad company.

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 applicant's counsel, whose name and address appears below. The Application will include Applicant's entire case for

abandonment. Any interested person, after the Application is filed on or about April 12, 2010, may file with the Service Transportation Board its protest of, or written comments concerning, the proposed abandonment identifying them by the proceedings' docket number. These filings are due 20 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 opposing the proposed abandonment that do 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 Secretary of the Board, at 1925 K Street, N.W., Washington, D.C. 20423-001, together with a certificate of service attesting that copies of the comments or protests have been served on Applicant's counsel in this matter, Randall E. Nieslen, Pappajohn, Shriver, Eide & Nielsen P.C., 103 East State Street, Suite 800, P.O. Box 1588, Mason City, Iowa 50402-1588. 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 Assistance at (202)-245-0245 or refer to the text of the abandonment regulations at 49 C.F.R. 1152.1, *et seq.*, which can be viewed at www.gpo.gov/nara.cfr.

ATTACHMENT B
FEDERAL REGISTER NOTICE

FEDERAL REGISTER NOTICE

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

STB DOCKET NO. AB 1063

BACKTRACK, INC.
ADVERSE ABANDONMENT
CERRO GORDO COUNTY, IOWA

The County of Cerro Gordo, Iowa, hereby gives notice that on May 12, 2010, they filed with the Surface Transportation Board (“the Board”), Washington, D.C. 20423, an application seeking the adverse abandonment of approximately 300 feet of railroad right-of-way of either side of Road B20 in Cerro Gordo County, Iowa, said railroad right-of-way presumably belonging to Backtrack, Inc. The affected railroad line is situated in U.S. Postal Zip Code 50401; the affected railroad line traverse no other U.S. Postal Zip Codes and the line includes no stations.

It is unknown whether the public record of the Board contains a system diagram map for this section of railroad right-of-way owned by Backtrack, Inc.

It is unknown whether the line contains a federally granted right-of-way. Any 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.

Any interested person may file with the Surface Transportation Board its protest of, or written comments concerning, the proposed abandonment identifying them by the proceedings' docket number. These filings are due 30 days after the application is filed. Persons who may oppose the abandonment, but who do not wish to participate fully in the process by appearing at an oral hearing or by submitting verified statements of witnesses containing detailed evidence, should file comments. Persons opposing the proposed abandonment that do 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 names, 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 Secretary of the Board, at 1925 K Street, N.W., Washington, D.C. 20423-001, together with a certificate of service attesting that copies of the comments or protests have been served on Applicant's counsel, Randall E. Nielsen, Pappajohn, Shriver, Eide & Nielsen P.C., 103 East State Street, Suite 800, Mason City, Iowa

50401, (641)-423-4264. Written comments and protests must indicate the proceeding designation STB No.- 1063.

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 the 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 protest should refer to 49 C.F.R. 1152.25.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance at (202)-245-0245 or refer to the text of the abandonment regulations of 49 C.F.R. 1152.1, et seq., which can be viewed at www.gpo.gov/nara.cfr.

AFFIDAVIT OF SANDRA JOHNSON

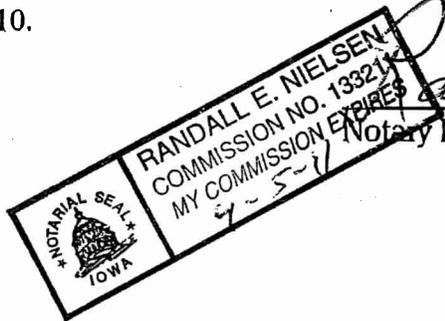
STATE OF IOWA)
)ss:
COUNTY OF CERRO GORDO)

I, Sandy Johnson, a resident of Mitchell County, Iowa, depose and state as follows:
I have been employed by Martin Marietta Aggregates for nearly 30 years. From 1981 to 1992, I worked at a quarry/pit operation for Martin Marietta on road B-20 in Cerro Gordo County, Iowa, just north of Mason City, Iowa, and just east of Spring Creek, known as the Quimby Quarry. Immediately adjacent to the quarry was the trackage now owned by Backtrack, Inc. In the years that I worked at the quarry for Martin Marietta, I at no time saw any rail traffic on these tracks and saw no rail traffic crossing B-20 on these tracks.

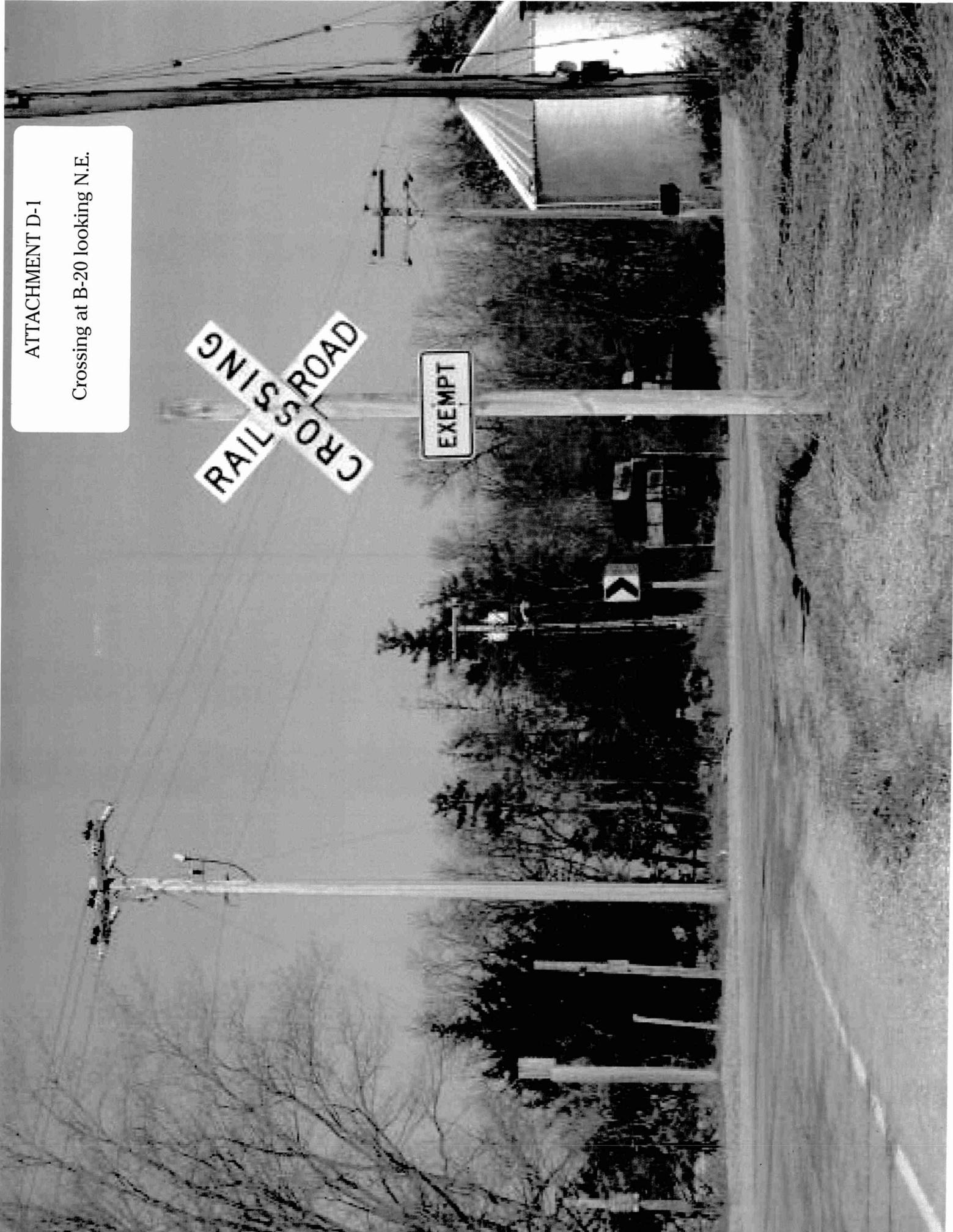
Sandra Johnson
Sandra Johnson

Subscribed and sworn to before me by the said on this 25 day of Feb., 2010.

Randall Nielsen
Notary Public in and for the State of Iowa

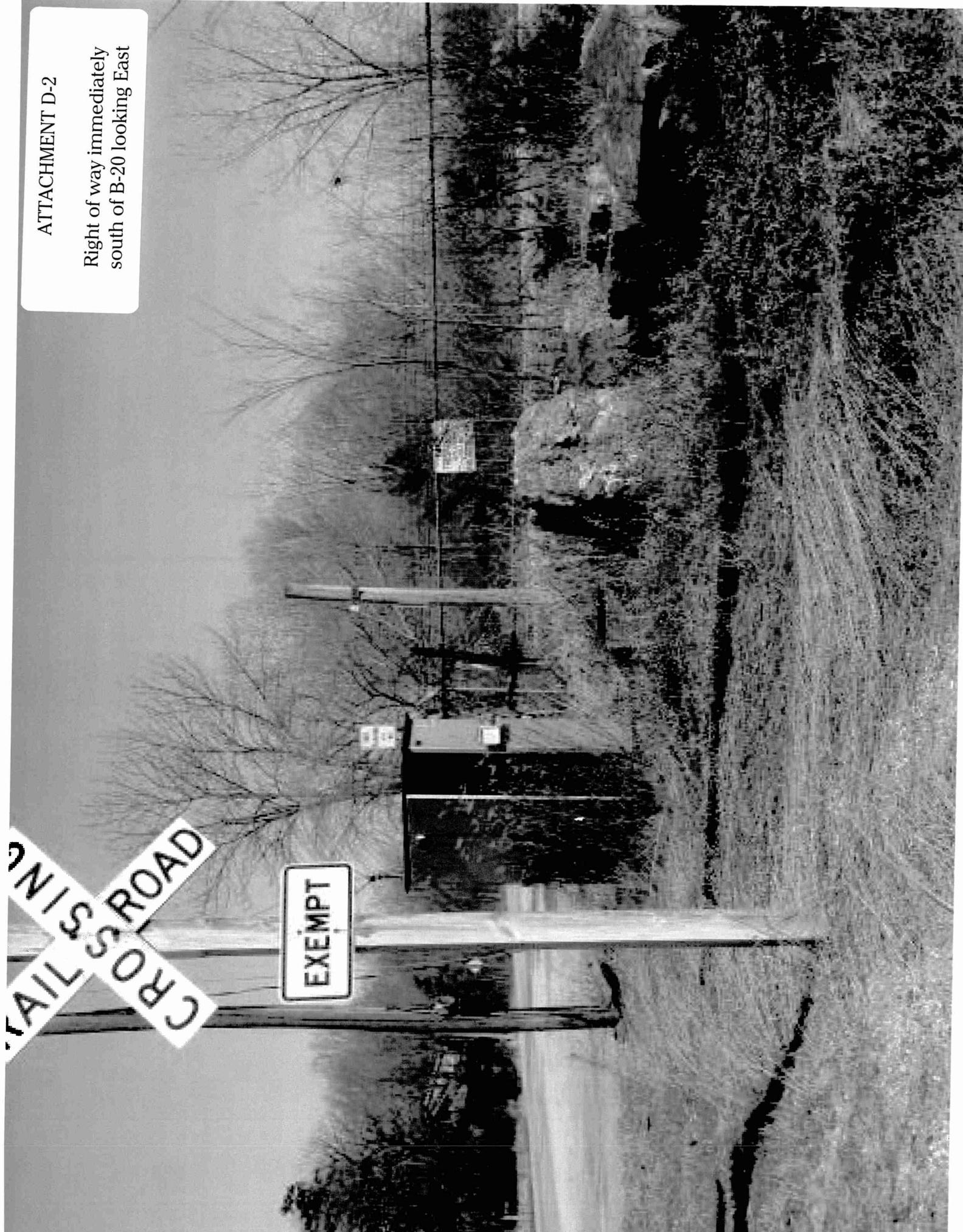


ATTACHMENT D-1
Crossing at B-20 looking N.E.



ATTACHMENT D-2

Right of way immediately south of B-20 looking East



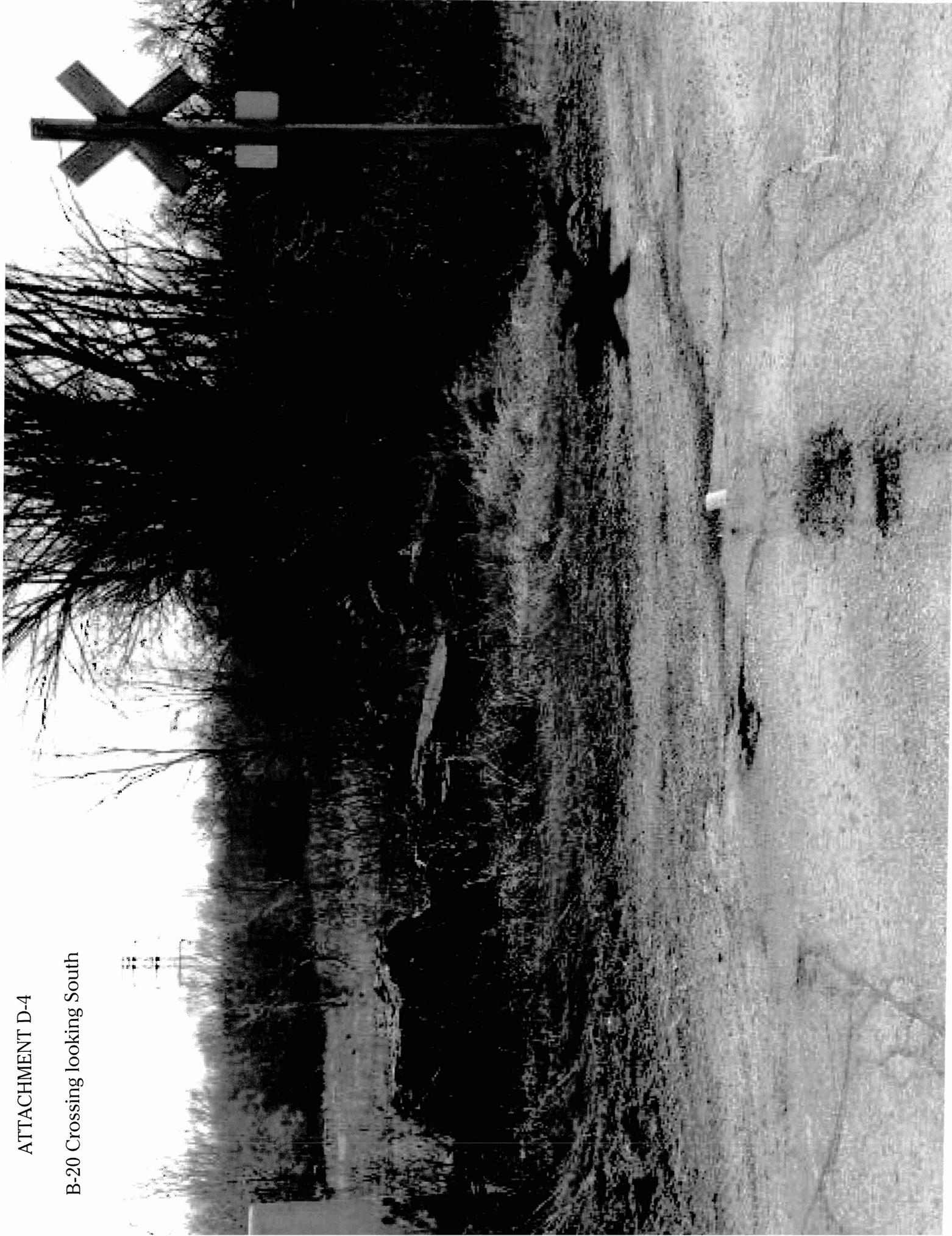
ATTACHMENT D-3

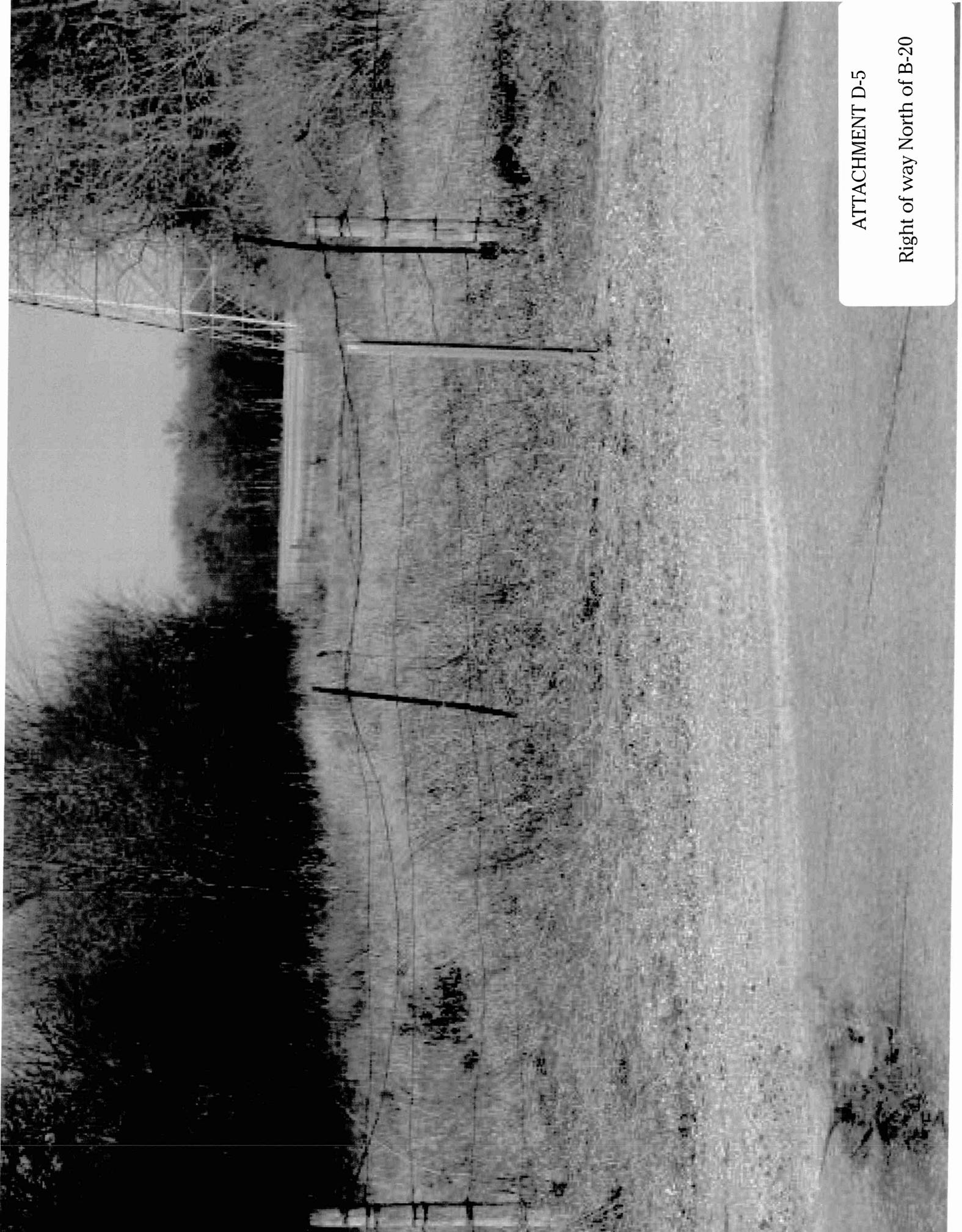
Right of way immediately
South of B-20



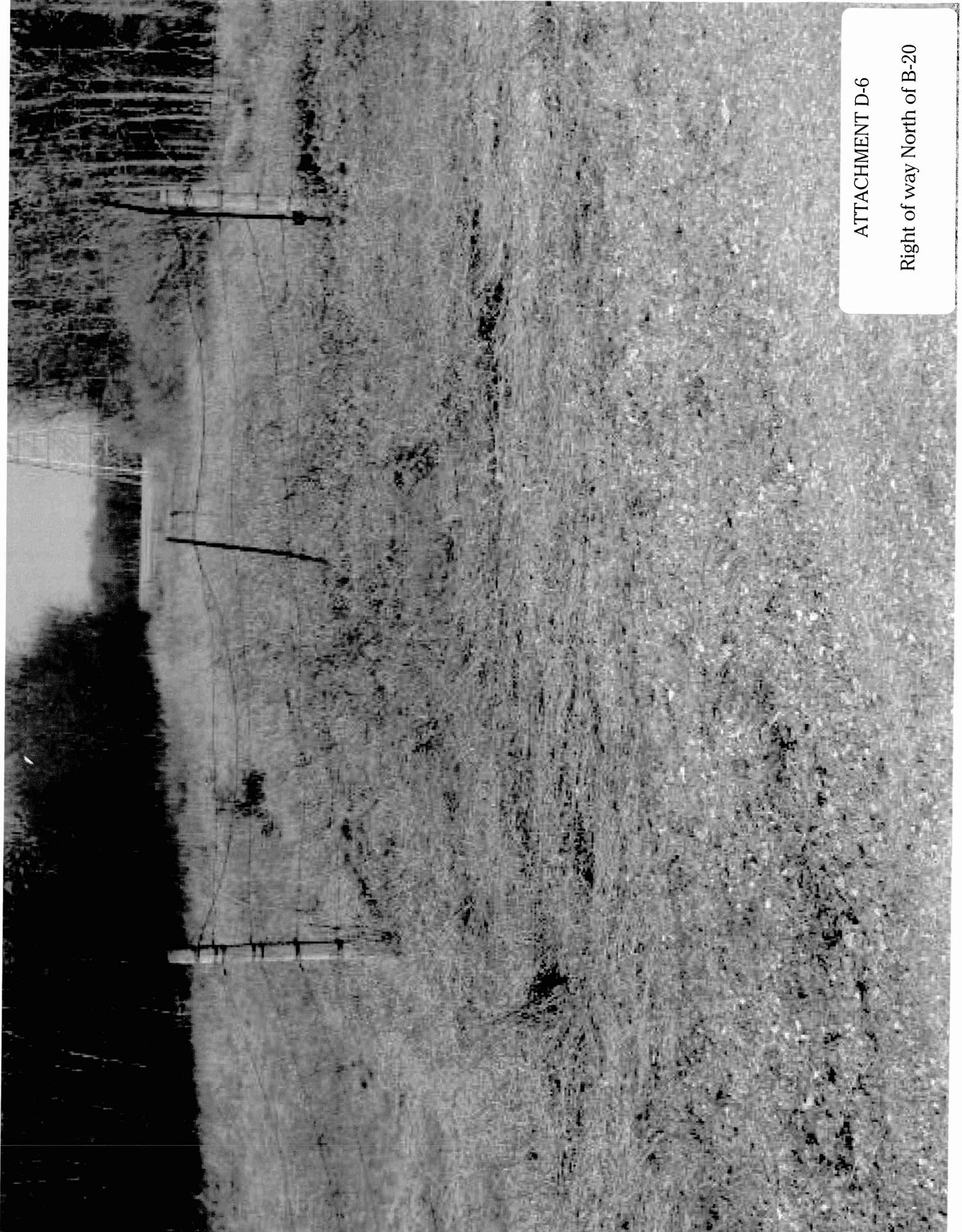
ATTACHMENT D-4

B-20 Crossing looking South





ATTACHMENT D-5
Right of way North of B-20



ATTACHMENT D-6
Right of way North of B-20

