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VIA E-FILING

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: *Indiana Southwestern Railway Co. – Abandonment Exemption – In Posey and Vanderburgh Counties, IN, STB Docket No. AB-1065X*

Dear Ms. Brown:

Indiana Southwestern Railway Co. ("ISW"), the party who seeks abandonment authority in the above-captioned abandonment notice of exemption proceeding, has received a copy of a letter, dated December 2, 2010 and addressed to you, from the Indiana Department of Transportation ("INDOT"). The letter seeks no specific relief; however it does imply that ISW's certification that "no local traffic has moved over the line for at least 2 years," is somehow misleading or inaccurate. ISW writes to respond to INDOT's information and to help clarify the record in this proceeding. As will be shown, there is nothing in INDOT's letter that should delay this proceeding or otherwise disqualify ISW from using the two-year out of service notice of exemption process.

It is true, as INDOT states, that over the past two years, ISW applied for, and received, state funds to improve two grade crossings at selected rail-highway intersections. These grade crossings are located within the mileposts for which abandonment authority is sought. In applying for the state funding, ISW's representative did note that there was weekly (or less) train service over the line. While not specifically stating, INDOT implies that the information ISW provided to INDOT disqualifies ISW from using the two-year out of service notice of exemption process. INDOT's information and ISW's representations to INDOT do not disqualify ISW from using the two-year out of service notice of exemption abandonment process because the type of weekly (or less) train traffic referred to in ISW's application for the use of state funds to

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repair road crossings does not constitute "local traffic" within the meaning of 49 C.F.R. § 1152.50(b).

Within the past two years, ISW has indeed performed some train service over the line that is the subject of the abandonment notice of exemption. This "weekly train service" was to move empty rail cars over and onto the line for rail car storage purposes only. As train operations were occurring for the purpose of storing empty rail cars, trains were crossing various rail/highway road crossings. Given the lack of revenue service to/from any local shippers on the line for many years, these road crossings had become dilapidated. Due to ISW's desire to maintain safe operations for the movement of trains (albeit trains moving empty storage cars), requests from various officials to rehabilitate and repair the road crossings for highway safety purposes, and the fact that ISW, at the time it sought and received the INDOT funding had no plans to seek abandonment authority, ISW was willing to undertake the rehabilitation work, but needed funds to do that work. To its credit, INDOT has a state funding program for precisely these types of repairs, and ISW took advantage of that funding program.

It is understandable that INDOT would now be confused by the certification to the Surface Transportation Board ("STB") regarding the lack of "local traffic" and the statements made to INDOT regarding weekly (or less) train service over the road crossings and the very same line. As noted, the train service was for the movement of empty rail cars for the purposes of storage. There was not, nor has there been in several years, any movements of "local traffic" that either originated or terminated (as defined by Board precedent) on the line. It is long standing Board precedent that use of a line for car storage is not the type of rail use that disqualifies a line from use of the notice of exemption process and such traffic does not constitute "local traffic" under the regulations. See Union Pacific Railroad Company--Abandonment Exemption--in Ada County, ID, STB Docket No. AB-33 (Sub-No. 137X) (STB served Aug. 6, 1999); Missouri Pacific Railroad Company--Abandonment--Between Natchez, MS and Vidalia, LA, Docket No. AB-3 (Sub-No. 48X) (ICC served Jan. 14, 1985); Illinois Central Railroad Company--Abandonment Exemption--in Macon County, IL, Docket No. AB-43 (Sub-No. 153X) (ICC served Feb. 21, 1991); and Missouri Pacific Railroad Company--Abandonment Exemption--in Ellis and Hill Counties, TX, Docket No. AB-3 (Sub-No. 101X) (ICC served Oct. 1, 1992). Accordingly, there is nothing in INDOT's letter that should delay this proceeding or otherwise disqualify ISW from using the Section 1152.50 process.

Sincerely,



William A. Mullins

cc: Parties of Record
Venetta Keefe
J. Michael Carr