

ORIGINAL

Strasburger
ATTORNEYS AT LAW

ORIGINAL

November 7, 2017

JOHN D. HEFFNER
(202) 742-8607
John.Heffner@strasburger.com

BY HAND

Ms. Cynthia T. Brown
Chief of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

244673
ENTERED
Office of Proceedings
November 8, 2017
Part of
Public Record



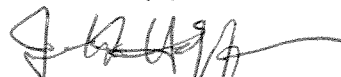
RE: Docket No. AB-1259X, Chesapeake and Indiana Railroad Company -
Discontinuance of Service Exemption

Dear Ms. Brown:

On behalf of the Chesapeake and Indiana Railroad Company ("CKIN"), I am filing an original and ten copies of a Discontinuance of Service Exemption under the provisions of 49 CFR §1152.50 for operation of a rail line owned by the Town of North Judson, IN. In addition, I am enclosing a copy of this notice on a computer disk and a filing fee check made out to the Board for \$4,100.

Please date stamp and return one copy of this notice and transmittal letter for my file.

Sincerely yours,


John D. Heffner

Enclosures

FILED
November 8, 2017
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
November 8, 2017
SURFACE
TRANSPORTATION BOARD

Strasburger & Price, LLP

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

ORIGINAL

DOCKET NO. AB-1259X
CHESAPEAKE AND INDIANA RAILROAD COMPANY
—DISCONTINUANCE OF SERVICE EXEMPTION—



NOTICE OF EXEMPTION
UNDER 49 CFR §1152.50

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Avenue, N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607
Counsel for Petitioner

Dated: November 8, 2017

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**DOCKET NO. AB-1259X
CHESAPEAKE AND INDIANA RAILROAD COMPANY
—DISCONTINUANCE OF SERVICE EXEMPTION—**

**NOTICE OF EXEMPTION
UNDER 49 CFR §1152.50**

Pursuant to the Board's regulations at 49 CFR §1152.50, the Chesapeake and Indiana Railroad Company, Inc. ("CKIN") files this Notice of Exemption so that CKIN may discontinue service over an out-of-service line of railroad ("the Line") between Milepost CI 212.55 at or near North Judson and Milepost CI 218.0 at or near English Lake, a distance of approximately 5.45 miles. The Line is owned by the Town of North Judson, IN, which acquired it through an offer of financial assistance.¹ The Town will continue to own the Line which will host excursion passenger trains operated by the Hoosier Valley Railroad Museum outside the Board's jurisdiction. The Line traverses United States Postal Service Zip Code 46366. A map showing the subject line is attached as Exhibit A.

Because no freight has moved over the Line for many years, this request qualifies for the out of service rail line discontinuance class exemption in 49 CFR

¹ See, *CSX Transportation, Inc.-Abandonment Exemption-In Laporte, Porter, and Starke Counties, IN*, Docket AB-55 (Sub-No. 643X), STB served May 14, 2004.

§1152.50.² In accordance with the aforesaid regulation, Petitioners make the following assertions:

1. Proposed consummation date.

The proposed consummation date of this discontinuance of service will be at least 50 days from the filing date.

2. Certification required in Section §1152.50(b).

The required certification by CKIN is set forth in Exhibit B to this Notice of Exemption.

3. 49 CFR §1152.22(a)(1): Exact names of Petitioner.

The exact name of Petitioner CKIN is the Chesapeake and Indiana Railroad Company.

4. 49 CFR §1152.22(a)(2): Common carrier status.

Petitioner CKIN is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.

5. 49 CFR §1152.22(a)(3): Relief sought.

CKIN seeks authority to discontinue rail service over the Line.

² CKIN is willing to consider providing freight service over the Line as a “private carrier” pursuant to contracts with individual shippers should a demand arise for the service and should the service be economical. The Board has previously allowed railroads to provide service as private carriers over lines where it has obtained abandonment or discontinuance authority. *See, e.g., HC Railroad, LLC-Abandonment Exemption-In Rush County, IND.*, Docket AB-1250 (Sub-No. 1X)(STB served June 20, 2017); *Cf. Consolidated Rail Corp.-Abandonment in Jeanette, PA*, 366 I.C.C. 384 (1982)(holding that the post-abandonment handling of local traffic under contract is not subject to agency jurisdiction).

6. 49 CFR §1152.22(a)(4): Detailed map.

A detailed map of the subject line in accordance with the requirements of 49 CFR §1152.22(a)(4) is attached hereto as Exhibit A.

7. 49 CFR §1152.22(a)(7): Representative information.

The name, title, and address of Petitioner's representative to whom all correspondence should be sent is:

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Avenue, N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607

8. 49 CFR §1152.22(a)(8): U.S. Zip Codes.

The Line traverses United States Postal Service Zip Code 46366.

9. 49 CFR §1152.22(e)(4): Public use/property interests.

Not applicable as this notice only entails a discontinuance of service.

10. Federally granted right-of-way.

Not applicable see item 9 above.

11. The level of labor protection.

Petitioners understand that, in exempting the proposed discontinuance of service, the Board cannot relieve a carrier of its statutory obligation to protect the interests of employees. *See* 49 CFR §1152.50(c). Accordingly, Petitioners anticipate that the Board will impose the conditions set forth in Oregon Short Line

R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979), for the benefit of any employee who may be adversely affected by the proposed discontinuance.

12. Certificates of compliance with the notice requirements of Sections 1152.50(d)(1) and the newspaper publication requirements of Section 1105.12.

The required certificates are attached as Exhibits C and D.

13. Environmental and Historic Reports.

No environmental and historic report is required as this notice just involves discontinuance of service. *See* 49 CFR §1105.6(c)(2) and 49 CFR §1105.8(b)(2). The Town which has a common carrier obligation will continue to own the Line and make it available for operation by the Hoosier Valley Railroad Museum.

14. Verification

The required verification is attached to this Notice of Exemption.

Respectfully submitted,



John D. Heffner

Strasburger & Price, LLP
1025 Connecticut Avenue, N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607
Counsel for Petitioner

Dated: November 8, 2017

EXHIBIT A

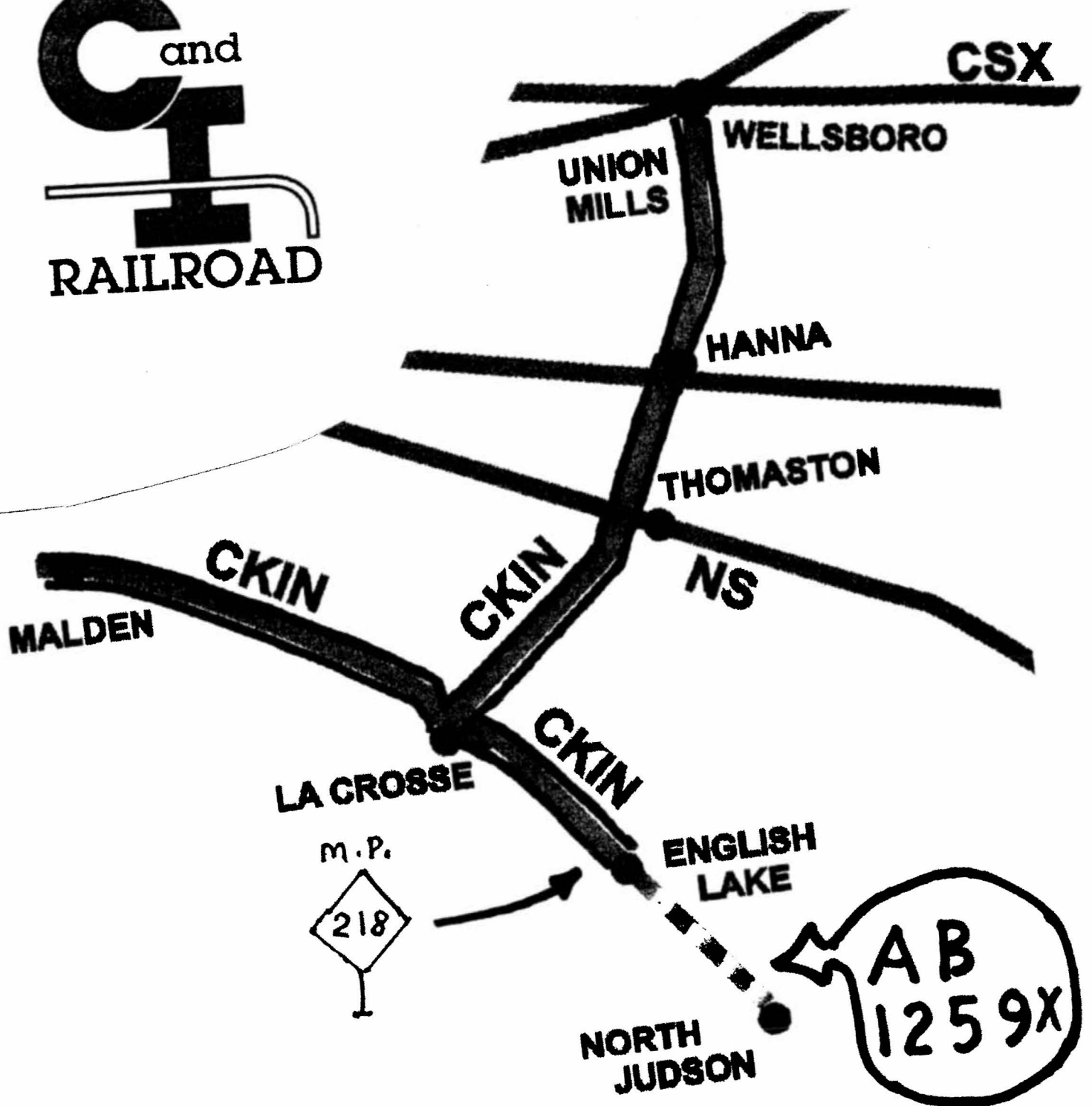


EXHIBIT B

CERTIFICATION REQUIRED IN 49 C.F.R. §1152.50(b)

In accordance with 49 C.F.R. §1152.50(b), I hereby certify that, with respect to the Line, which is the subject of that Notice of Exemption in Docket No. AB-1259X: (1) no local traffic has moved over the Line for at least two years prior to the date hereof; and (2) there is no overhead traffic on the Line; and (3) no formal complaint filed by a user of rail service on the Line (or a state or local agency on behalf of such user) regarding cessation of service over the Line is either pending with the Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period prior to the date hereof. The foregoing certification is made on behalf of the Chesapeake and Indiana Railroad Company by the undersigned after due and careful investigation of the matters herein certified and based on the best knowledge, information and belief of the undersigned.


R. Powell Felix

Dated: *November 3*, 2017

EXHIBIT C

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of Chesapeake and Indiana Railroad Company's letter dated October 27, 2017, attached hereto, to those state and federal agencies designated to receive notice under 49 CFR 1152.50(d) in connection with the proposed discontinuance of service by first-class United States mail.



JOHN D. HEFFNER

Strasburger

ATTORNEYS AT LAW

October 27, 2017

JOHN D. HEFFNER
(202) 742-8607
Direct Fax (202) 742-8697
John.Heffner@strasburger.com

Ms. Venetta Keefe
Indiana Department of Transportation
Suite 1500E
Indiana Government Center North
100 North Senate Avenue, Room N955-Rail
Indianapolis, IN 46204

Indiana Utility Regulatory Commission
PNC Center
101 W. Washington Street
Indianapolis, IN 46204

Mr. Stephan Nofield
National Park Service
Rivers & Trails Conservation Program
1201 Eye Street, NW, 9th Floor (Org Code 2220)
Washington, D.C. 20005

Mr. Thomas L. Tidwell, Chief
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street, SW
Washington, D.C. 20024

Mr. David Dorfman
Headquarters Military Surface Deployment and Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA
Railroads for National Defense Program
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

**RE: Docket No. AB-1259X, Chesapeake and Indiana Railroad Company,
Discontinuance of Service Exemption**

Dear Sirs and Madam:

I am writing on behalf of the Chesapeake and Indiana Railroad Company ("CKIN") to notify you that a Notice of Exemption under the Surface Transportation Board's procedures for discontinuance of service on out-of-service railroad line at 49 C.F.R. §1152.50 will be filed with the Board on or about November 7, 2017. The railroad line segment (hereafter "the Line") that is the subject of this notice is owned by the Town of North Judson, IN, and extends between Milepost CI 212.55 at or near North Judson and Milepost CI 218.0 at or near English Lake, a distance of approximately 5.45 miles. A map depicting the Line is attached. The Line traverses US Postal Zip Code 46366.

9356815.3/SP/25194/0101/102717

Strasburger & Price, LLP

1025 Connecticut Ave., NW Suite 717 | Washington, DC 20036 | 202.742.8600 tel | 202.742.8699 fax | www.strasburger.com
Austin | Beaumont | Collin County | Dallas | Houston | San Antonio | New York, N.Y. | Washington, D.C. | Mexico City - Strasburger & Price SC

Strasburger
ATTORNEYS AT LAW

Ms. Vanetta Keefe
Indiana Utility Regulatory Commission
Mr. Stephan Nofield
Mr. Thomas L. Tidwell
Mr. David Dorfman
October 27, 2017
Page 2

Although CKIN seeks to discontinue rail service, the Town does not plan to abandon the Line. Accordingly, CKIN need not determine whether the Line contains any federally granted rights-of-way. Please contact me if you need any additional information.

Sincerely Yours,


John D. Heffner

cc: Mr. R. Powell Felix,
Thomas McFarland, Esq.
Rachel Arndt, Esq.

EXHIBIT D

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that the notice of the proposed discontinuance in Docket No. AB-1259X in the following form was published in *The Leader of Starke County*, a newspaper of general circulation in Starke County, IND, as required by 49 CFR §1105.12.


John D. Heffner

Notice of Intent To Discontinue Rail Service

The Chesapeake and Indiana Railroad Company gives notice that on or about November 8, 2017, it intends to file with the Surface Transportation Board, Washington, DC, a notice of exemption under 49 CFR 1152 Subpart F - Exempt Abandonments permitting the discontinuance of service on a 5.45 mile line of railroad owned by the Town of North Judson, IND, between railroad milepost CI 212.55, at or near North Judson, IN, which traverses through United States Postal Service ZIP Code 46366, and railroad milepost CI 218.0 at or near English Lake which traverses through United States Postal Service ZIP Code 46366, Starke County, IND. The proceeding will be docketed as No. AB 1259X.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use do not apply as the line will not be abandoned and will continue to be owned by the Town of North Judson. *See* 49 CFR §1105.6(c)(2). An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance) must be filed directly with the Board's Office of Proceedings, Washington, DC [*See* 49 CFR §1104.1(a) and §1104.3(a)], and one copy must be served on applicants' representative [*See* 49 CFR §1104.12(a)]. Questions regarding offers of financial assistance use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative:

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Ave., N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607

CHEAPEAKE INDIANA RAILROAD

Starke County, Indiana

To: **THE LEADER**

Knox, Indiana

PUBLISHER'S CLAIM**LINE COUNT**

Display Matter (Must not exceed two lines
total more than four solid lines
advertisement is set) number of lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

Column Width _____ Inch Length _____

COMPUTATION OF CHARGES

_____ 62 lines, _____ 1 column(s)

(or) _____ .3952 cents per line

_____ 0.00 total column inches

Additional charges for notices containing _____

Charge for extra proofs of publication (\$2.00 for _____)

TOTAL AMOUNT OF CLAIM**DATA FOR COMPUTING COST**

Width of single column in picas _____

Size of type _____

Plan Commission

Pursuant to the provisions and penalties of the Act, I hereby certify that the foregoing is just and correct, that the amount claimed is legal, and that no part of the same has been paid.

I also certify that the printed matter attached hereto was duly published in said paper _____

10/27/17

Additionally, the statement checked below

_____ Newspaper does not have a Web site

☒ Newspaper has a Web site

published in the newspaper

_____ Newspaper has a Web site

_____ Newspaper has a Web site

Notice of Intent To Discontinue Rail Service

The Chesapeake and Indiana Railroad Company gives notice that on or about November 6, 2017, it intends to file with the Surface Transportation Board, Washington, DC, a notice of exemption under 49 CFR 1152 Subpart F - Exempt Abandonments permitting the discontinuance of service on a 5.45 mile line of railroad owned by the Town of North Judson, IND, between railroad milepost CI 212.55, at or near North Judson, IN, which traverses through United States Postal Service ZIP Code 46366, and railroad milepost CI 218.0 at or near English Lake which traverses through United States Postal Service ZIP Code 46366, Starke County, IND. The proceeding will be docketed as No. AB 1259X.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use do not apply as the line will not be abandoned and will continue to be owned by the Town of North Judson. See 49 CFR §1105.6(c)(2). An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance) must be filed directly with the Board's Office of Proceedings, Washington, DC [See 49 CFR §1104.1(a) and §1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR §1104.12(a)]. Questions regarding offers of financial assistance use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative:

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Ave., N.W.
Suite 717
Washington, D.C. 20036
October 27, 2017 KL273538 hspexpd

The

62**62**Total number of column inches **0.00**

at a rate of

\$

24.50

column inch

\$

total of above amount)

\$

24.50

Number of insertions

1

I hereby certify that the foregoing account is correct, and that no part of the same has been paid.

the same column width and type size, of publication being as follows:

published on the same day as it was

or error, public notice was posted on notice.

Date: **OCTOBER 27, 2017**

Signature

Anthony R. Shykal

VERIFICATION

STATE OF INDIANA)

)

COUNTY OF FAYETTE)

R. Powell Felix, being duly sworn according to law, hereby deposes and states that he holds the position of President with applicant/petitioner, is authorized to make this Verification, had read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of his knowledge, information, and belief.

R Powell Felix

Subscribed to and sworn to before me, a Notary Public, in and for the County of Fayette
in the State of IN, this 3rd day of November

Monica L Struewing
Notary Public

My Commission expires:

