



THE FOUNDRY BUILDING

1055 THOMAS JEFFERSON STREET NW SUITE 500 WASHINGTON, DC 20007  
TELEPHONE: 202/342-5200 FACSIMILE: 202/342-5219

RICHARD BAR  
BRENDAN COLLINS  
STEVEN JOHN FELLMAN  
EDWARD D. GREENBERG  
KATHARINE FOSTER MEYER  
DAVID K. MONROE  
TROY A. ROLF  
DAVID P. STREET  
KEITH G. SWIRSKY  
THOMAS W. WILCOX  
CHRISTOPHER B. YOUNGER

SVETLANA B. LYUBCHENKO

MINNESOTA OFFICE:  
700 TWELVE OAKS CENTER DRIVE, SUITE 204  
WAYZATA, MN 55391  
(T) 952/449-8817 (F) 952/449-0614

WRITER'S DIRECT E-MAIL ADDRESS  
TWILCOX@GKGLAW.COM

WRITER'S DIRECT DIAL NUMBER  
202-342-5248

January 23, 2017

242499

**By Hand Delivery**

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

ENTERED  
Office of Proceedings  
January 23, 2017  
Part of  
Public Record

Re: Docket No. AB 1250 (Sub-No. 0X), *HC Railroad, LLC – Abandonment  
Exemption – In Rush County, Indiana*

Dear Ms. Brown:

Accompanying this letter for filing is the original and ten (10) copies of a Verified Notice of Exemption filed on behalf of HC Railroad, LLC in the referenced docket. An additional copy is enclosed for stamping and return to our office. Also enclosed is the required filing fee of \$3,900.

Do not hesitate to contact the undersigned with any questions or if you need additional information.

Sincerely,

Thomas W. Wilcox  
Attorney for HC Railroad, LLC

cc: Robert Barrett, Esq.

FEE RECEIVED  
January 23, 2017  
SURFACE  
TRANSPORTATION BOARD

FILED  
January 23, 2017  
SURFACE  
TRANSPORTATION BOARD



BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-1250 (SUB-NO. 0X)

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HC RAILROAD, LLC—  
ABANDONMENT EXEMPTION—  
IN RUSH COUNTY, INDIANA

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**VERIFIED NOTICE OF EXEMPTION OF  
HC RAILROAD, LLC  
PURSUANT TO 49 C.F.R. § 1152.50**

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HC Railroad, LLC (“HC Railroad”) hereby submits this Notice of Exemption pursuant to 49 C.F.R. § 1152, Subpart F, to abandon its line of railroad in Rush County, Indiana for the purpose of removing it from the national railroad system and converting it into a private track over which rail service would henceforth be provided pursuant to private agreements. The line of railroad in question extends from milepost 17.4 to milepost 23.8 in Rush County, Indiana, a distance of 6.4 miles (hereinafter referred to as the “Line”). Common carrier rail operations have never been performed on the Line since HC Railroad acquired it in 2010, and so no local or overhead common carrier rail traffic has moved over the Line during the past two years as required by 49 C.F.R. §1152.50(b). Based on information in possession of HC Railroad, the Line does not contain federally granted rights-of-way. Any documentation in HC Railroad’s possession pertaining to the rights-of-way shall be made available promptly to the party requesting it.

In accordance with the requirements of 49 C.F.R. § 1152.50(d)(2), HC Railroad submits the following:

**General Information**

Exact name of applicant

HC Railroad, LLC.

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

HC Railroad is a Class III common carrier.

Relief sought

Pursuant to the STB's class exemption for the abandonment of out-of-service rail lines, codified at 49 C.F.R. § 1152, Subpart F, HC Railroad seeks authority to abandon the Line for the purpose of removing it from the national rail system and converting it into a private railroad track.

Detailed map of a subject line

A map of the Line is appended hereto as Exhibit 1.

HC Railroad's representative

HC Railroad's representative to whom correspondence regarding this abandonment should be sent is:

Thomas W. Wilcox  
GKG Law, P.C.  
The Foundry Building  
1055 Thomas Jefferson Street NW  
Suite 500  
Washington, DC 20007

### U.S. Postal Service Zip Codes Traversed

The Line traverses U.S. Postal Service Zip Code 46173.

### **Certification: 49 C.F.R. § 1152.50 (b)**

The certification required by 49 C.F.R. § 1152.50(b) is appended hereto as Exhibit 2.

### **Consummation date**

HC Railroad intends to consummate the proposed abandonment of the Line on or after March 14, 2017.

### **Rural and Community Impact**

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.

HC Railroad is abandoning the Line for the purpose of removing it from the national rail system and converting it into a private railroad track. Current and future rail operations on the track pursuant to private agreements will continue. As such, because there will be continued movements of freight over the Line pursuant to private arrangements, it will not be appropriate for other public use purposes. Also, since the track will remain in place and under HC Railroad's ownership, it is not necessary to ascertain whether there are any title restrictions to consider. However, HC Railroad is not aware of any title restrictions.

### **Labor Protection**

HC Railroad has no railroad employees, since no common carrier rail operations have been conducted over the Line during its ownership. Consequently, there are no HC Railroad employees that will be adversely affected by exercising abandonment authority.

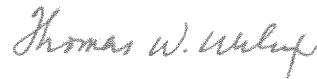
### **Environmental and Historic Report**

Environmental and Historic Reports were prepared and served upon all parties identified in 49 C.F.R. §§1105.7 and 1105.8, and are appended hereto as Exhibit 3, accompanied by all letters received in response to the reports.

### **Certifications**

Attached as Exhibit 4 are Certificates pursuant to the notice requirements of 49 C.F.R. §§ 1152.50(d)(1), 1105.11 and 49 C.F.R. § 1105.12.

Respectfully submitted,

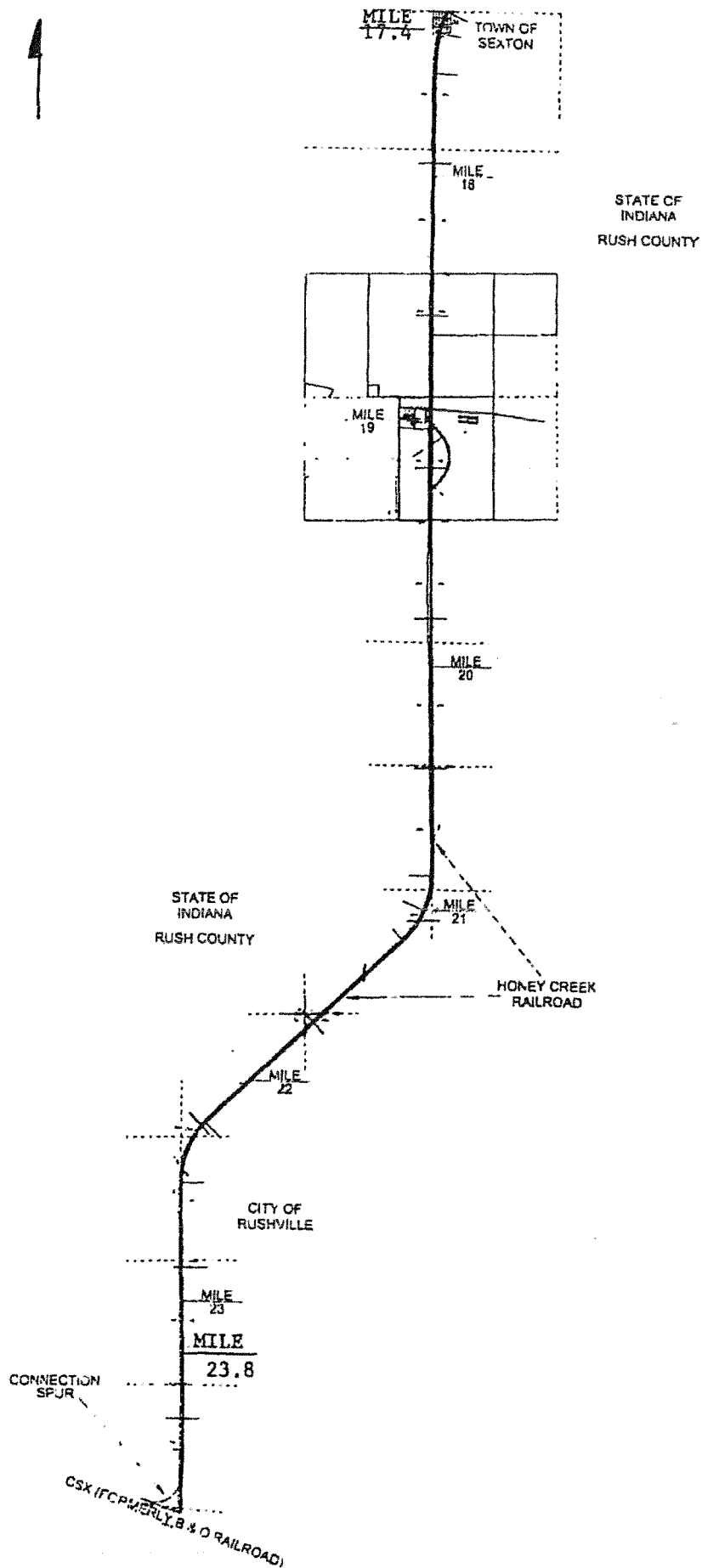


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Thomas W. Wilcox, Esq.  
GKG Law, P.C.  
The Foundry Building  
1055 Thomas Jefferson Street NW  
Suite 500  
Washington, DC 20007  
(202) 342-5248

*Counsel for HC Railroad, LLC*

# **Exhibit 1**

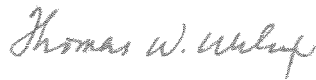


## **Exhibit 2**

**CERTIFICATION THAT RAIL LINE MEETS  
CRITERIA OF 49 C.F.R. SECTION §1152.50(b)**

I, Thomas W. Wilcox, hereby certify that for the last two years preceding the foregoing Notice of Exemption, no local common carrier freight traffic has moved over HC Railroad's line of railroad in Rush County, Indiana, extending from milepost 17.4 to milepost 23.8, a distance of 6.4 miles (the "Line"). The Line was leased by HC Railroad in 2011 to Morristown Grain Company, Inc. ("Morristown"), an affiliate of HC Railroad, and has been used by Morristown exclusively as an industrial track for the rail transportation needs of its non-transportation grain elevator business. These rail transportation needs are being met pursuant to a private agreement between Morristown and CSX Transportation, Inc.

No overhead traffic has moved over the Line and therefore none needs to be rerouted over other lines of railroad. Furthermore, no formal complaint filed by a user of rail service on the line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line is pending with the Surface Transportation Board or any U.S. District Court, or has been decided in favor of a complainant within the two-year period. The foregoing certification is made on behalf of HC Railroad by the undersigned after due and thorough investigation of the matters herein certified and based on the best knowledge, information and belief of the undersigned.



\_\_\_\_\_  
Date: January 23, 2017

## **Exhibit 3**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**DOCKET NO. AB-1250 (Sub-No. 0X)**

**HC RAILROAD, LLC –  
ABANDONMENT EXEMPTION—IN RUSH COUNTY, INDIANA**

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**ENVIRONMENTAL REPORT**

Pursuant to a Notice of Exemption to be filed under 49 C.F.R. Part 1152, Subpart F, HC Railroad, LLC ("HC Railroad") proposes to abandon its line of railroad in Rush County, Indiana, extending from milepost 17.4 to milepost 23.8, a distance of 6.4 miles, shown on the map attached hereto as Exhibit 1, and referred to herein as the "Line." Although the Line will be abandoned for purposes of terminating Surface Transportation Board jurisdiction over it, HC Railroad intends to leave the tracks in place and to continue their current use as an industrial track serving a single shipper located at the terminus of the Line under private contract arrangements. If HC Railroad elects to provide rail services to other entities that might desire rail service in the future, such services would also be provided via private contract arrangements.

This Environmental Report provides the information required by 49 C.F.R. §1105.7, and follows the sequence laid out in that section.

- (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.

HC Railroad proposes to obtain abandonment authority from the Board for purposes of

making the Line a private track over which current private railroad operations would continue. HC Railroad submits there are no reasonable alternatives to the proposed action, since it will result in the railroad track and right-of-way continuing to be used to provide private contract rail service. As background, in 2010 HC Railroad received authority from the STB to acquire the Line and the associated common carrier obligation from the Honey Creek Railroad, Inc. (“Honey Creek”) in STB Finance Docket No. 35434, *HC Railroad LLC – Acquisition and Operation Exemption –Honey Creek Railroad, Inc.* At that time, HC Railroad also acquired from Honey Creek its rights to own and operate a private industrial track extending from a point of interchange with CSX Transportation (“CSXT”) in the vicinity of Rushville, Indiana, to a connection with the Line at MP 23.8 (“Connecting Track”).

HC Railroad has never conducted any common carrier operations over the Line. Rather, coincident with its purchase of the Line in 2010 HC Railroad leased the entire Line to its affiliate, Morristown Grain Company, Inc. (“Morristown”), the only shipper located on the line, for use by Morristown as an industrial track in connection with Morristown’s grain elevator business located at the northern terminus of the line at MP 17.4.<sup>1</sup> Morristown (through its indirect parent company Bunge North America, Inc.) in turn subsequently entered into a private agreement with CSXT whereby CSXT delivers 90-car unit trains to Morristown over the Line, Morristown takes the complete trains onto its property and loads them, and then CSXT picks up the loaded trains and takes them to the interchange with CSXT’s track at Rushville. The freight rates CSXT charges for transporting unit trains of empty and loaded cars are paid by

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<sup>1</sup> On July 13, 2011, the Railroad Retirement Board issued an Employer Status Determination, stating that HC Railroad was not an “employer” under the Railroad Retirement Act (45 U.S.C. §231 et seq), and the Railroad Unemployment Insurance Act (45 U.S.C. §351, et seq) because of its lease agreement with Morristown, and because HC Railroad accordingly conducted no common carrier operations on the line or held itself out to the public to engage in the business of transporting freight.

Morristown's customers who purchase grain from its elevators. CSXT's use of the line as an industrial track is also governed by applicable portions of CSXT's Tariff 8100, including item 3.1 (Sidetracks). HC Railroad has consulted with Morristown concerning this proposed abandonment for purposes of making the Line a private track. Because these various private agreements and arrangements are already in place and its trains of railcars are being delivered and picked up in this manner, Morristown has informed HC Railroad that it has no objection to the proposed abandonment and conversion of the Line into a private track.

Because the Line has been used as an industrial track since 2010, there have been no common carrier operations (either overhead traffic or local traffic) on the Line for over six years. The Line therefore clearly meets the requirements of the applicable regulations that there be no such operations for two years.

(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.

For the reasons described in Subparagraph 1, and because current use of the Line will continue unchanged, there will be no incremental effect on either regional or local transportation systems and patterns. No freight traffic will be diverted to other transportation systems or modes, and there is no passenger traffic on the Line, so no diversion is possible.

(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 action is consistent with regional or local land use plans.

(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 will have no effect on any prime agricultural land.

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

The land does not fall within a designated coastal zone management area.

(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. §10905 and explain why.

Because the abandoned track and other rail properties are required by HC Railroad for continued private rail operations related to Morristown as described above, it is not suitable or appropriate for public use purposes contemplated by 49 U.S.C. §10905.

(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.

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

The proposed abandonment will have no effect on the movement or recovery of recyclable commodities.

(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 either an increase or decrease in overall energy efficiency, since current rail operations will continue on the Line at the same levels that existed prior to the abandonment becoming effective.

(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.

As explained in Subparagraph 2, the proposed abandonment will cause no diversion from

rail to motor carrier.

(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.

The proposed abandonment will not result in any increases in rail traffic, rail yard activity, or an increase in truck traffic.

(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.

The proposed abandonment will not result in any increases in rail traffic, rail yard activity, or truck traffic.

(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.

The transportation of ozone depleting materials is not contemplated as a result of the proposed abandonment.

(6) Noise.

Since none of the thresholds in Item (5)(i) above will be exceeded, this section is

inapplicable.

(7) Safety.

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

Since the tracks will remain in place and current usage levels will continue, the proposed abandonment will have no additional effect on public health or safety, including grade crossing delay times. No salvage operations are contemplated. However, in the unlikely event any salvage operations are required in the future, all appropriate measures will be taken to ensure public safety, and contractors will be required to abide by all applicable health and safety laws and regulations.

- (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.

No hazardous materials are currently transported over the line, and none are expected to be transported over the Line after it is abandoned.

- (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.

To the best of HC Railroad's knowledge, information and belief, there are no hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way of the Line.

(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 abandonment will not adversely affect endangered or threatened species or areas designated as a critical habitat.

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

No wildlife sanctuaries or refuges, National or State parks or forests will be affected.

(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 abandonment is consistent with applicable Federal, State and local water quality standards.

(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.

No permit under section 404 of the Clean Water Act is required.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. §1342) are required for the proposed action.

No permit under section 402 of the Clean Water Act will be required.

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

The proposed abandonment will not result in any adverse environmental impacts. As such, no mitigation actions are required at this time.

Respectfully submitted,



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Thomas W. Wilcox, Esq.  
GKG Law, P.C.  
The Foundry Building  
1055 Thomas Jefferson Street NW  
Suite 500  
Washington, DC 20007  
(202) 342-5248

*Counsel for HC Railroad, LLC*

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**DOCKET NO. AB-1250 (Sub-No. 0X)**

**HC RAILROAD, LLC – ABANDONMENT EXEMPTION—  
IN RUSH COUNTY, INDIANA**

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**HISTORIC REPORT**

Pursuant to a Notice of Exemption to be filed under 49 C.F.R. Part 1152, Subpart F, HC Railroad LLC (“HC Railroad”) proposes to abandon its line of railroad in Rush County, Indiana, extending from milepost 17.4 and milepost 23.8, a distance of 6.4 miles, referred to herein as the “Line.” Although the Line will be abandoned for purposes of terminating Surface Transportation Board jurisdiction over it, HC Railroad intends to leave the tracks in place and to continue their current use as an industrial track serving a single shipper located at the terminus of the Line under private contract arrangements. If HC Railroad elects to provide rail services to other entities that might desire rail service in the future, such services would also be provided via private contract arrangements.

This Historic Report provides the information required by 49 C.F.R. § 1105.8, and follows the sequence laid out in the section.

1. Map. 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.

A map of the Line is appended hereto as Exhibit 1. There are no railroad structures along the line that are 50 years old or older. Regardless of the existence of any railroad structures along the line that are 50 years old or older, there are no plans to remove any of the existing railroad infrastructure.

2. Description of the Right-of-Way. 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 Line is a single track line with the underlying right-of-way of approximately 66 feet in width and 6.4 miles in length. The Line runs generally north and south between MP 23.8 located in Rushville and MP 17.4, the terminus of the line at the Morristown Grain Company's facility in Sexton, IN. The land between Sexton and Rushville is primarily rural farmland, with some industrial properties.

3. Photographs of Structures. 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.

See response to subparagraph 1.

4. Date(s) of Construction. 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.

This information is unknown.

5. History of Operations. 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 year the Line was built is unknown. It appears that it might have already existed in the late nineteenth century and was owned by Lake Erie and Western Railroad ("LE&W"), which became a part of New York Central Railroad ("NYCR") in 1900. NYCR sold LE&W to Nickel Plate Road ("NPR") in 1922. NPR subsequently merged into Norfolk & Western

Railway in 1964. In 1982, Norfolk and Western Railway merged with Southern Railway to eventually form Norfolk Southern Railway (“NS”) and, as a result of the described series of railroad sales and mergers, it appears that the Line became the property of NS. The Honey Creek Railroad (“Honey Creek”) acquired the Line in 1993.

In 2010 HC Railroad received authority from the STB to acquire the Line and the associated common carrier obligation from the Honey Creek Railroad, Inc. in STB Finance Docket No. 35434, *HC Railroad, LLC – Acquisition and Operation Exemption –Honey Creek Railroad, Inc.* HC Railroad also acquired from Honey Creek its rights to own and operate a private industrial track extending from a point of interchange with CSX Transportation (“CSXT”) in the vicinity of Rushville, Indiana, to a connection with the Line at MP 23.8. (“Connecting Track”).

HC Railroad has never conducted any common carrier operations over the Line. Rather, coincidental with its purchase of the Line in 2010 HC Railroad leased the entire Line to its affiliate, Morristown Grain Company, Inc. (“Morristown”), the only shipper located on the line, for use by Morristown as an industrial track in connection with Morristown’s grain elevator business located at the northern terminus of the line at MP 17.4.<sup>2</sup> Morristown (through its indirect parent company Bunge North America, Inc.) in turn subsequently entered into a private agreement with CSXT whereby CSXT delivers 90-car unit trains to Morristown over the Line, Morristown takes the complete trains onto its property and loads them, and then CSXT picks up the loaded trains and takes them to the interchange with CSXT’s track at Rushville. The freight

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<sup>2</sup> On July 13, 2011, the Railroad Retirement Board issued an Employer Status Determination, stating that HC Railroad was not an “employer” under the Railroad Retirement Act (45 U.S.C. §231 *et seq*), and the Railroad Unemployment Insurance Act (45 U.S.C. §351, *et seq*) because of its lease agreement with Morristown, and because HC Railroad accordingly conducted no common carrier operations on the line or held itself out to the public to engage in the business of transporting freight.

rates CSXT charges for transporting unit trains of empty and loaded cars are paid by Morristown's customers who purchase grain from its elevators. CSXT's use of the line as an industrial track is also governed by applicable portions of CSXT's Tariff 8100, including item 3.1 (Sidetracks). Because these various private agreements and arrangements are already in place and its trains of railcars are being delivered and picked up in this manner, Morristown has no objection to the proposed abandonment and conversion of the Line into a private track.

6. Summary of Documents. 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.

The only such documents in HC Railroad's possession are deeds and a valuation map for the Line.

7. Historic Properties. 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 C.F.R. 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).

HC Railroad is not aware of any historic structures or structures available for listing as historic structures on the Line. To the best of HC Railroad's knowledge, information and belief, the likelihood of archeological resources or any other previously unknown historic properties within the right of way is negligible. These opinions are based on HC Railroad's knowledge of the line and information obtained by HC Railroad from HCR at the time of acquisition of the line. Although HC Railroad sought a formal opinion of the Indiana State Historic Preservation Office as required by Section 1105.8, none was received.

(8) Conditions Affecting Recovery of Resources. 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.

To the best of HC Railroad's knowledge, information and belief, there are no known prior subsurface ground disturbances or fill, or environmental conditions that might affect the archeological recovery of resources.

Respectfully submitted,



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Thomas W. Wilcox, Esq.  
GKG Law, P.C.  
The Foundry Building  
1055 Thomas Jefferson Street NW  
Suite 500  
Washington, DC 20007  
(202) 342-5248

*Counsel for HC Railroad, LLC*



ATTORNEYS AT LAW

THE FOUNDRY BUILDING ♦ 1055 THOMAS JEFFERSON STREET, NW ♦ SUITE 500 ♦ WASHINGTON, D.C. 20007  
TELEPHONE: 202-342-5200 FACSIMILE: 202-342-5219

RICHARD BAR  
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SVETLANA V. LYUBCHENKO

MINNESOTA OFFICE:  
700 TWELVE OAKS CENTER DRIVE, SUITE 204  
WAYZATA, MN 55391  
(T) 952/449-8817 (F) 952/449-0614

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WRITER'S DIRECT E-MAIL ADDRESS  
TWILCOX@GKGLAW.COM

WRITER'S DIRECT DIAL NUMBER  
202-342-5248

October 31, 2016

**VIA REGULAR MAIL**

Department of Historic Preservation and Archaeology  
402 W. Washington Street, W274  
Indianapolis, IN 46204

Re: Docket No. AB-1250 (Sub-No. 0X), *HC Railroad, LLC –Abandonment  
Exemption –In Rush County, Indiana*

Dear Madam or Sir:

Please be advised that HC Railroad, LLC ("HC Railroad") proposes to seek authority from the Surface Transportation Board to abandon HC Railroad's 6.4-mile line of railroad in Rush County, Indiana for the purpose of removing it from the national rail system and converting it into a private railroad track. The line is located near the city of Rushville, Indiana, extending from milepost 17.4 to milepost 23.8, a distance of 6.4 miles. A copy of a rail map indicating the location of the line is appended hereto as Attachment 1. The only rail operations over the line since HC Railroad purchased it in 2010 have been by private contract arrangements. Therefore, no local common carrier service has moved over the line for at least two years. 49 C.F.R. §1152.50 (b).

Under Sections 49 C.F.R. §1105.7 and 49 C.F.R. §1105.8, a railroad seeking abandonment authority for a line of railroad is required to consult with various agencies and obtain information to be used for the preparation of environmental and historic reports. In compliance with these requirements, HC Railroad hereby submits draft environmental and

**GKG Law, P.C.**

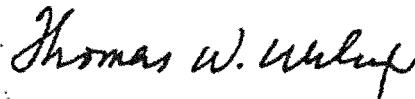
Department of Historic Preservation and Archaeology  
October 31, 2016  
Page 2

historic reports for your review (*see* Attachment 2) and seeks your comments regarding any of the following matters:

1. Are there railroad structures that are 50 years old or older located on HC Railroad? If so, to the extent possible, please provide the date(s) of construction of such structures and the date(s) and extent of major alterations.
2. Does the site of HC Railroad and/or structures meet the criteria for listing on the National Register of Historic Places?
3. Is there a likelihood of archeological resources or any other previously unknown historic properties in the area of HC Railroad? If so, please explain.

Please feel free to advise on any other matter discussed in the draft environmental and historic reports and submit your comments in writing no later than December 2, 2016. Your responses will be incorporated in the final versions of the environmental and historic reports which will then be filed with the Surface Transportation Board of the U.S. Department of Transportation. Please feel free to contact me with any questions.

Very truly yours,

A handwritten signature in cursive script, reading "Thomas W. Wilcox". The signature is written in dark ink and is positioned above a horizontal line.

Thomas W. Wilcox  
*Counsel for HC Railroad, LLC*



**DEPARTMENT OF THE ARMY**  
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE  
CORPS OF ENGINEERS  
P.O. BOX 59  
LOUISVILLE KY 40201-0059  
FAX: (502) 315-6677  
<http://www.lrl.usace.army.mil/>

December 2, 2016

Regulatory Division (North)  
ID No. LRL-2016-1124-MKD

Mr. Thomas Wilcox  
GKG Law, P.C.  
1055 Thomas Jefferson Street N.W.  
Suite 500  
Washington, D.C. 20007

Dear Mr. Wilcox:

This is in response to your letter dated October 31, 2016, which requested review by our office of HC Railroad, LLC's proposal to abandon 6.4 miles of the Honey Creek Railroad for the purpose of removing it from the national rail system. The rail line is located between milepost 17.4 and 23.8, near Rushville, Rush County, Indiana. Specifically, you requested that we respond with a letter regarding the need for a Department of Army (DA) permit for the aforementioned proposal.

The U.S. Army Corps of Engineers (USACE) exercises regulatory authority under Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403) and Section 404 of the Clean Water Act (33 U.S.C. § 1344) for certain activities in "waters of the United States (U.S.)" These waters include all waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce.

"Waters of the U.S." include hydrologically connected lakes, rivers, and stream channels (perennial, intermittent, ephemeral) exhibiting an Ordinary High Water Mark (OHWM), wetlands, sloughs, wet meadows and wetlands adjacent to "waters of the U.S." The OHWM elevation is the line on the bank established by the changing water surface and is indicated by physical characteristics such as a clear natural line impressed on the bank; shelving; changes in the character of the soil; destruction of terrestrial vegetation; and other indications as determined upon inspection of the area.

Based upon the information provided, there is no proposed discharge of fill into a "waters of the U.S." nor impacts to any navigable "waters of the U.S."; therefore a DA permit is not required.

Our comments on this project are limited to only those effects which may fall within our area of jurisdiction and thus does not obviate the need to obtain other permits from State or local agencies.

Further information on the Regulatory Program, including the DA permit application, can be obtained from our website located at: <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. If your project would necessitate the discharge of dredged or fill material into "waters of the U.S.", please allow sufficient time in your preconstruction schedule for the processing of a DA permit application.

If you have any questions concerning this matter, please contact this office at the above address, ATTN: CELRL-RDN or call Mr. Michael Davis at (502)315-6715. All correspondence pertaining to this matter should refer to our ID No. LRL-2016-1124-MKD.

Sincerely,



Greg McKay  
Chief, North Section  
Regulatory Division



United States Department of Agriculture

C  
rural Resources Conservation Service  
Indiana State Office  
6013 Lakeside Boulevard  
Indianapolis, IN 46278  
317-290-3200

November 28, 2016

Thomas W. Wilcox  
GKG Law  
The Foundry Building  
1055 Thomas Jefferson Street, NW  
Suite 500  
Washington, D.C. 20007

Dear Mr. Wilcox:

The proposed project to abandon HC Railroad's 6.4 mile line of railroad in Rush County, Indiana, for the purpose of removing it from the national rail system and converting it into a private railroad track, as referred to in your letter received November 21, 2016, will not cause a conversion of prime farmland.

If you need additional information, please contact Rick Neilson at 317-295-5875.

Sincerely,

JANE E. HARDISTY  
State Conservationist

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Division of Historic Preservation & Archaeology • 402 W. Washington Street, W274 • Indianapolis, IN 46204-2739  
Phone 317-232-1646 • Fax 317-232-0693 • [dhpa@dnr.IN.gov](mailto:dhpa@dnr.IN.gov)



December 6, 2016

Thomas W. Wilcox  
GKG Law  
1055 Thomas Jefferson Street NW Suite 500  
Washington, D.C. 20007

Federal Agency: Surface Transportation Board

Re: Project information concerning the proposed abandonment of 6.4 mile of railroad by HC Railroad  
(DHPA #20125)

Dear Mr. Wilcox:

Pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) and 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO") has conducted an analysis of the materials dated October 31, 2016 and received on November 7, 2016, for the above indicated project in Jackson and Rushville Townships, Rush County, Indiana.

In regard to buildings and structures, we have identified the following properties within the probable area of potential effects, and we believe that they may meet the criteria of eligibility for inclusion in the National Register of Historic Places:

Sexton Christian Church, 600N, Site #139-391-05061

J. Kiser House, 600N, Site #139-391-20004

However, based on the information provided to our office, we do not believe that there will be any alterations to the characteristics of the above identified historic properties qualifying them for inclusion in or eligibility for the National Register (*see* 36 C.F.R. § 800.16[i]).

At this time, it would be appropriate for the Surface Transportation Board to analyze the information that has been gathered from the Indiana SHPO, the general public, and any other consulting parties and make the necessary determinations and findings. Please refer to the following comments for guidance:

- 1) If the Surface Transportation Board believes that a determination of "no historic properties affected" accurately reflects its assessment, then it shall provide documentation of its finding as set forth in 36 C.F.R. § 800.11 to the Indiana SHPO, notify all consulting parties, and make the documentation available for public inspection (36 C.F.R. §§ 800.4[d][1] and 800.2[d][2]).
- 2) If, on the other hand, the Surface Transportation Board finds that an historic property may be affected, then it shall notify the Indiana SHPO, the public and all consulting parties of its finding and seek views on effects in accordance with 36 C.F.R. §§ 800.4(d)(2) and 800.2(d)(2). Thereafter,

the Surface Transportation Board may proceed to apply the criteria of adverse effect and determine whether the project will result in a "no adverse effect" or an "adverse effect" in accordance with 36 C.F.R. § 800.5.

*A copy of the revised 36 C.F.R. Part 800 that went into effect on August 5, 2004, may be found on the Internet at [www.achp.gov](http://www.achp.gov) for your reference. If you have questions about archaeological issues please contact Rachel Sharkey at (317) 234-5254 or [rsharkey@dnr.IN.gov](mailto:rsharkey@dnr.IN.gov). If you have questions about buildings or structures please contact Miriam Burkett at (317) 233-3883 or [mburkett@dnr.IN.gov](mailto:mburkett@dnr.IN.gov). Additionally, in all future correspondence regarding the above indicated project, please refer to DHPA #20125.*

Very truly yours,



Mitchell K. Zoll  
Deputy State Historic Preservation Officer

MKZ:RAS:MLB:mlb

emc: David C. Navecky, Environmental Protection Specialist, Surface Transportation Board



# Rush County Highway Dept.



1352 East State Road 44  
Rushville, Indiana 46173-8701

Jerry L. Sitton  
Supervisor

PH (765) 932-2926  
FAX (765) 932-3316

E-MAIL: [highway@rushcounty.in.gov](mailto:highway@rushcounty.in.gov)

November 9, 2016

Thomas W. Wilcox  
GKG Law  
The Foundry Building  
1055 Thomas Jefferson Street, NW, Suite 500  
Washington, D.C. 20007

RE: AB-1250 (Sub-No. OX), HC Railroad, LLC – Abandonment Exemption -  
In Rush County, Indiana

Dear Mr. Wilcox:

1. The proposed abandonment will not affect regional or local transportation systems and patterns.
2. The proposed abandonment will not affect transportation of energy resources.
3. The proposed abandonment will not result in increase or decrease in overall energy efficiency.

Very truly yours,

  
Jerry L. Sitton  
Superintendent

Rush County Highway Department

From: "Cummins, Jeffrey" <JeCummins@isda.IN.gov>  
To: "twilcox@gkglaw.com" <twilcox@gkglaw.com>,  
Date: 11/07/2016 01:53 PM  
Subject: HC Railroad Abandonment

Good Afternoon Mr. Wilcox,

We received your notice of abandonment exemption dated October 31, 2016 on behalf of HC Railroad, LLC. Thank you for your due diligence in seeing that our agency receive a copy as we take a serious interest in rail issues on behalf of our constituents in agriculture. However, because we are not a regulatory agency and have no direct oversight on matters of this kind, I have referred this issue to Mike Riley, Manager of the Indiana Department of Transportation Rail Office for review.

If you wish to reach him directly he can be contact at 317-232-1491 or [mdriley@indot.in.gov](mailto:mdriley@indot.in.gov).

Appreciatively,

**Jeff Cummins**

*Program Manager, Policy and Regulatory Affairs*

Indiana State Department of Agriculture  
One North Capitol Avenue, Suite 600  
Indianapolis, IN 46204  
[jecummins@isda.in.gov](mailto:jecummins@isda.in.gov) | C 317.517.9445



<https://www.facebook.com/IndianaAgriculture><https://twitter.com/ISDAgov><http://www.pinterest.com/isdagov/><http://www.youtube.com/user/ISDACommunications>

From: "Stanifer, Christie" <cstanifer@dnr.IN.gov>  
To: "Thomas Wilcox" <twilcox@gkglaw.com>,  
Date: 11/16/2016 09:37 AM  
Subject: RE: HC Railroad abandonment; docket #AB-1250 (Sub-No. 0X)

Thank you for the response, Tom. Since there is no construction proposed, we do not have any comments to offer at this time.

Sincerely,

Christie L. Stanifer  
Environmental Coordinator  
Indiana Department of Natural Resources  
Division of Fish and Wildlife  
402 West Washington St, Room W273  
Indianapolis, IN 46204  
Direct: (317) 232-8163  
Fax: (317) 232-8150

**From:** Thomas Wilcox [mailto:twilcox@gkglaw.com]  
**Sent:** Wednesday, November 16, 2016 9:26 AM  
**To:** Stanifer, Christie  
**Subject:** Re: HC Railroad abandonment; docket #AB-1250 (Sub-No. 0X)

Christie - Thank you for your email. I have confirmed that there will be no new construction associated with this conversion of the track to private track. Please feel free to call me if you have any additional questions.

Tom

**Thomas Wilcox**  
Principal



Tel: 202.342.5248 | Fax: 202.342.5222  
Cell: 703.283.2138  
[www.gkglaw.com](http://www.gkglaw.com) | [twilcox@gkglaw.com](mailto:twilcox@gkglaw.com)

**GKG Law, P.C.**  
**The Foundry Building**  
**1055 Thomas Jefferson Street NW**  
**Suite 500**  
**Washington, DC 20007**

\*\*\*\*\*

This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message. .

From: "Stanifer, Christie" <cstanifer@dnr.IN.gov>  
To: ""twilcox@gkglaw.com"" <twilcox@gkglaw.com>,  
Date: 11/14/2016 09:55 AM  
Subject: HC Railroad abandonment; docket #AB-1250 (Sub-No. 0X)

Mr. Wilcox,

In looking at the information submitted about the proposal to remove a 6.4 mile stretch of HC Railroad's line in Rush County to convert it into a private track, I didn't see any information regarding whether or not there would be any earth moving construction activities or any work on bridges/streams. That would be our area of interest. If there will be no construction and this is merely, a conversion of the purpose of the track, then we do not have any comments to offer on this abandonment exemption. However, if there will be construction, we would need any details regarding the proposed construction to review.

Sincerely,

Christie L. Stanifer  
Environmental Coordinator  
Indiana Department of Natural Resources  
Division of Fish and Wildlife  
402 West Washington St, Room W273  
Indianapolis, IN 46204  
Direct: (317) 232-8163  
Fax: (317) 232-8150

## **Exhibit 4**

## CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. §1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-1250 (Sub-No. 0X) was mailed on December 21, 2016 to the following parties:

Military Surface Deployment and  
Distribution Command  
Transportation Engineering Agency  
Railroads for National Defense  
1 Soldier Way, Bldg. 1900W  
Scott AFB, IL 62225

Mr. Thomas L. Tidwell  
Chief of the Forest Service  
U.S. Department of Agriculture  
1400 Independence Ave., SW  
Washington, D.C.  
20250-1111

Indiana Utility Regulatory  
Commission  
PNC Center  
101 W. Washington Street, Suite  
1500E  
Indianapolis, IN 46204

National Park Service  
1849 C Street NW  
Washington, DC 20240

Regional Director  
Midwest Region  
National Park Service  
601 Riverfront Drive  
Omaha, NE 68102-4226

Pursuant to 49 C.F.R. §1105.11, the undersigned hereby certifies that copies of the Environmental Report and Historic Report were mailed to the parties listed on the attached Service List, on October 31, 2016, as required by 49 C.F.R. §§1105.7(b) and 1105.8(c).



Thomas W. Wilcox, Esq.  
GKG Law, P.C.  
The Foundry Building  
1055 Thomas Jefferson Street NW  
Suite 500  
Washington, DC 20007  
(202) 342-5248  
*Counsel for HC Railroad, LLC*

**SERVICE LIST**  
**ENVIRONMENTAL AND HISTORIC REPORTS**

Mr. Michael Pence  
Office of the Governor  
200 W. Washington St., Rm. 206  
Indianapolis, IN 46204

Mr. Michael Pavey  
Office of the Mayor of Rushville  
133 West First Street  
Rushville, IN 46173

Rush County Commissioners  
Rush County Courthouse  
101 East Second Street, Room 102  
Rushville, Indiana 46173

National Park Service  
Midwest Region  
Cam Sholly, Regional Director  
601 Riverfront Drive  
Omaha, NE 68102-4226

Communications and Outreach Branch  
National Geodetic Survey  
1315 East-West Highway  
Silver Spring, MD 20910-3282

United States Army Corps of Engineers  
Louisville District  
P.O. Box 59  
Louisville, KY 40201-0059

Indiana State Department of Agriculture  
One North Capitol Avenue  
Suite 600  
Indianapolis, IN 46204

Department of Historic Preservation and  
Archaeology  
402 W. Washington Street, W274  
Indianapolis, IN 46204

Ms. Jane Hardisty  
State Conservationist  
Natural Resources Conservation Service  
Indiana State Office  
6013 Lakeside Boulevard  
Indianapolis, IN 46278

Rush County Highway Department  
1352 East State Road 44  
Rushville, IN 46173

Indiana Department of Transportation  
Greenfield District  
32 South Broadway  
Greenfield, IN 46140

Rush County Health Department  
Rush County Courthouse  
101 East Second Street, Room 105  
Rushville Indiana 46173

Indiana Department of Natural Resources  
Division of Water  
Division of Fish and Wildlife  
402 West Washington Street  
Indianapolis, IN 46204

United States Environmental Protection  
Agency  
Region 5  
Ralph Metcalfe Federal Building  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

City of Rushville/Rush County  
Joint Planning and Zoning Office  
Rush County Courthouse  
101 East Second Street, Room 211  
Rushville, Indiana 46173

Indiana Department of Environmental  
Management  
Indiana Government Center North  
100 North Senate Avenue  
Indianapolis, IN 46204

Office of Energy Development  
1 North Capitol, Suite 900  
Indianapolis, IN 46204  
Office: 317-232-8939

United States Fish and Wildlife Service  
Midwest Region  
5600 American Blvd. West, Suite 990  
Bloomington, MN 55437-1458

## CERTIFICATION OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-1250 (Sub-No. 0X) in the following form was advertised on January 20, 2017 in the *Rushville Republican*, a newspaper of general circulation in Rush County, Indiana, as required by 49 C.F.R. § 1105.7(c) and 49 C.F.R. § 1105.12.



---

Thomas W. Wilcox, Esq.  
GKG Law, P.C.  
The Foundry Building  
1055 Thomas Jefferson Street NW  
Suite 500  
Washington, DC 20007  
(202) 342-5248

*Counsel for HC Railroad, LLC*

Printed 01/18/17 12:17

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| Account name:        | GKG LAW<br>THE FOUNDRY BLDG<br>STE 500<br>1055 THOMAS JEFFERSON ST | Approval Code:      | 73291G[144422481] |
|                      |                                                                    | Credit Holder Name: |                   |
| Phone number:        | 202-342-5248                                                       |                     |                   |
| Payment number:      | 974805                                                             |                     |                   |
| Payment date:        | 01/18/17                                                           |                     |                   |
| Amount:              | 107.57                                                             |                     |                   |
| Payment description: | CREDIT CARD PAYMENTS GKG LAW                                       |                     |                   |

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|--------------|--------------------------|--------------|-----|
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| Ad Taker:    | alund                    | Salesperson: | A7  |
| First Words: | NOTICE OF INTENT TO ABAN |              |     |

### **Notice of Intent to Abandon**

HC Railroad, LLC (“HC Railroad”) gives notice that on or about January 18, 2017, it intends to file with the Surface Transportation Board, Washington, DC (“Board”), a notice of exemption under 49 C.F.R. 1152 Subpart F—Exempt Abandonments, seeking authority to abandon its 6.4-mile line of railroad for the purpose of removing it from the national railroad system and converting it into a private track. The railroad line runs between railroad milepost 17.4 and milepost 23.8, within United States Postal Service ZIP Code 46173 in Rush County, Indiana. The proceeding will be docketed as Docket No. AB-1250 (Sub-No. 0X).

The Board's Office of Environmental Analysis (“OEA”) will generally prepare an Environmental Assessment (“EA”), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the OEA, Surface Transportation Board, Washington, DC or by calling that office at (202) 245-0291.

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 also can be filed with the Board. However, the line will continue to be owned by HC Railroad and will be used for freight rail service pursuant to existing and future private agreements. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings, Washington, DC, and one copy must be served on applicants' representative. Questions regarding offers of financial assistance, public use or trails 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: Thomas W. Wilcox, GKG Law, P.C., 1055 Thomas Jefferson Street, NW, Suite 500, Washington, D.C. 20007; tel. (202) 342-5248.

VERIFICATION

District of Columbia       )  
                                          )  
City of Washington        )

I, Thomas W. Wilcox state that I am counsel for HC Railroad, LLC ("HC Railroad"), that I am duly authorized to make this verification; and that I have read the foregoing Notice of Exemption and have knowledge of the facts and matters relied upon and that all representations set forth therein are true and accurate as stated, to the best of my knowledge, information and belief.

*Thomas W. Wilcox*

Thomas W. Wilcox

Sworn and subscribed to me

This 23<sup>rd</sup> day of January, 2017

*Toni S. Smith*

Notary Public

My commission expires

TONI S. SMITH  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires March 14, 2021

