

December 27, 2016

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VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

ENTERED
Office of Proceedings
December 27, 2016
Part of
Public Record

Re: **Docket No. AB-55 (Sub-No. 643X)**
CSX Transportation, Inc. -- Abandonment Exemption --
In La Porte, Porter and Starke Counties, IN

Docket No. FD 36076
Chesapeake and Indiana Railroad Company --
Petition for Declaratory Relief

Dear Ms. Brown:

Attached for filing in the above-captioned proceedings is the **Reply of Hoosier Valley Railroad Museum, Inc. To Chesapeake & Indiana Railroad Company's Petition to Reopen and Petition for Declaratory Relief**, dated December 27, 2016 which includes the Verified Statement of Mark Knebel.

Should any questions arise regarding this filing, please feel free to contact me. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,

Capehart & Scatchard, P.A.


John K. Fiorilla
Attorney for Hoosier Valley Railroad Museum, Inc.

JKF:pmb

Attachment

cc: Parties on Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of December, 2016, a copy of the foregoing **Reply of the Hoosier Valley Railroad Museum, Inc. to Petition to Reopen and Petition for Declaratory Order** was served by electronic mail and first class mail, postage prepaid, upon:

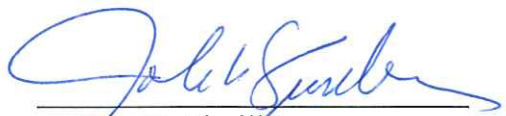
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John K. Fiorilla

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**CHESAPEAKE AND INDIANA RAILROAD
PETITION TO REOPEN
OFFER OF FINANCIAL ASSISTANCE PROCEEDING
FD 36076**

**HOOSIER VALLEY RAILROAD MUSEUM, INC.
REPLY TO PETITION FOR DECLARATORY RELIEF**

Submitted By

**John K. Fiorilla, Esq.
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Suite 300S
Mt. Laurel, N.J. 08054
(856) 914-2054**

BEFORE THE
SURFACE TRANSPORTATION BOARD

CHESAPEAKE AND INDIANA RAILROAD

PETITION TO REOPEN

OFFER OF FINANCIAL ASSISTANCE PROCEEDING

FD 36076

HOOSIER VALLEY RAILROAD MUSEUM, INC.
REPLY TO PETITION FOR DECLARATORY RELIEF

I.

DISCUSSION AND ARGUMENT

In its Petition for Declaratory Relief requesting that the Board reopen an Offer of Financial Assistance in the above captioned matter, Chesapeake and Indiana Railroad (hereinafter “CKIN”) relies upon a Verified Statement of R. Powell Felix, President of CKIN, which in regards to dealing with our client Hoosier Valley Railroad Museum (hereinafter “HVRM”) is in many cases misleading and disingenuous.

In opposing the Petition to Reopen, HVRM relies upon the Verified Statement of its Corporate Secretary and representative to the Town of North Judson, Mark Knebel, which is attached hereto. Mr. Knebel serves as HVRM representative to both the Town of North Judson and CKIN (or any other operator which may be chosen by North Judson and approved by the Board).

Mr. Felix in his Verified Statement has said that HVRM is not safety conscious and that HVRM does not focus on safety. Not only is this completely untrue, but it as we will note, it is CKIN which makes every effort to avoid its obligations to maintain the line it operates for North Judson to at least Class I track standards.

HVRM is, contrary to Mr. Felix's statements, safety conscious. HVRM continues to have its railroad operations and equipment inspected by the Federal Railroad Administration (hereinafter "FRA") at least twice a year and continues to have a clean bill of health regarding safety of its equipment, including locomotives and all safety procedures and training which is conducted HVRM. See Verified Statement of Knebel.

HVRM has a safety program for its employee/volunteers including the administration of rules tests and FRA approved engineer and conductor certification program. HVRM operates under the General Code of Operating Rules (GCOR) and tests its employee volunteers regarding the applicable rules to its operations on an annual basis. See Verified Statement of Knebel.

The only waivers obtained by HVRM from the FRA are waivers involving the age of HVRM's fleet (caboose which are more than 50 years old, but still safe for operations), glazing on one of its historic locomotives, engineer for an hour throttle time waivers, and the waiver of the application of periodic drug and alcohol testing rules which the FRA waived because of the infrequency of HVRA operations at slow speed. As the FRA letter regarding waivers attached to Mr. Felix's statement (see Exhibit J to Mr. Felix's Verified Statement) states extending these waivers to HVRM are "in the public's interest and consistent with railroad safety."

In his verified statement, Mr. Felix discusses a personal injury which took place in 2011. In depositions taken in that matter, the cause of the accident was not the operations of HVRM,

but the track conditions which were and are the responsibility of CKIN to maintain. Mr. Felix seems to ignore that CKIN obtained these responsibilities when it signed its agreement to operate the line with North Judson. This Agreement is attached as Exhibit A to the CKIN filing. See Verified Statement of Knebel.

On the other hand, CKIN is certainly not a Safety First operation as Mr. Felix claims. Its track work on the line has been shoddy and the attached reports of FRA inspections of its work conducted in 2014 which were made after HVRM crews refused to operate over the track it allegedly repaired appear attached to Mr. Knebel's Verified Statement. In addition HVRM had an independent inspector also inspect the track (with the Town's blessing) and he too found the work shoddy. His letter report is also attached to Mr. Knebel's Verified Statement. CKIN's animosity toward HVRM stems from the fact that HVRM complained about this work and insisted that CKIN live up to its maintenance responsibilities. They would like the board to believe HVRM is the problem when in fact **HVRM has been the whistle blower** for CKIN's failures under the agreement with the Town.

Mr. Felix states that HVRM has "unfettered rights" to operate passenger service on the line. Nothing could be further from the truth. In fact in 2016 HVRM operated limited passenger service on only 31 or so days and operated approximately 73 trains on those 31 or so days. Those trains were no surprise to CKIN. HVRM had given it notice of its days of operations and published a public schedule of operations which were approved by the Town of North Judson well before the tourist excursion season started, a copy of which is attached as an Exhibit to this filing. In fact, since May of 2006, when HVRM commenced its operations on the line, HVRM does not know of any conflict between its operations and the operations of CKIN's freight

service. HVRM has never receive any complaint regarding interference with its service from any shipper on the line. See Verified Statement of Knebel.

Mr. Felix also disingenuously states that HVRM has had undisclosed contacts with prospective operators of the line regarding the recent RFP process. HVRM's involvement in the RFP process was to respond to a request from North Judson requesting information that HVRM had regarding various grants received on behalf of the railroad, which had been applied for by CKIN, and to update information regarding HVRM operations and generally operations on the line. HVRM had the right to answer inquiries regarding the line from anyone who made inquiries and, in fact, HVRM answered questions of many people including some who later responded to the RFP. See Verified Statement of Knebel.

HVRM was not involved in foiling and had no knowledge of the "grand bargain," which according to Mr. Felix, was apparently an agreement between the Town, Co-Alliance and CKIN to write an RFP which was slanted to permitting CKIN, through its customer Co-Alliance, to continue to operate the line. See Verified Statement of Knebel. One wonders whether such an RFP (which was never issued) would violate Indiana law since it would appear to attempt to avoid the obligations the Town has to insure that the agreement for operations was in the public's interest.

HVRM also unequivocally states that it had NO input in selecting a proposed new operator for the line. Mr. Felix seems to think that HVRM was somehow "pulling the strings" in determining a new operator. In fact, until the proposed new operator was selected, HVRM's only connection with the new operator was to meet representatives of the new operator along with several other proposed operators when they did their due diligence to determine whether or

not to respond to the Town's RFP. HVRM had absolutely no input as to the administration of the RFP or the selection of a proposed new operator, and had never heard of said operator until it made its due diligence visit. See Verified Statement of Knebel.

Likewise, HVRM had no input in the bid process and had no "overbearing hand" as Mr. Felix states in said process. Once again Mr. Felix attempts to blame HVRM for something in which HVRM was not involved.

Finally, the most recent RFP by North Judson provides that within agreed upon protocols, HVRM could operate over all of the line which meets Class I Standards. While CKIN apparently feels that it can agree to any such protocols and successfully operate the line, protocols agreed upon by HVRM and the new proposed operator of the line confirm that such protocols can be agreed to and that both the freight operator and the 31 days a year tourist operator can continue to operate together.

CONCLUSION

Finally, since there has never been any interference with the common carrier freight obligations of CKIN by HVRM (or anyone else for that matter), and no complaints have been received regarding any such alleged inference, HVRM asks that the Board deny the request of CKIN to reopen the Offer of Financial Assistance Proceeding or permit CKIN to institute a proceeding and investigation against the Town of North Judson.

12/27/16

Respectfully submitted.



John K. Fiorilla
Capehart & Scathard, P.A.
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Mt. Laurel, N.J. 08054
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All Trains Operate on Central Time (Chicago Time)

EL—English Lake Train / LC—LaCrosse Train

MAR 26	Easter Trains (Special Fares) <i>Easter Egg Hunt and a special visit with the Easter Bunny!</i> EL—10:00 am / 12:30 pm / 2:30 pm	JUL 23	EL—12:30 pm, LC—2:00 pm	OCT 8	Pumpkin Trains (Pumpkins Additional) <i>Visit the Pumpkin Patch</i> EL—10:00 am / 12:30 pm / 2:30 pm
MAY 7	Mother's Day Trains <i>Half Fare for Mom and FREE Flower!</i> EL—12:30 pm, LC—2:00 pm	JUL 30	EL—12:30 pm, LC—2:00 pm	OCT 15	Pumpkin Trains (Pumpkins Additional) <i>Visit the Pumpkin Patch</i> EL—10:00 am / 12:30 pm / 2:30 pm
MAY 14	EL—12:30 pm, LC—2:00 pm	AUG 6	EL—12:30 pm, LC—2:00 pm	OCT 22	Pumpkin Trains (Pumpkins Additional) <i>Visit the Pumpkin Patch</i> EL—10:00 am / 12:30 pm / 2:30 pm
MAY 21	EL—12:30 pm, LC—2:00 pm	AUG 13	To Be Announced	OCT 29	Halloween Train (Special Fares) <i>Includes a Not-So-Scary, Scary Animal Show in LaCrosse</i> LC—4:00 pm
MAY 28	EL—12:30 pm, LC—2:00 pm	AUG 20	EL—12:30 pm, LC—2:00 pm	DEC 3	Santa Trains (Special Fares) <i>Ride with Santa Claus!</i> EL—10:00 am / 12:30 pm / 2:30 pm
JUN 4	EL—12:30 pm, LC—2:00 pm	AUG 27	EL—12:30 pm, LC—2:00 pm	DEC 10	Santa Trains (Special Fares) <i>Ride with Santa Claus!</i> EL—10:00 am / 12:30 pm / 2:30 pm
JUN 11	EL—12:30 pm, LC—2:00 pm	SEP 3	EL—12:30 pm, LC—2:00 pm	DEC 17	Santa Trains (Special Fares) <i>Ride with Santa Claus!</i> EL—10:00 am / 12:30 pm / 2:30 pm
JUN 18 & 19	North Judson Mint Festival <i>Enjoy one of the oldest festivals in the area with food, fun and train rides!</i> EL—12:30 pm, LC—2:00 pm	SEP 10	EL—12:30 pm		
JUN 25	EL—12:30 pm, LC—2:00 pm	SEP 17	Thomaston Excursion <i>Take a "rare mileage" excursion over former PM trackage to Thomaston</i> Special Trip (3 hours)—2:00 pm		
JUL 2	EL—12:30 pm, LC—2:00 pm		Scouts Rails & Trails <i>Contact the museum for full program information</i> EL—12:30 pm, LC—2:00 pm		
JUL 9	EL—12:30 pm, LC—2:00 pm	SEP 24	EL—12:30 pm, LC—2:00 pm		
JUL 16	EL—12:30 pm, LC—2:00 pm	OCT 1	Fall Harvest Trains EL—12:30 pm, LC—2:00 pm		

31 days / 23 days LaCrosse / 16 days

Verified Statement of Mark Knebel

Mark Knebel being duly sworn deposes and states as follows

My name is Mark Knebel and I am Secretary of the Hoosier Valley Railroad Museum Inc. (HVRM). HVRM is an Indiana non-profit corporation which operates a railroad museum and static display site in North Judson, Starke County, Indiana. HVRM operates excursion tourist passenger service between North Judson and LaCrosse, Indiana on the railroad owned by the Incorporated Town of North Judson.

1. In May of 2006, HVRM began conducting seasonal tourist operations between North Judson and LaCrosse, Indiana Chesapeake and Indiana Railroad Company (CKIN) a Class III Railroad which had an agreement with the owners of the line was responsible to maintain the areas over which HVRM operates to no less than Class 1 track standards.
2. Contrary to the statement of Powell Felix, HVRM's concern for safety and its focus on safety is exceptional.
3. HVRM continues to have its railroad operations and equipment inspected by the Federal Railroad Administration inspectors at least twice a year and continues to have a clean bill of health regarding the safety of its equipment including locomotives and all the safety procedures and training which is done by HVRM.
4. HVRM has a safety program for its employee/volunteers including administration of rules tests and a FRA approved engineer and conductor certification program. HVRM operates under General Code of Operating Rules (GCOR) and tests its employee/volunteers regarding the applicable rules to its operations on an annual basis.
5. The only waivers obtained by HVRM from the FRA are waivers involving the age of their fleet (caboose more than 50 years old), glazing on one of their historic locomotives, and the application of the periodic drug and alcohol testing rules which the FRA waived

because of the infrequency of HVRM operations at slow speed and engineer for an hour program throttle time waiver. As the FRA letter regarding waivers attached to Mr. Felix's statement indicated these waivers were found by the FRA to be "in the public's interest and consistent with railroad safety."

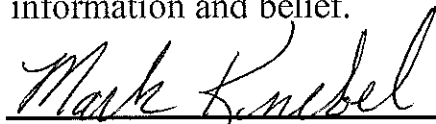
6. CKIN on the other hand is not a Safety First operation as Mr. Felix claims. Its track work has been shoddy and the attached reports of the FRA on inspections conducted in 2014 after HVRM operating crews refused to operate over track which had allegedly been repaired by CKIN See Exhibit A attached. HVRM had an independent inspector also inspect this track (with the town's blessing) and he too found the work shoddy. See Exhibit B attached. Mr. Felix seems to be upset regarding dealing with HVRM ever since HVRM had requested that the FRA inspect the track.
7. Regarding the personal injury which took place in 2011 referred to by Mr. Felix, the result of depositions taken in that matter showed that the cause of the accident was not the operations of HVRM but the track conditions which were and are the responsibility of CKIN.
8. HVRM has only expected CKIN to live up to its responsibilities in its 2004 operation agreement with North Judson and insisted that they maintain track to Class 1 standards, CKIN takes the position that they should not have to operate pursuant to the agreement they signed.
9. HVRM has never had unfettered rights to passenger service on the line. In fact in 2016 HVRM only operated on 31 or so days and operated 73 trains on those 31 or so days.

10. To HVRM's knowledge there has never during all the years that HVRM has operated its tourist trains been an operating conflict between the freight service operated by CKIN and HVRM's trains. Nor has there been any complaint received by shippers on the line regarding HVRM's operations.
11. Regarding the proposed railroad operating agreement sent to CKIN in 2014, the agreement was drafted by the Town attorneys with requested input from HVRM and its attorney. Other than information regarding its operations, HVRM did not have any say in what was included in the agreement. It should also be noted the 2014 agreement was never signed or agreed to by the parties.
12. When prospective operators of the line were doing their due diligence and determining whether or not to reply to the RFP, several made unsolicited visits to HVRM and asked questions about the line. HVRM answered those questions to the best of its ability. Some of these prospective operators later responded to the RFP.
13. HVRM provided to the Town at the town's request information it had regarding the various grants received on behalf of the railroad which had been applied for by CKIN, were provided by shipper and HVRM contributions. HVRM did not supply any other information regarding the alleged moneys owed CKIN by the town under Section 10 of the agreement.
14. HVRM was not involved in foiling and had no knowledge of the "grand bargain" which according to Mr. Felix CKIN alleges was apparently an agreement to write an RFP which was slanted to permitting CKIN through its customer Co-Alliance to continue to operate the line.
15. HVRM had no input in the administration of the RFP or in selecting a new operator of the line.
16. HVRM had no input regarding the bid process and had no "overbearing" hand in the bid process.

18. The most recent RFP by North Judson provides that within agreed upon protocols HVRM could operate over all of the line which meets Class I standards. While CKIN apparently feels that this would make its operations not profitable enough, protocols agreed between HVRM and the proposed new operator of the line confirm that this can be done. A copy of the new protocols are attached hereto as Exhibit C.

VERIFICATION

Mark Knebel, being duly sworn according to law deposes and states that he holds the position of Secretary with Hoosier Valley Railroad Museum, Inc. is authorized to make this Verification, has read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of my knowledge, information and belief.



Mark Knebel

Sworn to Subscribed before me a Notary Public this 21st day of
December, 2016


Notary Public L. CHARLES LUKMANN
Resident of Porter County, IN
My Commission Expires: 1/3/20



DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT

OMB Approval No.: 2130-0509

Inspector's Name Blaydes, Fred E.		Inspector's Signature		Inspector's ID No. 11291		Report No. 142		Date yy mm dd 2014 08 13					
Railroad/Company Name & Address CHESAPEAKE & INDIANA RR 916 VINE STREET CONNERSVILLE IN 47331				R/C R RR/Co. Code CKIN	Division SYSTEM Subdivision SYSTEM		RR/Co. Representative (Receipt Acknowledged) Name DON WONTOLA Title OPERATIONS MANAGER Email ckinrr@yahoo.com Signature						
From: City NORTH JUDSON		Codes 3620		Destination City & County		Codes 3620		From Latitude					
State IN		18		City NORTH JUDSON		3620		From Longitude					
County STARKE		C149		County STARKE		C149		To Latitude					
Mile Post: From 0212.70 To 0217.20				Inspection Point MAIN TRACK				To Longitude					
Activity Code:	MTH	MTW	TOM	DER	RWP	RMM	CWRP						
Units:	3	2	4	2	2	1	1						
Sub Units:	0	0	0	0	2	0	0						
Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/ USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
1	0212.80	MAIN	M	213	0121	E	10	1		N	N	1	MTW
Description LESS THAN 2 BOLTS PER RAIL AT ANY JOINT IN CONTINUOUS WELDED RAIL. NORTH RAIL, EAST END OF JOINT, AT FIRST JOINT EAST OF SWITCH, ON THE EAST END OF NORTH JUDSON SIDING, ONLY ONE BOLT IN CWR.													
Seal Applied		Seal Removed		Hazard Class		UN/NA ID							
Violation Recommended ☐ Yes ☒ No				Latitude:		Longitude:							
Written Notification to FRA of Remedial Action is: ☐ Required ☒ Optional				Railroad Action Code		Date(mm/dd/yyyy):		Comments on back?					
Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/ USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
2	0212.85	MAIN	M	213	0109	B3	10	1		N	N	1	MTW
Description NO EFFECTIVE SUPPORT TIES WITHIN THE PRESCRIBED DISTANCE FROM A JOINT. 30-INCHES EAST OF JOINT AND 28-INCHES WEST OF JOINT ON THE NORTH RAIL, TO THE FIRST EFFECTIVE TIE FROM THE JOINT.													
Seal Applied		Seal Removed		Hazard Class		UN/NA ID							
Violation Recommended ☐ Yes ☒ No				Latitude:		Longitude:							
Written Notification to FRA of Remedial Action is: ☐ Required ☒ Optional				Railroad Action Code		Date(mm/dd/yyyy):		Comments on back?					

ID's of Accompanying
Inspector(s)

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No.: 2130-0509

Inspector's ID No. 11291	Report No. 142	Report Date 8/13/2014
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
3	0212.90	MAIN	M	213	0121	E	10	1		N	N	1	MTW

Description
LESS THAN 2 BOLTS PER RAIL AT ANY JOINT IN CONTINUOUS WELDED RAIL. SOUTH RAIL, NORTH END OF JOINT, NO BOLTS AND RAIL ENDS RUN TIGHT TOGETHER.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
4	0212.90	MAIN	M	213	0119	B	10	1		N	N	1	CWRP

Description
FAILURE TO COMPLY WITH WRITTEN CWR PROCEDURES - ANCHORING OR FASTENING REQUIREMENTS. MISSING AND INEFFECTIVE RAIL ANCHORS ALLOWING RAIL JOINT IN LINE ITEM 3 TO SHEAR BOLTS AND RUN TIGHT TOGETHER.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
5	0213.00	MAIN	M	213	0109	B3	10	1		N	N	1	MTW

Description
NO EFFECTIVE SUPPORT TIES WITHIN THE PRESCRIBED DISTANCE FROM A JOINT. 60-INCHES EAST OF JOINT AND 28-INCHES WEST OF JOINT ON THE SOUTH RAIL TO THE FIRST EFFECTIVE TIE FROM THE JOINT. THIS JOINT IS AT THE HEEL OF FROG ON THE OLD HVRM SWITCH.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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ID's of Accompanying
Inspector(s)

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No.: 2130-0509

Inspector's ID No. 11291	Report No. 142	Report Date 8/13/2014
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
6	0213.10	MAIN	M	213	0109	B3	10	1		N	N	1	MTW

Description

NO EFFECTIVE SUPPORT TIES WITHIN THE PRESCRIBED DISTANCE FROM A JOINT. 53-INCHES EAST OF JOINT AND 69-INCHES WEST OF JOINT ON THE SOUTH RAIL TO THE FIRST EFFECTIVE TIE FROM THE JOINT.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
7	0213.40	MAIN	M	213	0053	B3	10	1		N	N	1	MTW

Description

GAGE DIMENSION ON CURVED TRACK EXCEEDS ALLOWABLE. 58 1/8-INCH GAGE MEASURED AT JOINT ON THE SOUTH RAIL, IN CURVE, EAST OF THE WEST END OF THE NORTH JUDSON SIDING SWITCH.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
8	0213.41	MAIN	M	213	0109	B3	10	1		N	N	1	MTW

Description

NO EFFECTIVE SUPPORT TIES WITHIN THE PRESCRIBED DISTANCE FROM A JOINT. 72-INCHES EAST OF JOINT AND 84-INCHES WEST OF JOINT ON THE SOUTH RAIL TO THE FIRST EFFECTIVE TIE FROM THE JOINT.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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ID's of Accompanying
Inspector(s)

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No.: 2130-0509

Inspector's ID No. 11291	Report No. 142	Report Date 8/13/2014
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
9	0213.41	MAIN	M	213	0109	B3	10	1		N	N	1	MTW

Description
NO EFFECTIVE SUPPORT TIES WITHIN THE PRESCRIBED DISTANCE FROM A JOINT. 105-INCHES EAST OF JOINT AND 38-INCHES WEST OF JOINT ON THE NORTH RAIL TO THE FIRST EFFECTIVE TIE FROM THE JOINT.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
10	0213.41	MAIN	M	213	0109	B3	10	1		N	N	1	MTW

Description
NO EFFECTIVE SUPPORT TIES WITHIN THE PRESCRIBED DISTANCE FROM A JOINT. 45-INCHES EAST OF JOINT AND 88-INCHES WEST OF JOINT ON THE NORTH RAIL TO THE FIRST EFFECTIVE TIE FROM THE JOINT.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
11	0213.45	MAIN	M	213	0109	B3	10	1		N	N	1	MTW

Description
NO EFFECTIVE SUPPORT TIES WITHIN THE PRESCRIBED DISTANCE FROM A JOINT. 51-INCHES EAST OF JOINT AND 30-INCHES WEST OF JOINT ON THE SOUTH RAIL IN CURVE TO THE FIRST EFFECTIVE TIE FROM THE JOINT.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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ID's of Accompanying
Inspector(s)

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No.: 2130-0509

Inspector's ID No. 11291	Report No. 142	Report Date 8/13/2014
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
12	0213.45	MAIN	M	213	0053	B3	10	1		N	N	1	MTW

Description
GAGE DIMENSION ON CURVED TRACK EXCEEDS ALLOWABLE. 58 1/16-INCH GAGE MEASURED AT JOINT IN CURVE, EAST OF THE WEST END OF THE NORTH JUDSON SIDING SWITCH.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
13	0213.50	MAIN	M	213	0053	B3	10	1		N	N	1	MTW

Description
GAGE DIMENSION ON CURVED TRACK EXCEEDS ALLOWABLE. 58 1/8-INCH GAGE MEASURED AT JOINT IN CURVE, WEST OF THE WEST END OF THE NORTH JUDSON SIDING SWITCH.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
14	0213.51	MAIN	M	213	0109	B3	10	1		N	N	1	MTW

Description
NO EFFECTIVE SUPPORT TIES WITHIN THE PRESCRIBED DISTANCE FROM A JOINT. 74-INCHES EAST OF JOINT AND 68-INCHES WEST OF JOINT ON THE NORTH RAIL TO THE FIRST EFFECTIVE TIE FROM THE JOINT.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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ID's of Accompanying
Inspector(s)

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No.: 2130-0509

Inspector's ID No. 11291	Report No. 142	Report Date 8/13/2014
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
15	0217.20	MAIN	M	213	0119	B	10	1		N	N	1	CWRP

Description
FAILURE TO COMPLY WITH WRITTEN CWR PROCEDURES - ANCHORING OR FASTENING REQUIREMENTS. MISSING AND INEFFECTIVE RAIL ANCHORS AT VARIOUS LOCATIONS FROM MILE 212.7 TO MILE 217.2. THIS, ALONG WITH WEAK TIE CONDITIONS THROUGHOUT CONTRIBUTED TO TIGHT TRACK CONDITIONS WITH SMALL THERMAL MISALIGNMENTS BECAUSE THE COMPRESSIVE FORCES WERE NOT BEING CONTROLLED.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
16										N	N	0	RWP

Description - [** Comment to Railroad/Company **]
JOB BRIEFING BEFORE INSPECTION BEGAN AND PROPER ON-TRACK PROTECTION PROVIDED FOR JI-RAIL AND WALKING INSPECTION. MAINTENANCE CREW OBSERVED WORKING ON THE TRACK WITH PROPER ON-TRACK PROTECTION.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	☐ Yes ☒ No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	☐ Required ☒ Optional	Railroad Action Code	Date(mm/dd/yyyy):	Comments on back?
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ID's of Accompanying
Inspector(s)

GKC CONSULTING COMPANY



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Chesterton, Indiana 46304
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August 3, 2014

Mr. Mark Knebel, Secretary
Hoosier Valley Railroad Museum
North Judson Railroad Advisory Committee

Re: Track Inspection Report

On August 3, we inspected the track owned by the Town of North Judson, from MP 213.61 (Arlington St.), north to MP 214. This section of track is maintained and inspected by the Chesapeake & Indiana Railroad (CKIN). The track has a maximum authorized speed of 15MPH for passenger service, with occasional freight service at 10MPH authorized speed.

The most notable conditions were defective crosstie clusters. We found 12 clusters of 4 defective ties in a row, and 10 clusters of 3 defective ties in a row.

Between MP 213.7 and MP 213.8, several crossties had been recently changed out. The rails had been lifted and left approximately 1½ inches for the installation of the ties. This resulted in seven crossties dropping from the rails; crossties dropped from the rail are considered defective because they will not hold spikes. The CKIN foreman of the repair gang should have taken the track out of service if proper repairs could not be made. The CKIN foreman should have been qualified under Federal Railroad Administration, Track Safety Standards §213.7(a).

We found the following FRA Track Safety Standards Defects at this location:

- FRA TSS §213 Scope "Combination of Track Conditions"
- FRA TSS §213.53 Gage (defect code 53B1)
- FRA TSS §213.13 Measuring track not under load (defect code 0013)
- FRA TSS §213.109 Crossties (defect code 109B1i) 7 defective crossties in a row
- FRA TSS §213.127 Rail Fastenings (defect code 127A) 7 defective crossties in a row will not hold spikes

Hoosier Valley RR Museum provided us with the results of a geometry and gauge restraint test done with by Holland Company's TrackSTAR Unit 486, on July 10, 2014. The data showed that this track segment (Exceptions 025 and 026) was unsafe at any speed. They also used a hand gage loading device which showed the gage was more than one inch wider than the maximum allowable limit of 58".

In summary, we find that this segment of track is not being maintained to prevent FRA Class I defects from occurring. CKIN can be subject to penalties per FRA TSS §213.15. The track should remain out of service until the above stated defects are corrected.

Sincerely,

George K. Clem, President
George@GKCConsulting.com



EXHIBIT ONE

JOINT FREIGHT AND TOURIST PASSENGER OPERATING PROTOCOLS

Chicago & North Judson Railway (CNJR) and Hoosier Valley Railroad Museum (HVRM)

CNJR and HVRM co-operate on trackage radiating three directions from LaCrosse, IN. The primary scheduled operations for HVRM and the normal freight operations for CNJR do not utilize the same route except for one leg of the LaCrosse wye track.

Delays attributable to potential conflicts at LaCrosse are very minimal and immaterial to freight operations. Occasionally, HVRM will operate trains for special events on track primarily utilized by CNJR, estimated to be 5 times or less per year. In the event that freight operations must take place on those days, this document is to be followed as a standard operating practice for scheduling meets. Generally, the CNJR trains will wait for the HVRM at specific side tracks for a meet, where the CNJR will pass. The short length of the railroad allows for minimal delays to freight traffic, so long as the HVRM and CNJR cooperate and communicate on days with joint operations. This document may not cover all potential future HVRM train movements. In the event that HVRM adds other trips, CNJR and HVRM shall mutually set potential meet points for conflicting movements.

LaCrosse

Normal Operations

Normal operating practice is for the HVRM train to pull into the wye, uncouple the locomotive, and utilize the wye to run around the passenger train. The only opportunity to foul the route of movement for a freight train is while utilizing the northwest leg of the wye. The estimated time HVRM would occupy this portion of the freight route would be 15 minutes.

Potential Conflict

The potential conflict for movement is that the HVRM locomotive may foul the freight route while utilizing the wye track, or that a grain train may foul wye during the run around move. The maximum potential delay to the HVRM train is 15-20 minutes to wait for the grain train to pass. The maximum potential delay to the CNJR train is 15-20 minutes to wait for the HVRM locomotive to wye.

Conflict Resolution Standard Operating Practice

In the event that an HVRM train and CNJR train require use of the wye track at the same time, priority will be granted based on which train is in position to occupy the wye track first. The wye track is to be operated under Yard Limits, so both trains will be in contact prior to operating through the track. If the grain train is to wait for the HVRM, the train will hold out at the US 421 crossing if operating from Malden, or will hold out at the private crossing on the north side of the wye if it is a train operating from Union Mills/Thomaston. If HVRM arrives at LaCrosse and a CNJR train is already occupying the wye, then HVRM will hold out at the LaCrosse Library until the CNJR train passes. In any circumstance that CNJR is operating on a day with a scheduled HVRM LaCrosse trip, the local operating representative from CNJR must be in contact with HVRM prior to operating a potential conflicting move through LaCrosse.

Special Trains

Hanna

Normal operating practice is for the HVRM train to operate short round trip excursions from Hanna several times during the day, historically 5 mile round trips to Thomaston.

Potential Conflict

The potential conflict for Hanna Fest trips is either an NS train destined for Union Mills, which would require a movement through Hanna to or from Thomaston, or a CSX train for Malden, which would require a movement through Hanna to or from Union Mills.

Conflict Resolution Standard Operating Practice

In the event that a CNJR train needs to pass through Hanna on the day HVRM is running trips for Hanna Fest, then the CNJR train shall be scheduled to meet the next scheduled HVRM train at Thomaston siding. If HVRM is operating north from Hanna, then the meet shall be coordinated for the south end of "Track 8" in Union Mills. CNJR and HVRM will develop a schedule when multiple daily HVRM trips are scheduled, that would allow a buffer period mid-day of 1 hour to coordinate a non-occupied passenger train meet for added flexibility.

Malden

HVRM intends to schedule limited trips on the line to Malden.

Potential Conflict

The potential conflict for Malden trains would be from MP 222.6 to MP 230. The estimated transit time for the portion would be 45 minutes.

Conflict Resolution Standard Operating Practice

If an HVRM train is scheduled to occupy this segment of track, CNJR will hold out in La Crosse for the train to return. If the HVRM train has not yet departed LaCrosse, then the CNJR train will operate on a joint track authority, with the HVRM train following the CNJR train to Malden. If a CNJR train is prepared to depart Malden, then the CNJR train would operate on joint track authority, following the

HVRM train back to LaCrosse. In the event that CNJR must operate to Malden on a day the HVRM is scheduled to run to Malden, the local CNJR transportation manager will be in contact with HVRM to confirm a mutually agreeable plan for meeting trains.

General Guidelines

Meeting Points

CNJR will work in good faith with HVRM to negotiate and establish mutually agreeable freight/passenger meet points; however in the event CNJR and HVRM are unable to agree, the meet point will be as set by CNJR.

Movements Involving Open Air Railcars

When a meet shall occur between CNJR and HVRM, HVRM shall have a coach attendant in each open railcar to ensure all passengers keep their heads and arms, as well as any personal possessions, inside the railcar while passing another train. Also, no passengers shall be permitted off the train when another train passes.

Schedule Windows

When scheduling multiple trips on a single day that could interfere with freight, HVRM shall schedule an extra 30-60 minutes of "window" time between train trip runs to allow for a freight train to pass.

Shifts in Traffic Patterns

CNJR and HVRM will revisit protocols if significant shifts in traffic patterns by either arise.