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THOMAS F. MCFARLAND

November 6, 2019

248819

By e-filing

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

ENTERED
Office of Proceedings
November 6 2019
Part of
Public Record

Re: Docket No. AB-1269 (Sub-No. 1X), *Iowa Traction Railway Company --
Discontinuance of Service Exemption -- in Cerro Gordo County, IA*

Dear Ms. Brown:

Hereby transmitted is a Verified Notice of Exemption Under 49 C.F.R. § 1152.50 for
filing with the Board in the above referenced matter.

Very truly yours,



Thomas F. McFarland
Attorney for Applicant

TMcF:kl:\1871\efSTB2

FILED
November 6, 2019
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
November 6, 2019
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

IOWA TRACTION RAILWAY	)	
COMPANY -- DISCONTINUANCE OF	)	DOCKET NO. AB-1269
SERVICE EXEMPTION -- IN CERRO	)	(SUB-NO. 1X)
GORDO COUNTY, IA	)	

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1152.50**

IOWA TRACTION RAILWAY COMPANY
12045 West State Street
Mason City, IA 50401

Applicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Applicant

DATE FILED: November 6, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

IOWA TRACTION RAILWAY	)	
COMPANY -- DISCONTINUANCE OF	)	DOCKET NO. AB-1269
SERVICE EXEMPTION -- IN CERRO	)	(SUB-NO. 1X)
GORDO COUNTY, IA	)	

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1152.50**

NOTICE OF CLASS EXEMPTION

Pursuant to 49 U.S.C. § 10502(a) and 49 C.F.R. § 1152.50, *et seq.*, IOWA TRACTION RAILWAY COMPANY (IT Railway), a Class III rail carrier, hereby provides verified notice of its class exemption from the application and prior approval requirements of 49 U.S.C. § 10903 for discontinuance of its service over a rail line that extends between Milepost 155.5 located approximately 100 yards south of Elm Drive and Milepost 152.5 located approximately 600 yards north of County B-20, a distance of 3.0 miles in Mason City, Cerro Gordo County, Iowa (the Rail Line).

A map of the Rail Line is attached to this Notice as Appendix 1.

THE RAIL LINE

The Rail Line was a segment of the former Minneapolis & St. Louis Railway Company (M&StL). The M&StL was merged into Chicago & North Western Transportation Company (C&NW) in 1960. In 1987, C&NW obtained authority to abandon the Rail Line. *Chicago & North Western Transp. Co. -- Aban. Exempt. -- in Mason City, IA*, 1987 WL 98885 (Docket No. AB-1 [Sub-No. 205X], decision served July 10, 1987). C&NW consummated that abandonment.

Thereafter, the Rail Line was acquired by Hermitage Homes, Inc. (Hermitage), a noncarrier. Inasmuch as the Rail Line was abandoned, authority was not required for its acquisition by Hermitage.

In 1988, Iowa Traction Railroad Company (IT Railroad) was authorized to operate over the Rail Line by agreement with Hermitage. *Iowa Traction Railroad Company -- Oper. Exempt. -- Hermitage Homes, Inc.*, 1987 WL 225011 (Finance Docket No. 31353, decision served November 23, 1988). In 2012, IT Railway was authorized to replace IT Railroad as operator of the Line. *Iowa Traction Railway Company -- Change in Operators Exempt. -- Rail Line of Backtrack, Inc.*, 2012 WL 4794142 (Finance Docket No. 35677, decision served October 12, 2012). Backtrack, Inc. had succeeded Hermitage as owner of the Line.

Although IT Railway and IT Railroad have been authorized to operate the Rail Line for more than 30 years, no operations have been conducted over the Line. As a result, the Rail Line is overgrown with brush and vegetation. There is no realistic prospect for rail operations over the Line in the future. However, the right-of-way of the Rail Line, if cleared of overgrowth, would provide access to the Lime Creek Nature Center, a scenic property in the City of Mason City, IA (the City). In those circumstances, IT Railway, Backtrack, and the City agree that the public interest would be best served by discontinuance of IT Railway's rail service, followed by sale of the Rail Line right-of-way to the City under the National Trails System Act (the Trails Act), 16 U.S.C. § 1247(d) for railbanking and interim recreational trail use.

RAILBANKING - TRAIL USE FOLLOWING DISCONTINUANCE AUTHORITY FOR AN ABANDONED RAIL LINE

The City has made it known that if the discontinuance authority sought in this Notice is obtained, the City will file a request for railbanking-trail use of the right-of-way under the Trails Act. IT Railway and Backtrack will support such railbanking and trail use. For the reasons explained below, the Board should find that railbanking-trail use is available where, as here, the subject rail line has been abandoned so that only discontinuance authority is required from the Board.

The general principle is that railbanking-trail use is not available where only discontinuance authority is sought and the subject rail line has not been abandoned. However, the law is different where the subject rail line has already been abandoned when discontinuance authority is sought. Authority to abandon a rail line need not be sought for a rail line whose abandonment has already been authorized and consummated. *Chillicothe-Brunswick Rail Maint. Auth. -- Discontinuance Exempt. -- in Livingston, Linn, and Chariton Counties, MO*, 2008 WL 141856 (Docket No. AB-1001X, decision served January 15, 2008), (“...Chillicothe...need not seek authority to abandon a line that already has been abandoned...” at *3). In that circumstance, only discontinuance authority is needed, and railbanking-trail use thus is available. *State of Vermont and Vermont Railway, Inc. -- Discontinuance of Service Exemption -- in Chittendon County, VT*, 3 I.C.C. 2d 903 (1987), *aff’d sub. nom. Preseault v. I.C.C.*, 853 F.2d 145 (2d Cir, 1988), *aff’d* 494 US 1 (1990).^{1/}

^{1/} The Board recently rejected a Notice of Exemption of Abandonment filed by IT Railway that failed to raise the principles cited in this Notice. *Iowa Traction Ry. -- Aband. Exempt. -- in Cerro Gordo County, IA*, 2019 WL 3560448 (Docket No. AB-1269X, decision served August 5, 2019).

COMPLIANCE WITH BOARD REGULATIONS

In compliance with Board regulations for exempt discontinuance at 49 C.F.R. § 1152.50, IT Railway states the following:

1. Certification of compliance with 49 C.F.R. § 1150.52(b):

Attached to this Notice as Appendix 2 is a certification by an authorized representative of IT Railway that no local or overhead traffic has moved over the Rail Line for at least two years and that no formal complaint filed by a user of rail service on the Line (or by a state or local government acting on behalf of such a user) regarding cessation of service over the Line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the 2-year period covered by this Notice.

2. Pre-filing of notice to specified governmental agencies (49 C.F.R. § 1152.50(d)(1)(i))

IT Railway hereby certifies that at least 10 days before filing of this Notice, letters of Notification were sent to the following governmental agencies of IT Railway's intent to file a Notice of Exemption under 49 C.F.R. § 1152.50 for discontinuance of service over the Rail Line (see Appendix 2 attached):

- (1) Iowa Department of Transportation;
- (2) United States Department of Defense, Military Traffic Management Command,
Transportation Engineering Agency, Railroads for National Defense Program;
- (3) National Park Service, Recreation Resources Assistance Division;
- (4) U.S. Department of Agriculture, Chief of the Forest Service.

The Notice to those entities identifies IT Railway as the applicant; identifies the subject Rail Line; identifies the affected zip code [50401]; and states the earliest that the proposed discontinuance can be implemented (i.e., no sooner than 50 days after the filing of this Notice).

3. **The Name of the Applicant (49 C.F.R. § 1152.22(a)(1))**

The name of Applicant is Iowa Traction Railway Company.

4. **Common Carrier Status (49 C.F.R. § 1152.22(a)(2))**

Applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

5. **Relief Sought (49 C.F.R. § 1152.22(a)(3))**

Applicant seeks an exemption from the prior approval requirements of 49 U.S.C. § 10903 for discontinuance of service over the Rail Line.

6. **Detailed Map (49 C.F.R. § 1152.22(a)(4))**

The required detailed map of the Rail Line is attached as Appendix 1.

7. **Applicant's Representative (49 C.F.R. § 1152.22(a)(7))**

Applicant's representative to whom correspondence should be sent is Thomas F.

McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604-1228, (312) 236-0204, mcfarland@aol.com.

8. **Zip Codes Traversed by Rail Line (49 C.F.R. § 1152.22(a)(8))**

The Rail Line traverses Zip Code 50401 in Mason City, Iowa.

9. **Alternative Use of Rail Line (49 C.F.R. § 1152.22(e)(4))**

In IT Railway's opinion, after discontinuance, the Rail Line would be best suited as a continuation of an existing trail to Lime Creek Nature Center in Mason City, Iowa. IT Railway is informed that if an exemption for discontinuance of service over the Rail Line is granted, the

City will file a request for railbanking and interim recreational trail use of the Rail Line right-of-way under the National Trails System Act, 16 U.S.C. § 1247(d). IT Railway does not believe that the Rail Line is suitable for highway use inasmuch as there already is an adequate system of highways and roads in the area of Mason City near the Rail Line.

10. Labor Protection (49 C.F.R. § 1152.50(d)(2))

IT Railway agrees to accept the standard labor protective conditions set forth in *Oregon Short Line R. Co.*, 360 I.C.C. 91 (1979). However, inasmuch as the Rail Line has been out-of-service for many years, no employees would be adversely affected by discontinuance of service on the rail line.

11. Pre-filing and Environmental-Historic Notice (49 C.F.R. § 1152.50(d)(1) and 49 C.F.R. § 1105.11)

IT Railway hereby certifies that it has complied with the pre-filing notice requirements of 49 C.F.R. § 1152.20(d)(1) (at least 10 days prior to filing this Notice) and 49 C.F.R. § 1105.7(b) (at least 20 days prior to filing this Notice). The Draft Environmental and Historic Report is attached to this Notice as Appendix 3.

12. No Federally-Granted Right-of-Way (49 C.F.R. § 1152.50(d)(1))

There is nothing in IT Railway's files that indicates that any of the right-of-way of the Line was federally granted. Therefore, based on information in IT Railway's possession, the Line does not contain federally-granted rights-of-way. Any documentation in IT Railway's possession will be made available promptly to those requesting it.

13. Newspaper Publication

IT Railway hereby certifies that a notice of the proposed discontinuance was published in a newspaper of general circulation in Cerro Gordo County, Iowa. A copy of that notice is attached as Appendix 4.

Comments on the Environmental and Historic Report are attached as Appendix 5.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, for the reasons stated, the Board should accept this Verified Notice for filing, and should publish a notice of its filing in the *Federal Register* no later than 20 days after the filing of the Verified Notice at the Board.

Respectfully submitted,

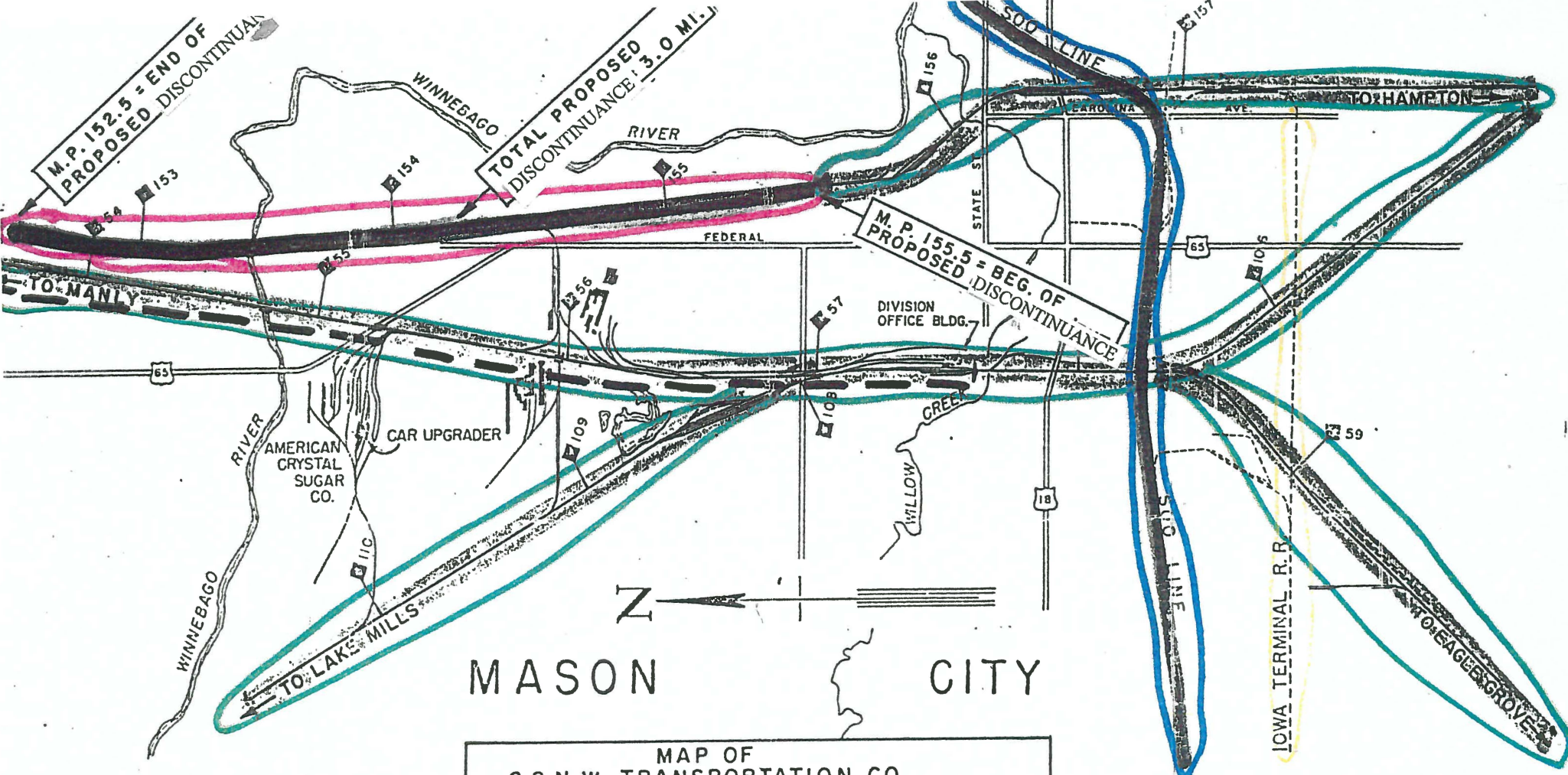
IOWA TRACTION RAILWAY COMPANY
12045 West State Street
Mason City, IA 50401

Applicant


THOMAS F. McFARLAND
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(312) 236-0204
mcfarland@aol.com

Attorney for Applicant

DATE FILED: November 6, 2019



MAP OF
C.&N.W. TRANSPORTATION CO.
SHOWING
PROPOSED DISCONTINUANCE OF LINE
AT
MASON CITY, IOWA
M.P. 155.5 TO M.P. 152.5 = 3.0 MILES

 C.&N.W. TRANSPORTATION CO.
 LINE TO BE DISCONTINUANCE
 SOO LINE
 IOWA TERMINAL R.R.
 D.M.&E. (TRACKAGE RIGHTS OVER C.&N.W.)

VICE PRESIDENT-ENGINEERING CHICAGO, IL.

0 1000 2000 3000 6000
SCALE IN FEET MAY 8, 1987

STB Docket No. AB-1269 (Sub-No. 1X)
Verified Notice of Exemption

VERIFICATION

(1) he is an authorized representative of Iowa Traction Railway Company (IT Railway);

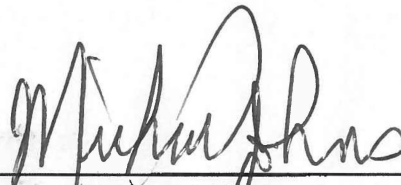
(2) no local or overhead traffic has moved over the Rail Line identified in STB Docket No. AB-1269 (Sub-No. 1X) for at least the two-year period prior to the filing of this Notice and no formal complaint filed by a user of rail service on that Line (or by a State or local government acting on behalf of such a user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or a United States District Court, or has been decided in favor of the complainant within the 2-year period prior to the filing of this Notice.

(3) at least 10 days prior to the filing of this Notice, IT Railway sent notice to the governmental agencies listed below that Iowa Railway intends to file a Notice of Exemption under 49 C.F.R. § 1152.50 for discontinuance of service over the Rail Line identified in this Docket:

- (i) Iowa Department of Transportation;
- (ii) United States Department of Defense, Military Traffic Management Command, Transportation Engineering Agency, Railroads for Natural Expense Program;
- (iii) National Park Service, Recreation Resources Assistance Division;
- (iv) United States Department of Agriculture, Chief of the Forest Service.

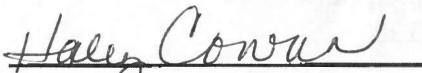
(4) at least 20 days before filing this Notice of Discontinuance, IT Railway sent a Draft Environmental and Historic Report to all agencies entitled to receive a copy of the Report by virtue of Board regulations.

(5) prior to filing this Notice, a notice of intent to file the Notice was published in a newspaper of general circulation in Cerro Gordo County, Iowa.



MICHAEL JOHNS
Authorized Representative of Iowa
Traction Railway Company

SUBSCRIBED AND SWORN to
before me this 23 day
of October, 2019.


Notary Public

My Commission Expires: 5-7-21



BEFORE THE
SURFACE TRANSPORTATION BOARD

IOWA TRACTION RAILWAY	)	
COMPANY -- DISCONTINUANCE OF	)	DOCKET NO. AB-1269
SERVICE EXEMPTION -- IN CERRO	)	(SUB-NO. 1X)
GORDO COUNTY, IA	)	

DRAFT ENVIRONMENTAL AND HISTORIC REPORT

IOWA TRACTION RAILWAY COMPANY
12045 West State Street
Mason City, IA 50401

Applicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Applicant

Date Submitted: October 18, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

IOWA TRACTION RAILWAY	)	
COMPANY -- DISCONTINUANCE OF	)	DOCKET NO. AB-1269
SERVICE EXEMPTION -- IN CERRO	)	(SUB-NO. 1X)
GORDO COUNTY, IA	)	

DRAFT ENVIRONMENTAL AND HISTORIC REPORT

BACKGROUND

Iowa Traction Railway Company (IT Railway) is authorized by the Surface Transportation Board (STB) to operate as a rail common carrier over a 3-mile line of railroad between Milepost No. 155.5, approximately 100 yards south of Elm Drive and Milepost No. 152.5, approximately 600 yards north of County Highway B-20, both located at Mason City, Cerro Gordo County, Iowa (the Rail Line). The Rail Line is illustrated on a map that is attached to this Draft Report as Appendix 1.

No shipments have been transported over the Rail Line during the six-plus years that IT Railway has been authorized to operate over the Line. In the absence of rail activity, IT Railway intends to discontinue its rail service over the Line. A rail carrier desiring to discontinue its rail service over a Rail Line must obtain authority to do so from the STB under 49 U.S.C. § 10903(d). However, there is a class exemption from formal STB application requirements for such a discontinuance where, as here, there has been no traffic of any kind over the Rail Line for at least two years. 49 C.F.R. § 1152.50 *et seq.*; 49 U.S.C. § 10502(a).

No sooner than November 5, 2019, IT Railway intends to file a Verified Notice of a class exemption that would permit discontinuance of service over the Rail Line. Such an exemption

would permit IT Railway to salvage the track materials in the Rail Line and sell the land in the right-of-way for railbanking and recreational trail use under the National Trails System Act, 16 U.S.C. § 1247(d).

When a Notice of class exemption for discontinuance of service is to be filed, the STB first requires the rail carrier who will seek such a discontinuance to prepare a Draft Report containing the rail carrier's views of the effect that such a discontinuance would have on elements of the human environment and on any historic properties associated with the Rail Line. *See* 49 C.F.R. § 1105.1 *et seq.* The STB's regulations require that the Draft Report be sent to specific environmental agencies and to the agency having jurisdiction over historic considerations in order to solicit their comments on the allegations in the Draft Report. All of such comments would be considered by the STB's Environmental and Historic Staff in drafting an Environmental Assessment, and by the STB in its decision on the merits of the requested exemption for discontinuance.

This is the Draft Environmental and Historic Report (DEHR) that has been prepared by IT Railway. It is hereby provided to you with an invitation to file any comments and/or requests that you care to make.

I. IT RAILWAY'S VIEWS ON THE EFFECT OF THE PROPOSED DISCONTINUANCE ON ELEMENTS OF THE HUMAN ENVIRONMENT

Compliance with 49 C.F.R. § 1105.7(e)

(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.

The proposed action is a class exemption for discontinuance of service by IT Railway. If the exemption were to be granted, the track materials in the Rail Line would be removed and reused on other rail lines and land in the right-of-way would be sold for railbanking and use on an interim basis as a recreational trail.

IT Railway would abide by recognized custom and practice in the railroad industry for removal of the track materials in the Line and by recognized safe practices for disposal of crossties in the Line.

Inasmuch as the Rail Line has not been used for rail shipments during IT Railway's six-plus years of authority to operate, there are no commodities transported over the Line. For the same reason, there would be no change in current operations and maintenance practices.

Inasmuch as IT Railway would incur opportunity costs as a result of continuation of the status quo, there is no reasonable alternative to the proposed discontinuance.

(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.

There would be no change in the regional or local transportation system and patterns inasmuch as the Rail Line has not been operated for many years. For the same reason, there would be no diversion of rail shipments to truck.

(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 discontinuance and railbanking and interim recreational trail use are consistent with the desire of the City of Mason City, Iowa to railbank the Line and to use it on an interim basis as a recreational trail to reach Lime Creek Nature Center that would be accessed by the Rail Line right-of-way.

(3)(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

In IT Railway's view, the proposed discontinuance would have no effect on any prime agricultural land. IT Railway is consulting by letter to the United States Soil Conservation Service, inviting its views on the subject matter. See the letter attached as Appendix 2.

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

The proposed discontinuance does not affect land or water uses in a designated coastal zone.

(3) (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.

The right-of-way appears to be suitable for railbanking and interim trail use because it would be consistent with current trail use of land in the territory.

(4) Energy. (i) Describe the effect of the proposed action on transportation of energy resources.

The proposed discontinuance would have no effect on transportation of energy resources.

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

The proposed discontinuance would have no effect on recyclable commodities.

(4)(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The proposed discontinuance would have no effect on energy efficiency.

(4)(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 data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in Sec. 1105.7(e)(4)(iii) need not be supplied if the more detailed information in Sec. 1105.7(e)(4)(iv) is required.

The proposed discontinuance would not cause diversions from rail to truck of any amount.

(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. For a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

The proposed discontinuance would not result in any of the increases referred to.

(5)(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 the 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 of 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. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10502), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed discontinuance would not affect a Class I or nonattainment area under the Clean Air Act.

(5)(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.

Transportation of ozone depleting materials is not contemplated.

(6) Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause: (i) An incremental increase in noise levels of three decibels Ldn or more;

None of the thresholds identified in Item 5(i) would be surpassed.

(6)(ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

Not applicable

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

The proposed discontinuance would not have any effect on public health and safety.

(7)(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 accident release of hazardous materials.

The proposed discontinuance would not result in the transportation of hazardous materials.

(7)(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 types of hazardous materials involved.

There are no known hazardous waste sites or sites of known spills of hazardous materials on the Rail 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 discontinuance would not be likely to adversely affect endangered or threatened species or areas designated as critical habitat. The U.S. Fish and Wildlife Service is being consulted by letter for its views on this subject matter. (See Appendix 2, attached).

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

The proposed discontinuance would not affect any wildlife sanctuaries or refuges, nor National or state parks or forests.

(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 discontinuance would be consistent with applicable Federal, State and local water quality standards. The Iowa Environmental Protection Agency is being consulted by letter on this subject matter (Appendix 2 attached).

(9)(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 designated wetlands or 100-year flood plains will be affected. Describe the effects.

IT Railway believes that no water permits under Section 404 of the Clean Water Act are required for the proposed discontinuance. No designated wetlands or 100-year flood plains would be affected by the proposed discontinuance. The U.S. Army Corps of Engineers is being consulted by letter on this subject matter (Appendix 2 attached).

(9)(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

IT Railway believes that no permits under Section 402 of the Clean Water Act are required for the proposed discontinuance. The U.S. Environmental Protection Agency is being consulted by letter on this subject matter (Appendix 2 attached).

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

Not applicable.

II. IT RAILWAY'S VIEW OF THE EFFECT OF THE PROPOSED DISCONTINUANCE ON HISTORIC PROPERTIES

Compliance with 49 C.F.R. § 1105.8(d)

(1) 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 are part of the proposed action;

The required topographic map is shaded in yellow as Appendix 3 attached to this Report.

(2) 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 Right-of-Way (ROW) of the Rail Line is generally 100 feet wide. With a length of 3 miles (15,840 ft.), there are approximately 36 acres of land in the ROW ($15,840 \times 100 = 1,584,000 \div 43,560 = 36.35$ acres). The topography of the Rail Line is generally flat. While the Line is located in the City of Mason City, Iowa, the Rail Line is not located adjacent to a residential area.

(3) 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;

After many years of nonuse, the Rail Line is thickly overgrown with vegetation, as reflected in the photographs attached to this Report as Appendix 4. Also shown in the photographs is the bridge over Calmus Creek. There is no depot or other rail-related building in the area of the Rail Line. Neither the tracks nor the bridges in the Rail Line has distinctive characteristics of historical significance. In the likely event that the ROW of the Rail Line will be railbanked and be used as a recreational trail on an interim basis, the bridge on the Line would remain intact after removal of the track materials.

(4) 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;

The dates of construction of the bridge on the Line is not known. However, it is likely that it is more than 50 years old.

(5) 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 Rail Line is a 3-mile segment of a former Minneapolis & St. Louis Railway rail line (M&StL) located within Mason City, Iowa. The M&StL rail line through Mason City was constructed in the late Nineteenth Century. The M&StL was acquired by Chicago & North Western Railway Company (C&NW) in 1960. C&NW abandoned much of the M&StL soon after that acquisition. M&StL was later merged into C&NW. C&NW abandoned the Rail Line in 1987. *Chicago & North Western Transp. Co. -- Aban. Exempt. -- in Mason City, IA*, 1987 WL 98885 (Docket No. AB-1 [Sub-No. 205X], decision served July 10, 1987).

The subject Rail Line was acquired by Hermitage Homes, Inc. (HHI), a noncarrier, after C&NW had consummated the authorized abandonment. HHI contracted with Iowa Traction Railroad Company (IT Railroad) to operate the Rail Line as a common carrier. *See Iowa Traction Railroad Company -- Operation Exemption -- Hermitage Homes, Inc.*, 1988 WL 225011 (ICC Finance Docket No. 31353, decision served November 23, 1988).

In 2012, IT Railroad assigned its authority to operate the Rail Line to IT Railway, with the consent of Backtrack, Inc., the successor of HHI. *See Iowa Traction Railway Company --*

Change in Operators Exemption -- Rail Line of Backtrack, Inc., 2012 WL 4794142 (STB Finance Docket No. 35677, decision served October 5, 2012).¹²

While the 10.4-mile line over which IT Railway operates may have historical significance as an electrified interurban railroad, the subject 3-mile Rail Line never has been an electrified interurban, but rather is a conventional rail line without particular historical significance.

(6) 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.

There are no engineering drawings or other documents relating to the bridges on the Line in IT Railway's possession.

(7) 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 CFR 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);

In the opinion of IT Railway based on information in its possession, (1) the site and bridges on the Rail Line do not meet the criteria for listing on the National Register of Historic Places; and (2) there is no likelihood of archeological reserves or any other previously unknown historic properties in the project area.

¹² IT Railway was authorized to acquire from IT Railroad and to operate a 10.4 mile rail line between Mason City and Clear Lake, IA. See 2012 WL 4044266 (STB Finance Docket No. 35670, decision served September 14, 2012). At the same time, Progressive Rail, Incorporated was authorized to continue in control of IT Railway when IT Railway became a rail carrier. See 2012 WL 4044267 (STB Finance Docket No. 35671, decision served September 14, 2012)

(8) 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.

Based on materials in its possession, IT Railway is not aware of prior sub-surface ground disturbances 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.

Respectfully submitted,

IOWA TRACTION RAILWAY COMPANY
12045 West State Street
Mason City, IA 50401

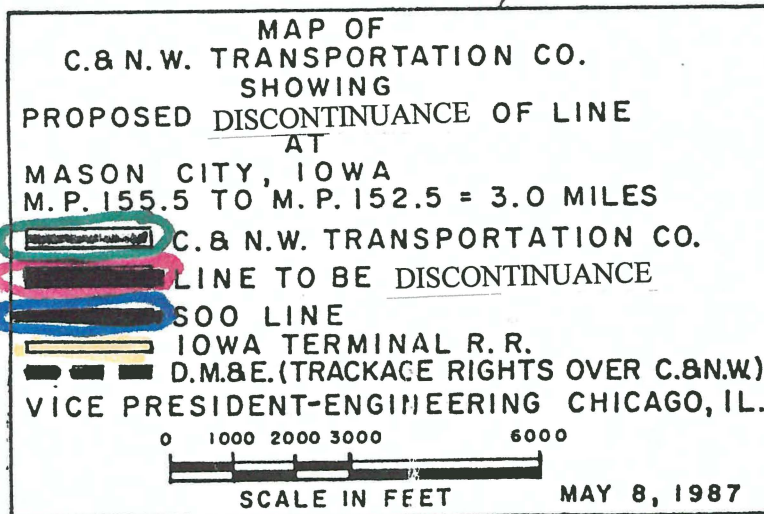
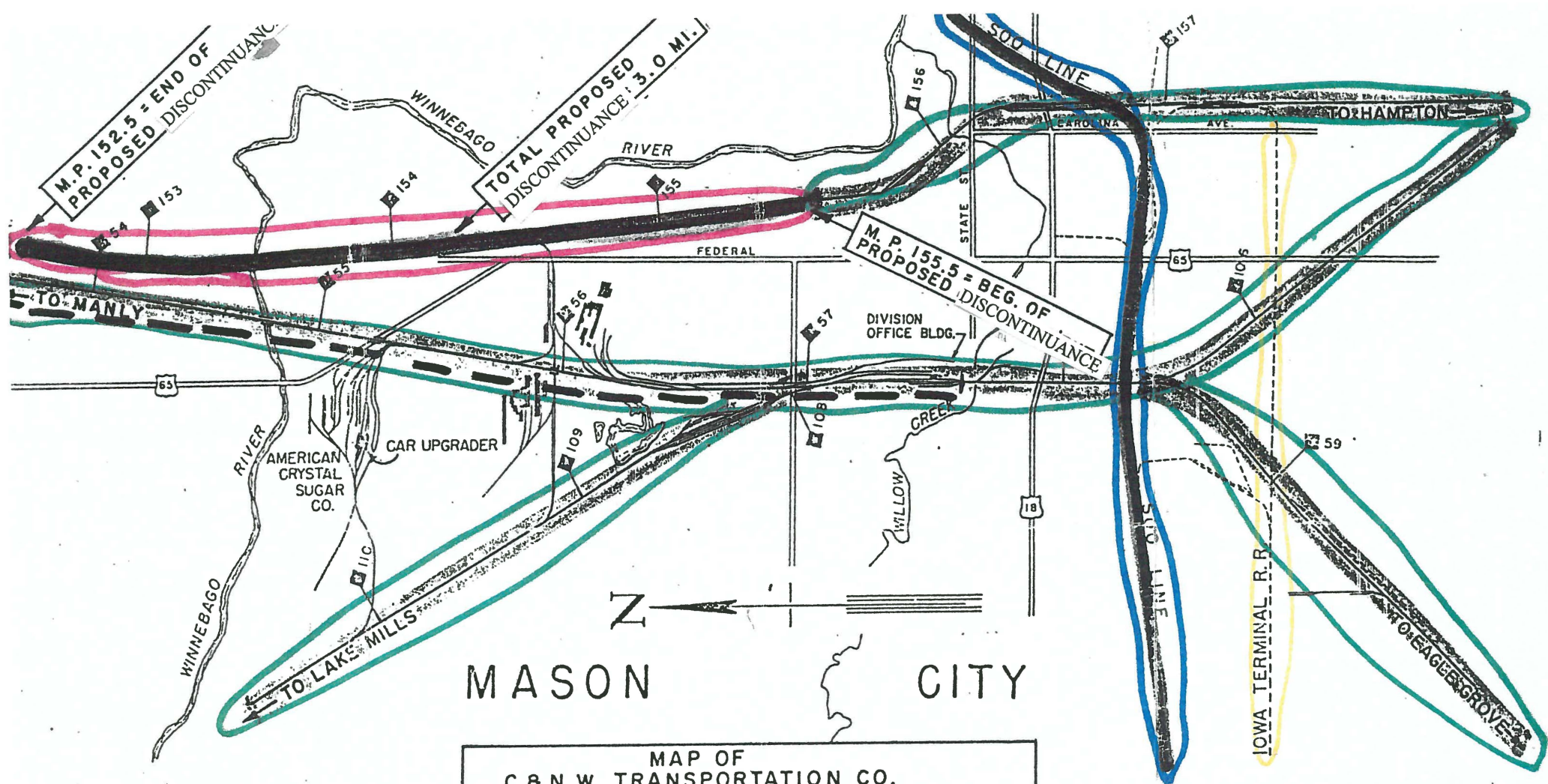
Applicant

Thomas F. McFarland

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Applicant

Date Submitted: October 18, 2019



LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1666
CHICAGO, ILLINOIS 60604-1228
TELEPHONE (312) 236-0204
mcfarland@aol.com

DEHR - Appendix 2

THOMAS F. MCFARLAND

October 16, 2019

Natural Resources Conservation Service:

Natural Resources Conservation Service
693 Federal Building
210 Walnut Street
Des Moines, IA 50309

**Environmental Protection Agency
(regional office):**

U.S. Environmental Protection Agency
Region 7
11201 Renner Blvd.
Lenexa, KS 66219

U.S. Fish & Wildlife Service:

U.S. Fish & Wildlife Service - Midwest Region
5600 American Blvd. West
Suite 990
Bloomington, MN 55437-1458

Iowa Department of Natural Resources:

Mason City Field Office #2 - NC Iowa
2300 15th Street SW
Mason City, IA 50401

National Park Service:

National Park Service
Mr. Dan Smith, Deputy Director
1849 C Street, N.W.
Washington, DC 20240

County Commissioners:

Cerro Gordo County Board of Supervisors
220 N. Washington Avenue
Mason City, IA 50401

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers, Rock Island
Clock Tower Building
P.O. Box 2004
Rock Island, IL 61204-2004

Iowa Environmental Protection Agency:

Iowa Department of Natural Resources
and Recreation Division
Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319-0034

Iowa State Clearinghouse:

Iowa Department of Economic Development
200 East Grand Avenue
Des Moines, IA 50309

Iowa Department of Transportation:

Iowa Department of Transportation
Office of Rail Transportation
800 Lincoln Way
Ames, IA 50010

National Park Service (Midwest region):

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

National Geodetic Survey:

National Geodetic Survey
Geodetic System Division
SSMC-3 #9209
NOAA/NGS 2
1315 E-W Highway
Silver Spring, MD 20910-3282

Re: STB Docket No. AB-1269 (Sub-No. 1X), *Iowa Traction Railway Company --
Discontinuance of Service Exemption -- in Cerro Gordo County, IA*

Dear Agency or Governmental Representative:

Agency/Govt. Representative

October 16, 2019

Page 2

Iowa Traction Railway Company (IT Railway) is a common carrier by railroad whose address is 12045 West State Street, Mason City, IA 50401. No sooner than November 5, 2019, IT Railway intends to file with the Surface Transportation Board (STB) a Notice of Exemption from 49 U.S.C. § 10903 for discontinuance of service over a rail line between Milepost No. 155.5, approximately 100 yards south of Elm Drive and Milepost No. 152.5, approximately 600 yards north of County Highway B-20, a distance of 3 miles in Mason City, Cerro Gordo County, Iowa (the Rail Line). The Rail Line is shaded in yellow on a map that is attached to this letter as Appendix 1.

Before filing the Notice of Exemption for discontinuance, IT Railway is required to prepare and circulate to appropriate local government agencies a Draft Environmental and Historic Report that will be reviewed by the STB in conjunction with its determination of whether or not the proposed discontinuance would have a significant adverse effect on the human environment. This letter is intended to consult with your agency in regard to the environmental effects of the proposed discontinuance.

Pursuant to STB regulations at 49 C.F.R. § 1105.7, this letter is to request your assistance in identifying potential environmental effects of the proposed discontinuance. IT Railway does not anticipate any adverse environmental impacts; however, if you identify any such adverse impacts, please describe any action that could be taken to mitigate such adverse impacts. Please provide a written response to this letter as soon as possible so that your response can be included in a Draft Environmental and Historic Report that IT Railway will prepare, file with the STB, and serve on interested agencies.

COUNTY AND CITY PLANNING AGENCIES. Please state whether the proposed discontinuance would be consistent with existing land-use plans. Describe any inconsistencies.

US SOIL CONSERVATION SERVICE. Please state the effect of the proposed discontinuance on any prime agricultural land.

US FISH AND WILDLIFE SERVICE. Please state (1) whether the proposed discontinuance is likely to adversely affect endangered or threatened species or areas designated as a critical habitat and, if so, please describe such effects; and (2) whether wildlife sanctuaries or refuges, National or State parks or forests will be affected and, if so, please describe such effects.

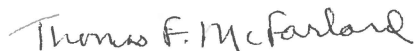
Agency/Govt. Representative
October 16, 2019
Page 3

STATE WATER QUALITY OFFICIALS. Please state whether the proposed discontinuance would be consistent with applicable Federal, State or Local water quality standards. Please describe any inconsistencies.

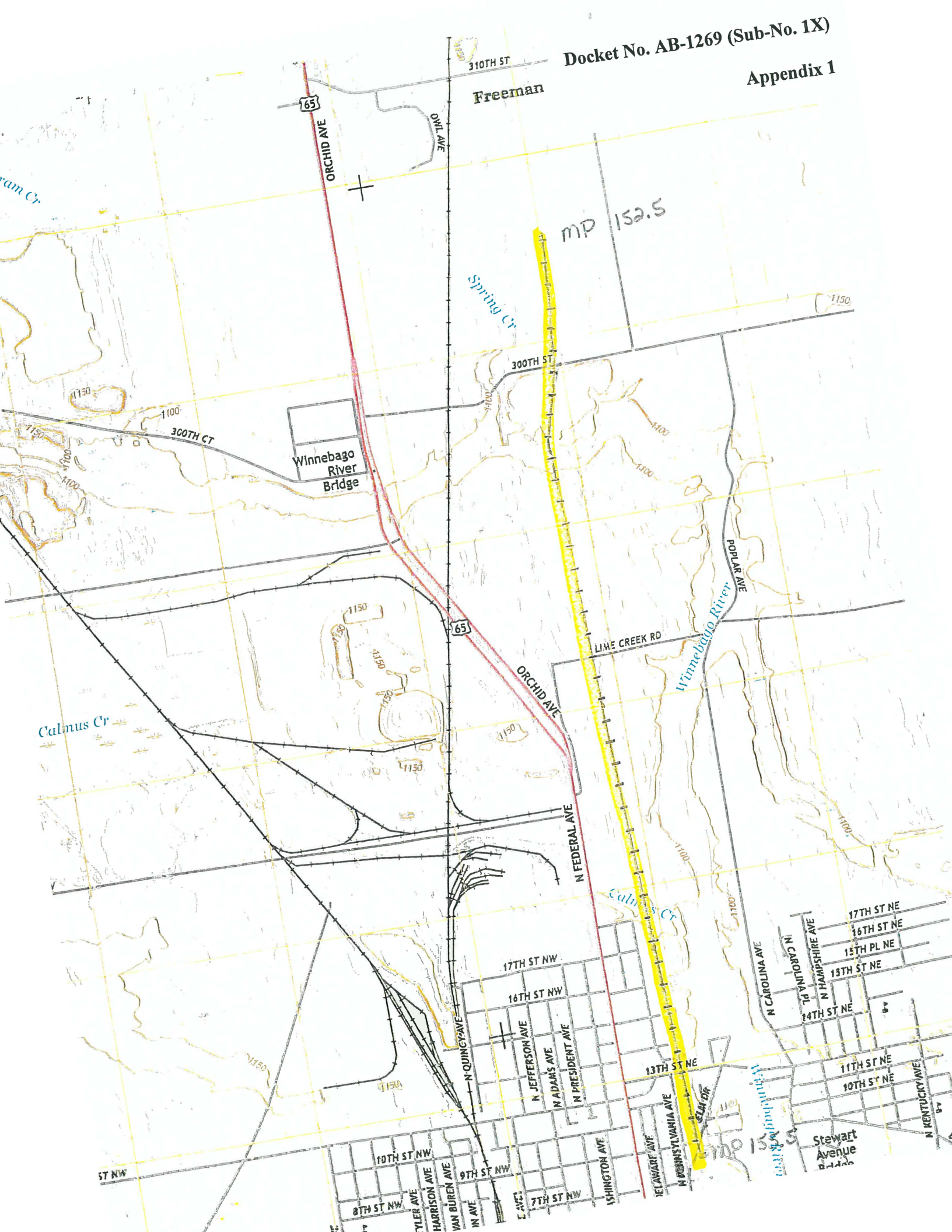
US AND STATE ENVIRONMENTAL PROTECTION AGENCIES (OR EQUIVALENT AGENCY). Please (1) identify any potential adverse environmental effects of the proposed discontinuance on the surrounding area, and (2) identify the location of any known hazardous materials spills on the right-of-way of the Rail Line, and list the types of hazardous materials involved, and (3) state whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed discontinuance.

Please send your reply to me as IT Railway's attorney to: Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604-1228. You may reach me by telephone at (312) 236-0204 if you have any questions or need further information. IT Railway appreciates your assistance in furnishing a reply to this letter.

Very truly yours,



Thomas F. McFarland
*Attorney for Iowa Traction
Railway Company*



LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1666
CHICAGO, ILLINOIS 60604-1228
TELEPHONE (312) 236-0204
mcfarland@aol.com

THOMAS F. MCFARLAND

October 18, 2019

By first-class, U.S. mail

Ms. Susan Kloewer
Administrator, State Historical Society of Iowa
Iowa Department of Cultural Affairs
State Historical Building - 3rd Floor East
600 E. Locust Street
Des Moines, IA 50319

Re: STB Docket No. AB-1269 (Sub-No. 1X), *Iowa Traction Railway Company --
Discontinuance of Service Exemption -- in Cerro Gordo County, IA*

Dear Ms. Kloewer:

Hereby forwarded for your review and comment is a draft of an Environmental and Historic Report (Report) which I have prepared in conjunction with the proposed discontinuance of Iowa Traction Railway Company's (IT Railway) 3-mile line of railroad in Mason City, Iowa between Milepost Nos. 155.5 located approximately 100 yards south of Elm Drive, and Milepost 152.5 located approximately 600 yards north of County Highway B-20. The rail line has not been used for the provision of rail service for many years. As is evident from the photographs of the rail line that are a part of the Report, the rail line is overgrown with vegetation.

If the Surface Transportation Board (STB) authorizes the proposed discontinuance, the right-of-way of the rail line would be sold to the city of Mason City, Iowa (the City), who intends to railbank the right-of-way and to use it as a recreational trail on an interim basis in accordance with the National Trails System Act, 16 U.S.C. § 1247(d).

Railbanking and interim recreational trail use would be consistent with the historic significance of the rail line. The bridges and culverts on the line would remain in place during recreational trail use. Railbanking and recreational trail use of the rail line right-of-way would enable the trail system in and around Mason City, Iowa to reach Lime Creek Nature Center, which is a natural historic highlight in the local area.

THOMAS F. MCFARLAND

Ms. Susan Kloewer
October 18, 2019
Page 2

The content of the Report is designed to enable the Historical Society to complete its Section 106 review process, and to report to the STB that based on that review, no properties in the subject rail line are eligible for inclusion in the National Register of Historic Places. If the Historic Report is lacking in content to enable such a determination, please identify the information and/or documentation needed to enable such a determination, which would be sent to you promptly.

Respectfully submitted,

A handwritten signature in black ink that reads "Tom McFarland". The signature is written in a cursive, slightly slanted style.

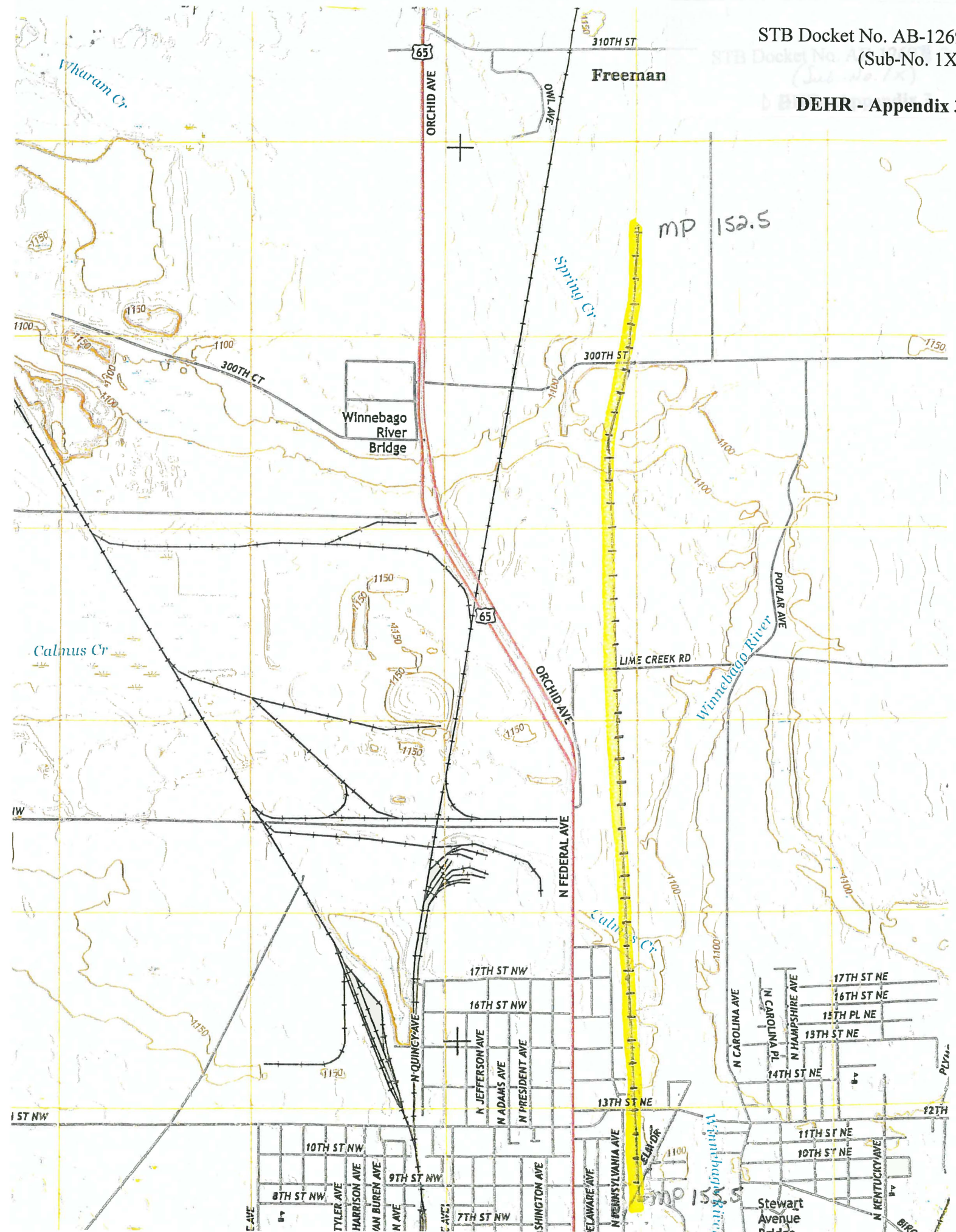
Thomas F. McFarland
Thomas F. McFarland, P.C.
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Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

*Attorney for Iowa Traction
Railway Company*

TMcF:kl:enc:1871\ltrSK1

(Sub-No. 15)

DEHR - Appen



STB Docket No. AB-1269
(Sub-No. 1X)

DEHR - Appendix 4

PRIVATE PROPERTY
NO TRESPASSING







*** Proof of Publication ***

State of Iowa
County of Cerro Gordo

THOMAS F MCFARLAND PC

208 S LASALLE ST STE 1666
CHICAGO IL 60604

ORDER NUMBER 350433

I, Sherrie Kilts, being duly sworn, on oath, do depose and say that I am Customer Services Representative of The Globe-Gazette and I am authorized to make this affidavit, that The Globe-Gazette is a daily newspaper regularly published and printed in the English language in the City of Mason City, Cerro Gordo County, Iowa, and has a general circulation in the said city and county; and that I personally know that the notice, a true copy of which is hereto affixed, was published in the Globe-Gazette on the following days, to-wit:

BEFORE THE SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423
STB Docket No. AB-1269 (Sub-No. 1X)
IOWA TRACTION RAILWAY COMPANY --
DISCONTINUANCE OF SERVICE EXEMPTION --
IN CERRO GORDO COUNTY, IA

NOTICE OF INTENT TO DISCONTINUE SERVICE OVER A RAIL LINE
Iowa Traction Railway Company gives notice that no sooner than November 7, 2019, it intends to file with the Surface Transportation Board, Washington, DC, a notice of exemption under 49 C.F.R. § 1152 Subpart F -- Exempt Abandonments and Discontinuances of Service permitting discontinuance of service on a 3-mile line of railroad between Milepost No. 155.5 approximately 100 yards south of Elm Drive and Milepost No. 152.5 approximately 600 yards north of County Highway B-20, in Mason City, Cerro Gordo County, Iowa. The Line traverses through United States Postal ZIP Code 50401. The proceeding will be docketed as No. AB-1269 (Sub-No. 1X).

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 Office of Environmental Analysis (OEA), Surface Transportation Board, 395 E Street, SW, Washington, DC 20423-0001, 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. 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, 395 E Street, S.W. Washington, DC 20423-0001 [See 49 C.F.R. § 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 C.F.R. § 1104.12(a)]. 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 F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604-1228, 312-236-0204.

Section: Announcements

Category: 190 Legals

PUBLISHED ON: 10/30/2019

TOTAL AD COST: 39.81

FILED ON: 10/30/2019

That the issues of said paper containing said notice were duly circulated in the regular manner.

Sherrie Kilts

Linda F Halfman
Notary Public in and for Said County



STB Docket No. AB-1269 (Sub-No. 1X)
Verified Notice of Exemption

Appendix 4



PLANNING AND ZONING

Cerro Gordo County Courthouse

220 N Washington Ave Mason City, IA 50401-3254

John Robbins, Planning and Zoning Administrator

Michelle Rush, Executive Assistant

(641) 421-3075

plz@cgcounty.org

cgcounty.org/planning

October 22, 2019

Thomas F. McFarland, P.C.
ATTN: Thomas F. McFarland
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228

RE: STB Docket No. AB-1269X, *Iowa Traction Railway Company – Discontinuance of Service Exemption – in Cerro Gordo County, IA*

Dear Mr. McFarland:

This office is in receipt of an inquiry letter in regard to potential environmental impacts resulting from the intended discontinuance of service for a 3-mile line of railroad operated by the Iowa Traction Railway Company.

The potential discontinuance of service is not addressed within the Cerro Gordo County Comprehensive Plan and other applicable land use plans and, therefore, not impacted by county land use plans.

It is noted that a significant portion of the 3-mile line is located within the incorporated city limits of Mason City, IA and out of the jurisdiction of Cerro Gordo County. The packet received has also been forwarded to the Development Services Department of the City of Mason City as a result.

Please feel free to contact this office with any questions pertaining to this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Robbins".

John Robbins
Planning and Zoning Administrator

CC: Steve VanSteenhuysen, Director of Development Services, City of Mason City
Tricia Sandahl, Planning and Zoning Manager, City of Mason City

From: Higginbottom, Daniel <daniel.higginbottom@iowa.gov>
To: mcfarland <mcfarland@aol.com>; danielle.gosselin <danielle.gosselin@stb.gov>
Cc: Heather Gibb <heather.gibb@iowa.gov>; Unknown Unknown <shpo106@iowa.gov>; Sara Andre <sara.andre@iowa.gov>
Subject: 190117026-STB-Cerro Gordo-Iowa Traction Railway Company-STB Docket#. AB-1269X-Proposed Rail Line Abandonment Project-Abandonment Exemption-Draft Environmental and Historic Report
Date: Fri, Oct 25, 2019 10:45 am

October 25, 2019

190117026-STB-Cerro Gordo-Iowa Traction Railway Company-STB Docket#. AB-1269X-Proposed Rail Line Abandonment Project-Abandonment Exemption-Draft Environmental and Historic Report

Mr. McFarland,

We have received your October 21, 2019 supplemental submission regarding the above-referenced federal undertaking and provide the following response in accordance with section 106 of the National Historic Preservation Act of 1966 and its implementing regulations 36CFR800.

Upon completing our review of the documentation provided, we find that there is nothing substantially different in content from what was submitted to our office in March of this year. You may recall that in our April 1 email response we indicated the following: 1. That there is no basis for the conclusion that there is not likely to be archaeological sites located within the abandonment corridor; and 2. That there is no clearly defined area of potential effects. The present Draft Environment and Historic Report (DEHR) fails to address either of these outstanding concerns.

Moreover, on page 10 of the DEHR the applicant concludes that "Neither the tracks nor the bridges in the Rail Line has distinctive characteristics of historical significance" yet the narrative fails to qualify this statement. The document provides no physical or technical description of the subject bridges and the photographs provided are of such poor quality that it is impossible to ascertain the presence/absence of historic, character defining features. Assessment of the bridges' historic qualities is further complicated in that, as stated on page 12, 'there are no engineering drawings or other documents.'

In addition, the narrative fails to evaluate these structures, and the rail line in general, within recognized and cohesive historic contexts. The brief narrative history called for in item (5) of the DEHR does not constitute a historic context from which determinations of National Register eligibility can be made. So again we ask, what is the factual basis for a conclusion that no historic properties exist along the line?

Item 7 of the DEHR form requests: "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 CFR 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)." The response in the draft DEHR only lists the applicant's opinions but does not detail the views and opinions expressed during mandated consultations. Additionally, the absence of records from the applicant's archives does not mean that relevant and useful information cannot be obtained from other sources nor does it preclude the presence of historic properties within the area of interest. Among other things, the Advisory Council on Historic Preservation's guidance document *Meeting the "Reasonable and*

Good Faith" Identification Standard in Section 106 Review identifies several valid avenues for identifying historic Properties.

Finally, item 8 requests information pertaining to past ground disturbances that have might compromise archaeological integrity within the abandonment area and the surrounding terrain. The applicant's response is that, based upon materials in the applicant's possession, "IT Railway is not aware of prior sub-surface ground disturbances 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." This response suggests conditions under which significant archaeological resources, if present, may survive intact and may yet retain an ability to yield significant information (criterion D).

Based upon the information currently within our case file, it is our consulting opinion that the documentation contained within the DEHR does not meet the basic project documentation standards outlined at 36 CFR 800.11 to support an agency's determination of effect pursuant to section 106. We suggest that the applicant consider engaging the services of a cultural resources specialist that meets the Secretary of the Interior's Professional Qualification Standards and who has experience in evaluating the significance and National Register eligibility of transportation infrastructure in Iowa, to assist in this undertaking.

--

Daniel K. Higginbottom, Archaeologist
Iowa State Historic Preservation Office
State Historical Society of Iowa
600 E Locust
Des Moines, Iowa 50319-0290

National Association of Reversionary Property Owners (NARPO)

1100 Bellevue Way NE Ste. 8A PMB 719 Bellevue, WA 98004
760-238-8420

dick156@earthlink.net

248689

October 30, 2019 E-FILED

ENTERED
Office of Proceedings
October 30, 2019
Part of
Public Record

Surface Transportation Board, Cynthia Brown, Administrator

RE: Iowa Traction Railway--Discontinuance Exemption AB 1269-1X in Cerdo Gordo County, Iowa

Dear Ms. Brown:

On October 28, 2019, Iowa Traction Railway (IT) filed a petition to discontinue service over a three mile rail line in Cerdo Gordo County, Iowa. In IT's petition for discontinuance, they state that they will salvage the track materials and sell the land for railbanking.

Under STB rules, there can not be railbanking when only a discontinuance is petitioned for. After discussions with IT's attorney, IT is under the impression because the line was abandoned in 1987 (AB-1-205X) there is an exception to the discontinuance rules and railbanking when the line was previously abandoned. Since 1987 a series of non-carriers have had ICC and STB authority to operate part (three miles) of the rail line in question. The last non-carrier is IT, see FD 35677 OCTOBER 5, 2012.

The property owners along this three miles are all farmers who own the reversionary rights to the land where the right of way is situated. They have been waiting for 32 years to reclaim their land so they can farm the land the right of way is on.

The STB regulations and precedence do not allow railbanking on a discontinuance. It is questionable whether this rail line is even under STB

jurisdiction as the line was abandoned in 1987 and the abandonment consummated. Since 1987 a series of non-carriers (see Footnote 1 in FD 35677 October 5, 2012) have had some sort of operating authority even though it appears that no traffic has moved over the rail line in many years if not decades, see the last STB decision FD 35677 in 2012. NARPO does not see any STB regulation or decision that allows railbanking with a discontinuance after an abandonment by another carrier and 32 years later a non-carrier asks for a discontinuance and also railbanking.

NARPO requests the STB to reject this discontinuance petition as improperly filed as to the statement at the top of page 3 of the Petition;

...would permit IT Railway to salvage the track materials and sell the land in the right of way for railbanking and recreational trail use...

If the STB allows this requested discontinuance and railbanking, then the reversionary property owners would not be able to file a railbanking Takings claim at the U.S. Court of Claims as that court's precedence only allows railbanking takings claims after an abandonment has been certified by the ICC/STB. And the only abandonment on this rail line happened 32 years ago in 1987. The U.S. Court of Claims allows a six year statute of limitations for filing railbanking Takings claims and that six years passed 26 years ago. A STB ruling allowing this discontinuance and railbanking would not allow these many property owners to file a Takings claim, and that would be a totally unjust and unfair ruling for these property owners. The STB should see through this ruse by IT.

NARPO also requests the STB to determine whether the STB even has jurisdiction over this non-carrier's operating rights.

Richard Welsh--NARPO

NARPO has served all parties of record via email on October 30, 2019.

Richard Welsh--Executive Director NARPO



October 25, 2019



THOMAS F. MCFARLAND
208 SOUTH LASALLE STREET, SUITE 1666
CHICAGO, IL 60604-1228

RE: Environmental Review for Natural Resources
STB Docket No. AB-1269 (Sub-No. 1X) Iowa Traction Railway Company—Discontinuance of
Service Exemption
Cerro Gordo County

Dear Mr. McFarland:

Thank you for inviting Department comment on the impact of this project. The Department has records of the state-Endangered Wood Turtle (*Clemmys insculpta*) in the project area. From November-April Wood Turtles use rivers and streams with sandy or gravel bottoms while from May-October they use grassland, lightly wooded areas, and agricultural field edges within 800 yards of river habitat. During summer, frequent trips to water are common, prompting movement through wooded or grassy corridors.

The Department recommends a habitat assessment of project area prior to initiating the project. If suitable habitat is present, contractors should be made aware of the potential to encounter Wood Turtles between April and October, be provided images of a Wood Turtle, a description of habits and instructions for how to respond if the turtle is encountered. If a Wood Turtle is encountered please contact the local Wildlife Biologist for the area, TJ Herrick, at 641-425-2814 or tj.herrick@dnr.iowa.gov.

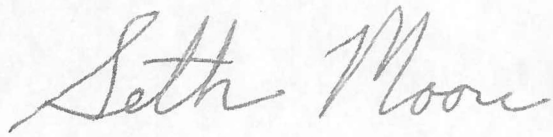
Department records and data are not the result of thorough field surveys. If listed species or rare communities are found during the planning or construction phases, additional studies and/or mitigation may be required.

This letter is a record of review for protected species, rare natural communities, state lands and waters in the project area, including review by personnel representing state parks, preserves, recreation areas, fisheries and wildlife but does not include any comment from the Environmental Services Division of this Department. This letter does not constitute a permit. Other permits may be required from the Department or other state or federal agencies before work begins on this project.

Please reference the following DNR Environmental Review/Sovereign Land Program tracking number assigned to this project in all future correspondence related to this project: 16545.

If you have questions about this letter or require further information, please contact me at (515) 725-8464.

Sincerely,

A handwritten signature in cursive script that reads "Seth Moore". The ink is dark and the signature is fluid.

Seth Moore
Environmental Specialist
Conservation and Recreation Division

FILE COPY: Seth Moore

Tracking Number: 16545

Enclosure

CC: TJ Herrick, Iowa DNR (email)