

July 12, 2016

Mr. Dave Navecky
Surface Transportation Board
395 E. Street SW
Washington DC 20423-0001
Docket No. FD 35952

Re: Scoping Comments of Mark and Emily Dummer

Dear Mr. Navecky:

Please be advised that my firm represents Mark and Emily Dummer who own property which is in the proposed Rockford Subdivision of the Great Lakes Basin Transportation Rail Line at parcel 14-20-400-004, with a common address of 10965 Edwardsville Road, Winnebago, Illinois. Attached hereto are the scoping comments of my clients which, along with this letter and the attachments to the comments, we ask be put into the record.

Mr. and Mrs. Dummer searched for approximately seven years before finding the perfect property that they intended to retire upon. The goal was to have a property that could be operated as a hobby farm to be cultivated and a place to enjoy the rural life and the vintage farm equipment, gasoline pumps, soda machines and other antiques that have been collected by the couple and completely restored. They have already erected a beautiful outbuilding which houses Mr. Dummer's "mancave" shop area with many of the restored antiques contained therein. The 55 acre property has a beautiful wooded area and two streams as well as tillable land and cultivated grass areas for the homestead location and outbuildings. It was the intent of the Dummers to build their dream home on that property, but now the rail line is proposed to go directly through the exact location of the proposed homestead. GLBT proposes to bisect the property with a rail line dividing it into five different farm fields leaving two of those fields landlocked and another parcel completely useless for any purpose. The property presently is crossed by the East Fork Mill Creek which is a beautiful small stream containing fish and fostering wildlife in the wooded area surrounding the stream and wetland.

GLBT proposes to cross both streams and the wetlands and the portions of the property with the highest elevations which are presently instrumental in making the property economical for cultivation. The Dummers have expended over \$500,000.00 in the last few years in acquiring this property and improving it and intended to build the retirement home on a section of the property which GLBT proposes to traverse. The Dummers' dreams and hopes will be destroyed

if this proposal is approved and they will sustain hundreds of thousands of dollars of property value loss and the decimation of their use and enjoyment of this beautiful property. Fortunately, there are far superior alternative routes which should be considered by the STB. The scoping comments attached hereto suggest four such superior alternative routes. The first and most obvious alternative route which should be considered by the STB is the route being proposed by the Rockford Metropolitan Agency for Planning ("RMAP"), which is a metropolitan planning organization for the Rockford region consisting of the cities of Rockford, Loves Park, Belvidere, Machesney Park as well as Winnebago County and Boone County and several smaller cities and the Rockford Mass Transit District and Chicago/Rockford International Airport. That organization has proposed that the Rockford Subdivision route be moved closer to the Rockford Airport and the Airport's Global Trade Park before it terminates at the Canadian National Railway. A graphic depiction of such a route is attached hereto as **Exhibit 7**. Such a move would not only serve the economic purpose of providing better access to the development corridor/trade park and the Airport, but also move the railway away from environmentally sensitive areas such as the Severson/Colman Dells Woodlands and the Dummer property.

The Applicant has stated that one of its goals is to avoid wetlands and other environmental sensitive areas. Such a goal would best be served by avoiding the Dummer property and the Severson/Colman Dells Woodland Complex which contain essential habitat for several endangered and threatened species as well as the species themselves as evidenced by the preliminary inventory performed on a nearby property by environmental expert, Gerald Paulson, which is referenced in the Dummer Scoping Comments.

A member of the RMAP Policy Board has testified in open session that he was in contact with Mr. Frank Patton of GLBT. According to the Policy Board member, Mr. Patton now understands and agrees that the route that was originally to be studied by STB traverses environmentally sensitive areas and commercially devastates certain properties such that GLBT now prefers that the route be moved closer to the Rockford Airport and the development corridor.

Further, it is our understanding from conversations with Mr. Dave Navecky of the STB that he has heard that GLBT will be reviewing all of the proposed alternatives and proposing its own alternative route including one that is closer to the Rockford Airport and avoids the Dummer property as well as the Severson/Colman Dells Woodland Complex area. Therefore, it is clear that the STB should study the RMAP proposed route as depicted herein as **Exhibit 7**.

The Dummers propose the STB study three other alternative routes including one that takes the western spur through a more southwesterly corridor thereby avoiding the Dummer property and other environmentally sensitive areas including the Severson/Colman Dells Woodland Complex. (**Exhibit 8**). In addition, the STB should study the alternative of simply using existing rail easements from Rochelle, Illinois to Wisconsin and depicted on **Exhibit 9**. GLBT has stated that one of its purposes was to interchange with the Illinois Railway. Rather than simply interchanging with the railway that railway could be used and improved thereby avoiding the extreme environmental impacts of as new rail line.

The STB should consider simply using the original Meridian Road route that was proposed by GLBT back in 2015. That route followed a major metropolitan roadway rather than bisecting

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numerous farmland properties, wooded areas and residential properties. That original plan of GLBT is attached hereto as **Exhibit 10**.

Finally, the STB should simply consider the "no action" alternative particularly since the "CLEAR" project is ongoing and designed to reduce the Chicago congestion which GLBT seeks to bypass and would largely avoid the extreme environmental problems and issues created by building an entirely new rail line.

Thank you for your consideration and we look forward to the STB indicating that it will indeed study the four proposed alternatives referenced in the attached Dummer Scoping Comments as well as the "no action" alternative.

Sincerely,

HINSHAW & CULBERTSON LLP



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RSP:dmh

SCOPING COMMENTS OF MARK AND EMILY DUMMER

I. INTRODUCTION

My name is Mark Dummer and I am writing to you on my and my wife Emily's behalf, as owners of parcel 14-20-400-004 in Winnebago County, Illinois with a common address of 10965 Edwardsville Road, Winnebago, Illinois. See **Exhibit 1**, attached hereto. We write to inform you that we strongly oppose the proposed route by the Great Lakes Basin Transportation (GLBT) due to the devastating impact it will have on our property along with our neighboring farm community. We strongly urge the STB to consider alternative routes or deny the approval of the GLBT proposed project in its entirety.

A. Land Parcel Overview

My wife and I searched for nearly seven (7) years for the perfect property that would have tillable land, woods, and a stream to build our dream home and allow us to own a small farm in retirement. We have saved our entire lives with the intent to pursuing a hobby farm dream and found the perfect property in rural Winnebago County. It was our intent to personally farm the land while enjoying all of the outdoor recreation possibilities that the woods and streams could provide. We invested a substantial portion of our retirement funds to acquire the property and pursue our dreams. In the past three years we have spent in excess of \$500,000.00 to acquire the property and build a state of the art "outbuilding" to house our working farm implements and the antiques we have enjoyed restoring. See photos attached hereto as **Exhibit 2** depicting the property, streams and building. If the Great Lakes Basin Railroad project is allowed to proceed our dream will become a nightmare as the route that the Surface Transportation Board has published as the Great Lakes Basin Railway's proposed route bisects our 55 acre parcel, crosses the very land we planned to build our dream home upon and would render the entire property completely useless for the purposes for which we purchased it. Fortunately, we understand that the Great Lakes Basin Railway has now acknowledged that the route which would bisect our property should not be pursued and it should not be filing an application for such route and instead agrees that the railway should follow a route to the west of Rockford and east of Meridian Road and then intersect with the Canadian National Railroad thereby completely avoiding our property and avoiding the environmental impacts to our farming operations and our woodlands, streams and wetlands and avoid the entire Severson Dells/Colman Dells Woodland Complex. That alternative and the three other alternatives discussed herein should be considered and examined in any environmental impact statement.

14-20-400-004 is a 55 acre parcel of land that embodies everything God intended Mother Nature to provide; land, streams, woods, wildlife and farm ground. As my wife and I approach retirement age, we have spent several years looking for the perfect place to build our home where we could enjoy the tranquility of nature. After purchasing the property, we spent the last three years committed to the conservation of this land and the wildlife on this property, including clearing streams of fallen trees and eliminating any hunting rights. The proposed GLBT route would destroy the conservation of this land and its wildlife.

B. Environmental Impacts of the Proposed Rail Line to the Dummer Property

i. Farmland Impact

The proposed GLBT rail route would divide our farm in half, entering and exiting the property at the two highest and most productive areas of the farm. See **Exhibit 3**. In addition to splitting the farm in half, it would also divide the current three fields into five, leaving two fields landlocked and another, an uneconomical remnant. See **Exhibits 3 and 4**. The proposed GLBT route will destroy the economical productivity of this land as a whole. Therefore, any environmental impact statement must consider the impacts to the economic viability of farming the property.

ii. Streams and Wetland Impact

In addition to rendering much of the farmable portion useless, the route studied by the STB would also have a devastating impact on the streams and wetlands that run the entire length of the property. See **Exhibits 5 and 6**. The proposed GLBT rail route is slated to run at a northwestern route across our property, entering the southeast corner with the highest land elevation. It will then continue on by crossing two streams, wetlands, a 400 ft. flood zone, exiting to the opposite northwest corner which is the second highest land elevation of the property. **Exhibit 5**. The streams and wetlands are the most crucial areas on this property with respect to land and wildlife conservation. The proposed route would take a path of destruction through this parcel of land that would encompass both the highest and lowest points, with a 30–40 foot elevation difference. The land alterations required to support this rail system would have an irreversible impact on the woodlands, streams and wetlands with its natural springs. Therefore, any environmental impact statement must consider the impacts on the streams and wetlands of the Dummer property.

iii. Nature and Wildlife Impact

The proposed rail route will have a detrimental effect to the woodlands, streams and wetlands, which will negatively impact the nature and wildlife on this property. We have worked hard to create, manage and preserve a wildlife sanctuary. This property now supports and protects abundant wildlife including deer, fox, coyote, rabbit and pheasant along with numerous species of birds including hawks and owls. To date, the streams have included fish up to 13” in length, turtles and an abundant supply of minnows. As part of our conservation efforts, the plants and vegetation in the woodlands, streams and wetlands also include wild flowers, prairie grasses along with the sought after Milkweed plant favored by the Monarch Butterfly.

This property is part of the Severson Dells/Colman Dells Woodland Complex. The wooded area on the Dummer property consists of hardwood forest that is part of a larger complex of forest which is a critical habitat for migratory birds and other wildlife according to the Illinois Department of Natural Resources. An environmental inventory of a similar nearby property (the Perks Ranch) was recently conducted by environmental scientist Gerald Paulson, who is the past director of the National Land Institute of Rockford, Illinois, and a well-recognized expert in botany, plant sciences, endangered, threatened and unique species and habitat. Mr. Paulson found that the proposed project would cause extreme and detrimental environmental impacts to the wetlands and streams in the area as well as the larger forest complex. This preliminary

inventory of a nearby property has found several endangered or threatened species in the area including the Cerulean Warbler and the Loggerhead Shrike. The unnamed tributary which traverses the property studied by Mr. Paulson as well as the Dummer property provide high quality habitat for many species of fish and invertebrates including Southern Red-Belly Dace, the Brook Stickleback, the Creed Chub, the Fantail Darter and the Johnny Darter.

It has also been found that the neighboring properties (which include tracts of the same forest as the Dummer property) are important habitats for neo-tropical birds that migrate through Northern Illinois in the spring and fall. The neo-tropical birds that are dependent upon large tracts of upland forest (which will be destroyed by this project) include the Loggershed Shrike, Dicksissel, Bobolink and Eastern Meadowlark. Mr. Paulson performed a preliminary inventory of birds that use woodland, savannah, grassland and wetlands near the Dummer Property in late April and early May of 2016 and found 121 species including Bald Eagle, Cooper's Hawk, Red-Shouldered Hawk, Sandhill Crane, Barred Owl, Pileated Woodpecker, Savanna Sparrow and Bobolink. Further the breeding population of the Cerulean Warbler (a state threatened species), was also found.

Mr. Paulson also found that this area includes an active heron rookery and potential habitat for Indiana Bats, Northern Long Eared Bats and other endangered and threatened species. Ultimately it is clear that a complete inventory and study needs to be done of the migratory and breeding birds, bats, fish and other wildlife using the Dummer stream and woodland area and its surrounding woodland complex.

The GLBT narrative associated with the route that traverses the Dummer property indicates that the developer considered a route immediately west of Rockford. It originally rejected that route "due to the railroad gradient, wetland impacts and hunting areas blocking access to WSOR." However it is clear that the route that has now been selected which bisects the Dummer property as well as much of the Severson Dells/Colman Dells Woodland Complex indeed infringes upon wetlands and streams on the Dummer property and elsewhere in the area. Accordingly, this section of the Rockford Subdivision route violates GLBT's own goal of avoiding environmentally sensitive wetlands, streams and conservation areas.

It is clear that any environmental impact statement must consider the devastating impacts on the farming and residential uses of the Dummer property and on the nature and wildlife and include a complete inventory of all birds, bats and other species, including amphibians, such as frogs, toads and salamanders which are known to frequent the area. Furthermore, it is well known that there are mature shag-bark hickory trees in this area, including those on the Dummer property which are potential habitat for the federally endangered Indiana Bat and federally threatened Northern Long Eared Bat. All of these species and habitats should be included in the environmental impact study and all species should be inventoried in and around the Dummer property.

iv. Safety Impact

The proposed GLBT rail route threatens to compromise driver safety by crossing two roadways as it enters the southeast intersection of this property. GLBT plans to use the rail to serve up to 110 trains per day which will cause significant delays in all directions. The east/west and

north/south roadways will become seriously congested at this intersection compromising response time for emergency personnel for fire and medical needs. In addition to traffic delays and safety concerns at this intersection, there is an existing rail crossing just a half mile north that has a history of serious vehicle incidents including one truck driver who lost his life within the last year. Furthermore, the GLBT proposes a 200 foot wide taking though there will only be a single track in the Rockford Subdivision. GLBT acknowledges that at least 50 feet of its proposed taking is for "possible use by utilities as a new right of way to serve potential population growth of the region. This is another source of revenue for GLBT." (October 15, correspondence filed with STB, Docket No. 35952, Document No. EL-21150, pgs. 3-4). GLBT states it could install "electricity, water, natural gas, fiber optics and wireless" facilities. Thus it is important that the STB study all of the impacts of this plethora of possible uses and the magnified impact and safety concerns that such unrestricted use of the land would have on the property.

C. Alternative Routes

Clearly the STB should consider the impacts on the Dummer property and the surrounding wetlands and woodlands. Due to the extreme impact on the property, its use and the environment, the Dummer property should be avoided by any route ultimately proposed by the STB or the "no action" alternative should be selected. At a minimum the STB should fully study the following four alternative routes for the Rockford Subdivision.

i. RMAP Suggested Routing as Described in its Scoping Letter of June 10, 2016.

The Rockford Metropolitan Agency for Planning ("RMAP") is the Metropolitan Planning Organization ("MRO") for the Rockford region and empowered by a Cooperative Agreement adopted by the cities of Rockford, Loves Park, Belvidere, and Machesney Park, Illinois, as well as Winnebago County and Boone County, Illinois, and the State of Illinois acting through the Illinois Department of Transportation. RMAP meetings are attended by the Mayors and County Board Chairs of the principal communities as well as IDOT. RMAP also receives advice and assistance from a 22 member team and committee including several smaller cities and the Rockford Mass Transit District and the Chicago/Rockford International Airport.

RMAP, following several meetings, submitted its scoping letter dated June 10, 2016 to the STB which indicated a new route which will avoid the Severson/Colman Dells woodlands including the Dummer Property. The RMAP proposed route is closer to the Rockford Airport and the Airport's Global Trade Park before it terminates at the Canadian National Railway. Getting closer to the Airport and the related development corridor is accomplished by following a route to the west of Rockford and east of Meridian Road and then intersecting the Canadian National Railroad. That alternative will completely avoid the Dummer Property by several miles thereby avoiding the devastating environmental impacts to the Property and its woods, wetlands and streams as well as the Severson/Colman Dells woodlands. In the deliberations in those meetings by the RMAP Policy Board leading to issuance of its letter, members inquired as to whether the GLBT had considered the RMAP Greenways Plan and the environmentally sensitive properties that the GLBT proposal would bisect. In response, a member of the Policy Board who had been in contact with Mr. Patton indicated that Mr. Patton and GLBT now understood that it was not

advisable to maintain the route as proposed as it did impact environmentally sensitive properties within the Severson Dells/Colman Dells complex which includes the Dummer Property and that GLBT was supportive of the alternative route ultimately described in the RMAP letter dated June 10, 2016.

On June 24, 2016 Mr. Dave Navecky of the STB informed Attorney Richard Porter that he had heard from several sources that GLBT had indeed expressed that it would file alternative routes with the STB after having reviewed the Scoping Comments. It is, therefore, apparent that GLBT has now agreed that the Severson/Colman Dells Woodland Complex area (including the Dummer Property) should be avoided and that RMAP's proposed alternative route is now preferred.

A depiction of this RMAP alternative route is attached hereto as **Exhibit 7** which we strongly encourage the STB to consider in the EIS.

ii. Rerouting the Western Spur in a More Southwesterly Corridor.

The Service Transportation Board should consider an alternative route for the western spur of the Rockford Subdivision similar to the one attached hereto as **Exhibit 8**. At MP 186.35 the railroad could swing further southwest between Byron and Oregon, Illinois, in Ogle County thereby completely avoiding the Dummer Property and its streams and woods as well as the entire Severson/Colman Dells Woodland Complex. The route could perhaps cross the Rock River south of Byron, Illinois and north of the Exelon Nuclear Plant and then curve west of Seward, Illinois. The route could then swing back north to intersect the Canadian National Railroad. That route would virtually avoid all woodlands and wetlands as it would traverse only agricultural crop-land. Such a route would truly honor the GLBT stated goal of avoiding wetlands and environmentally sensitive areas.

iii. The Alternative of Using Existing Rail Easements from Rochelle, Illinois to Wisconsin.

Another far superior alternative route would follow existing railways from Rochelle to the Wisconsin border as shown on **Exhibit 9**. GLBT has indicated that the "Rockford Subdivision is designed to interchange with the Illinois Railway". However, the route as presently proposed merely has an interchange with the Illinois railway instead of utilizing the railway itself. The Illinois Railway from Rochelle to the Rockford area is presently under-utilized and can lead to other existing rail lines to Wisconsin. The use of existing rail easements, which are in need of additional traffic and the revenue to make improvements, would obviously be far superior from an environmental impact perspective. Furthermore, many of the crossings, overpasses and underpasses have already been built though some may need to be improved and thus most, if not all of the environmental impacts have already occurred as a result of the existing railway. GLBT has indicated that its primary purpose is to avoid the congestion of the Chicago rail traffic and minimize environmental impacts. Those goals can best be accomplished by the use of existing rail and specifically the Illinois Railway System. Not only are the environmental impacts greatly diminished but expansion and improvement of the Illinois Railway system would be a far preferential re-use and recycling of resources. Once again, the STB should consider and thoroughly review the proposed alternative route attached hereto as **Exhibit 9**.

iv. The Original Meridian Road GLBT Route West of Rockford.

The narrative provided by GLBT for the proposed Rockford Subdivision (and the Wisconsin Subdivision) acknowledges that an original route was considered which would have taken the railroad to the west of Rockford and completely avoided the Severson Dells/Colman Dells Woodland Complex and the Dummer property its wetland, stream and woods. That original Meridian Road route was submitted to RMAP in 2015. A copy of that original Meridian Road proposed route is attached hereto as **Exhibit 10**.

At the RMAP meeting on May 26, 2016 several members spoke out against the plan being studied now by the STB and the majority of members spoke in favor of the original Meridian Road route proposed in 2015 by GLBT. The Meridian Road alternative calls for the railroad to follow the multi-lane roadway system where most of the environmental impacts have already been endured. Therefore, the original Meridian Road route contemplated and advocated by GLBT was far superior in avoidance of wetlands and sensitive environmental areas.

On June 9, 2016 RMAP met and voted to issue a statement to the STB (dated June 10, 2016) which memorializes that RMAP "supports the view that the route in Winnebago County needs to move closer to the Chicago Rockford International Airport and offer closer proximity to the Airport's Global Trade Park before it terminates at the CN Railway." Thus RMAP has now officially proposed an alternative route which would avoid the environmentally sensitive areas of the Dummer property and the surrounding woodlands by moving the route closer to Rockford and the airport. The officially proposed alternative route of RMAP is consistent with the Meridian Road route originally proposed by GLBT and attached hereto as **Exhibit 10**. Moving the route closer to the populated areas of Rockford and the airport and Global Trade Park would largely avoid the environmental impacts while facilitating the goals of industrial and commercial development and convenience of the local communities.

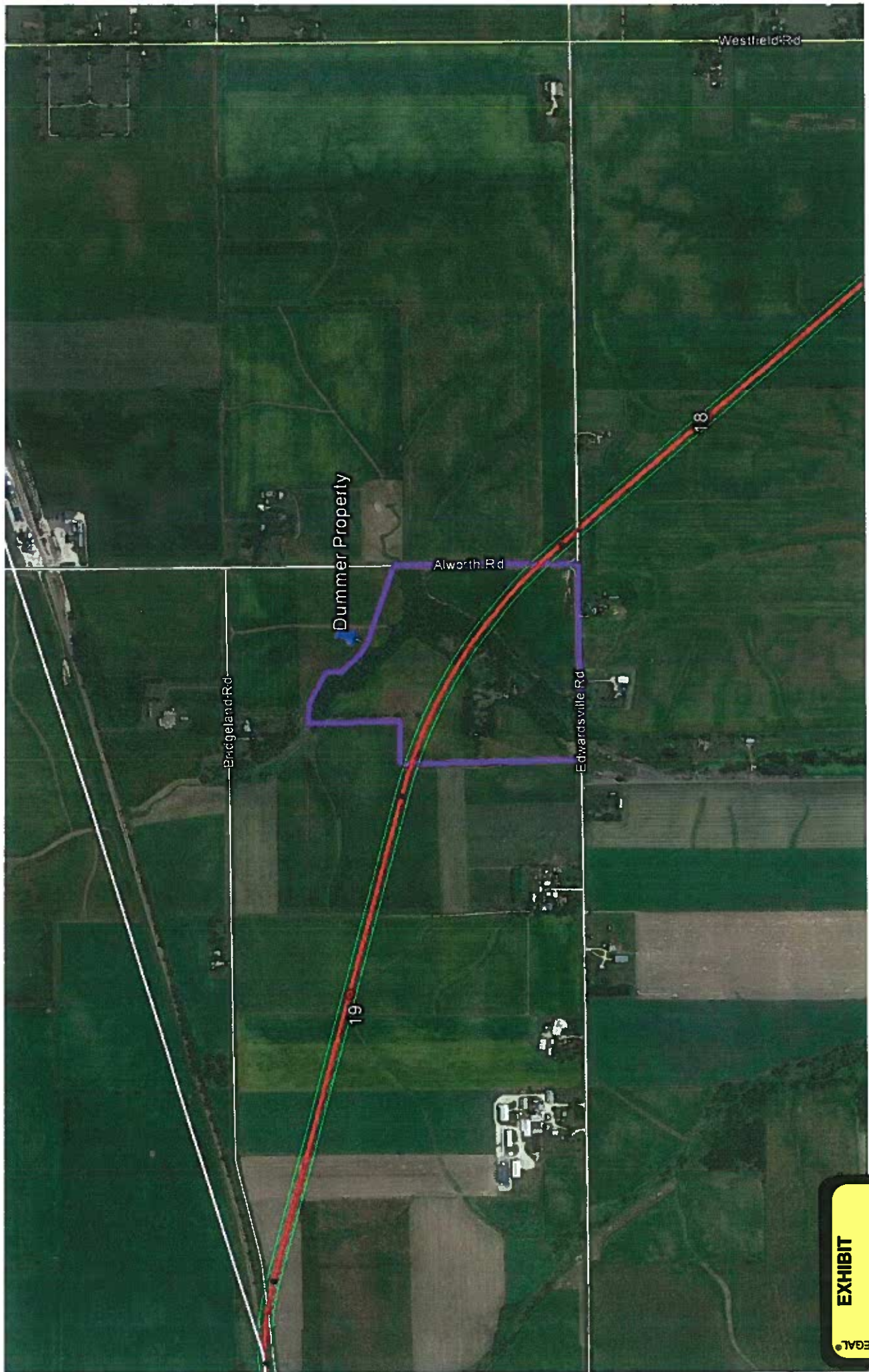
The Surface Transportation Board should consider the original Meridian Road proposed route of GLBT, as it is far superior to the route presently being considered by the STB and accomplishes all of the same goals of connecting the Rochelle area, the Rockford Airport, and avoids the Dummer property, the forest land, wetlands, and the Severson/Colman Dells Woodland Complex.

II. CONCLUSION

The proposed railroad would negatively impact not only the Dummer property and its operations and cause extreme property value loss, but experts have confirmed that the habitat for numerous endangered and threatened species will be impacted including Cerulean Warbler, Loggerhead Shrike, Indiana Bat and Northern long-eared Bat. Clearly the alternative of not pursuing the project must be considered as there are numerous under-utilized railways which could simply be used to avoid the Chicago Metropolitan area. Furthermore, extensive research and finances have gone into the CLEAR project which is designed to reduce the Chicago congestion problems which GLBT proposes to avoid. The CLEAR solution is far superior and less costly and invasive from an environmental perspective than the Great Lakes Basin Railroad. Furthermore, even if the GLBT project is considered, alternative routes should be utilized which avoid the

Dummer property, its two streams and its wetlands as well as the Severson/Colman Dells Woodland Complex.

The Dummers have searched for years to find the piece of property to build their family home and hobby farm which also has forest areas and streams. The property will be unnecessarily destroyed if the original proposed route is followed. GLBT itself now agrees that the route as proposed causes too much environmental devastation to the area where the Dummer property is located and that the RMAP alternative (**Exhibit 7**) should be employed instead. Clearly, the environmental impacts to the Dummer property and the area would be far too great if the route presently being studied by the STB is selected and thus either one of the four alternatives proposed herein should be followed or "no action" taken on the proposed project. We urge the STB to study those alternatives in its EIS.



EXHIBIT

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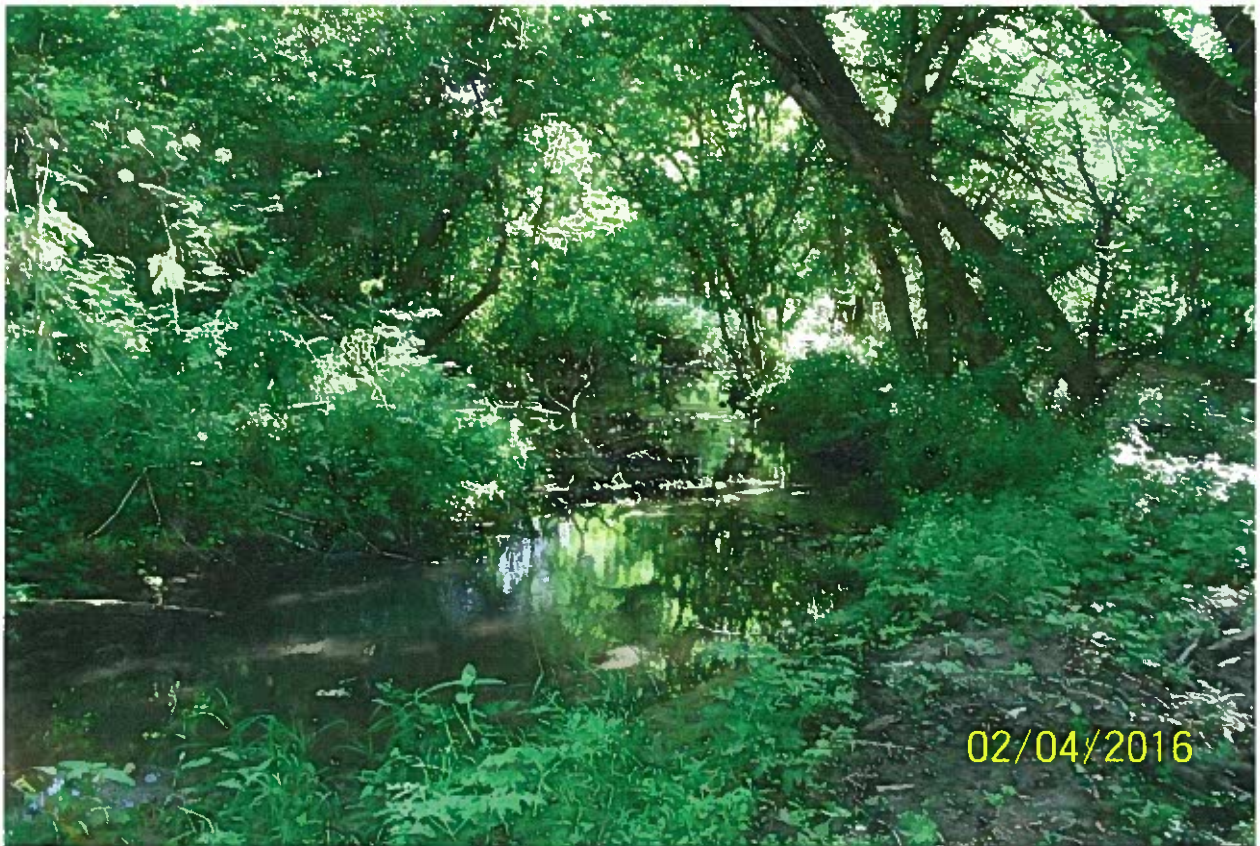
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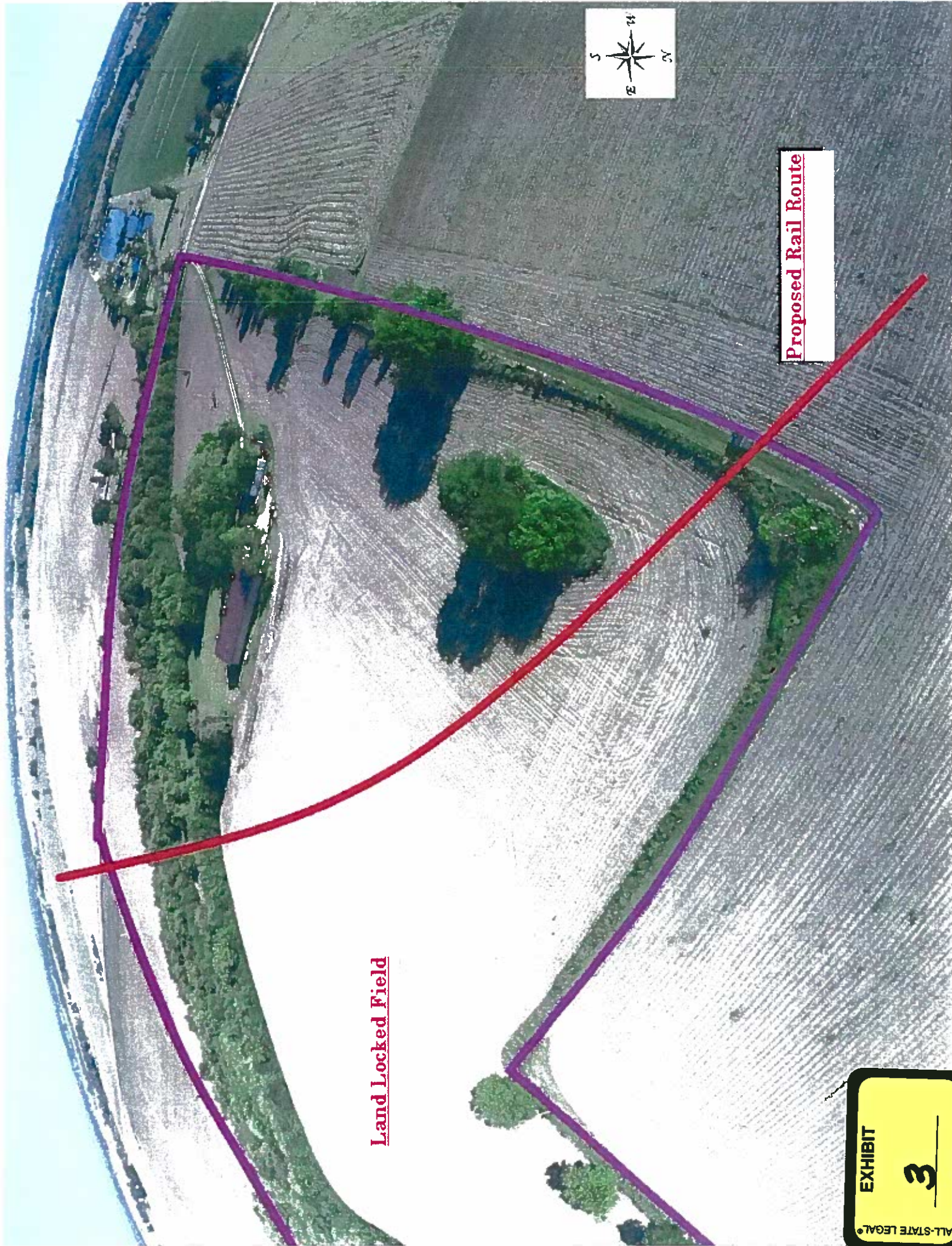












Proposed Rail Route

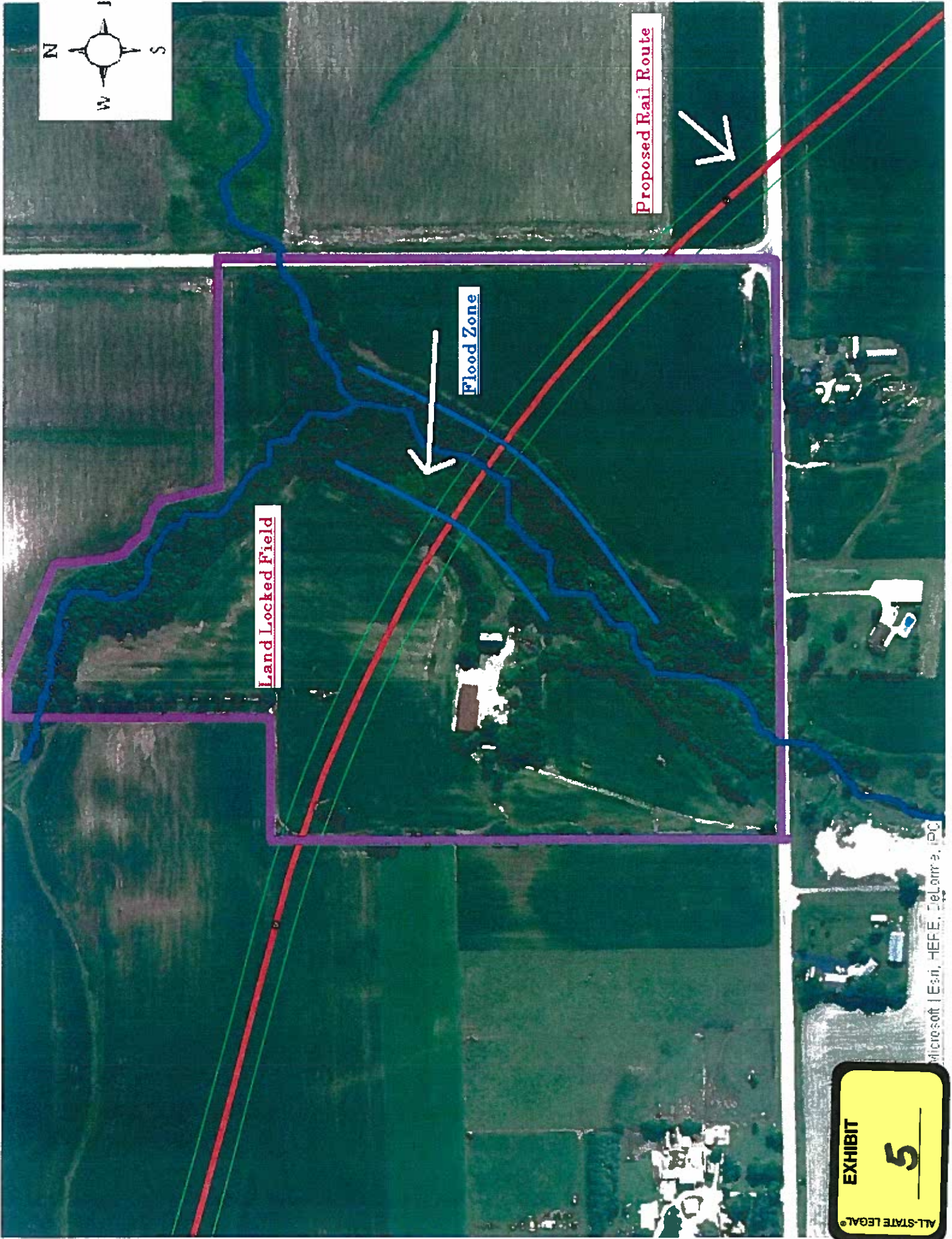
Land Locked Field

Proposed Hail Route

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EXHIBIT

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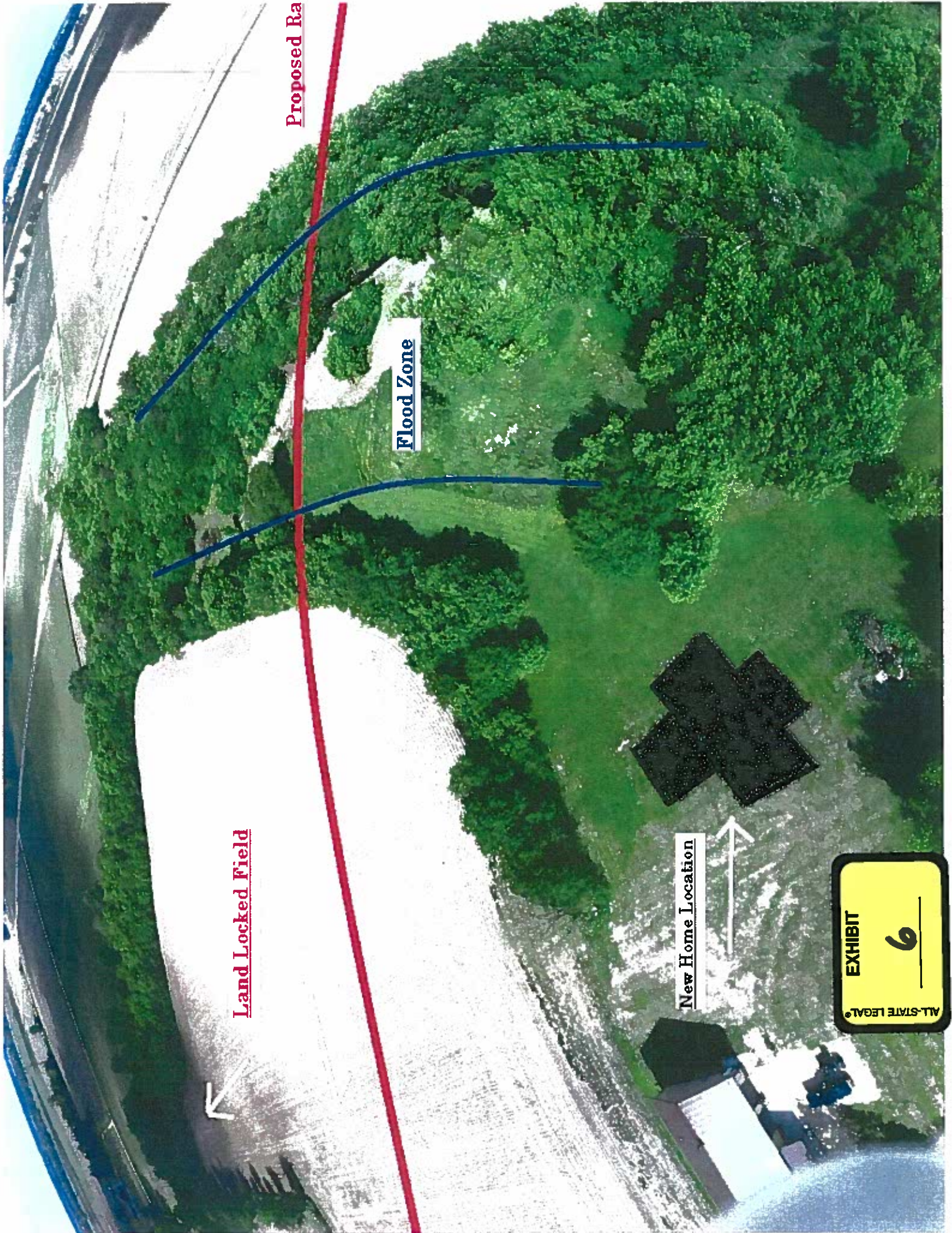
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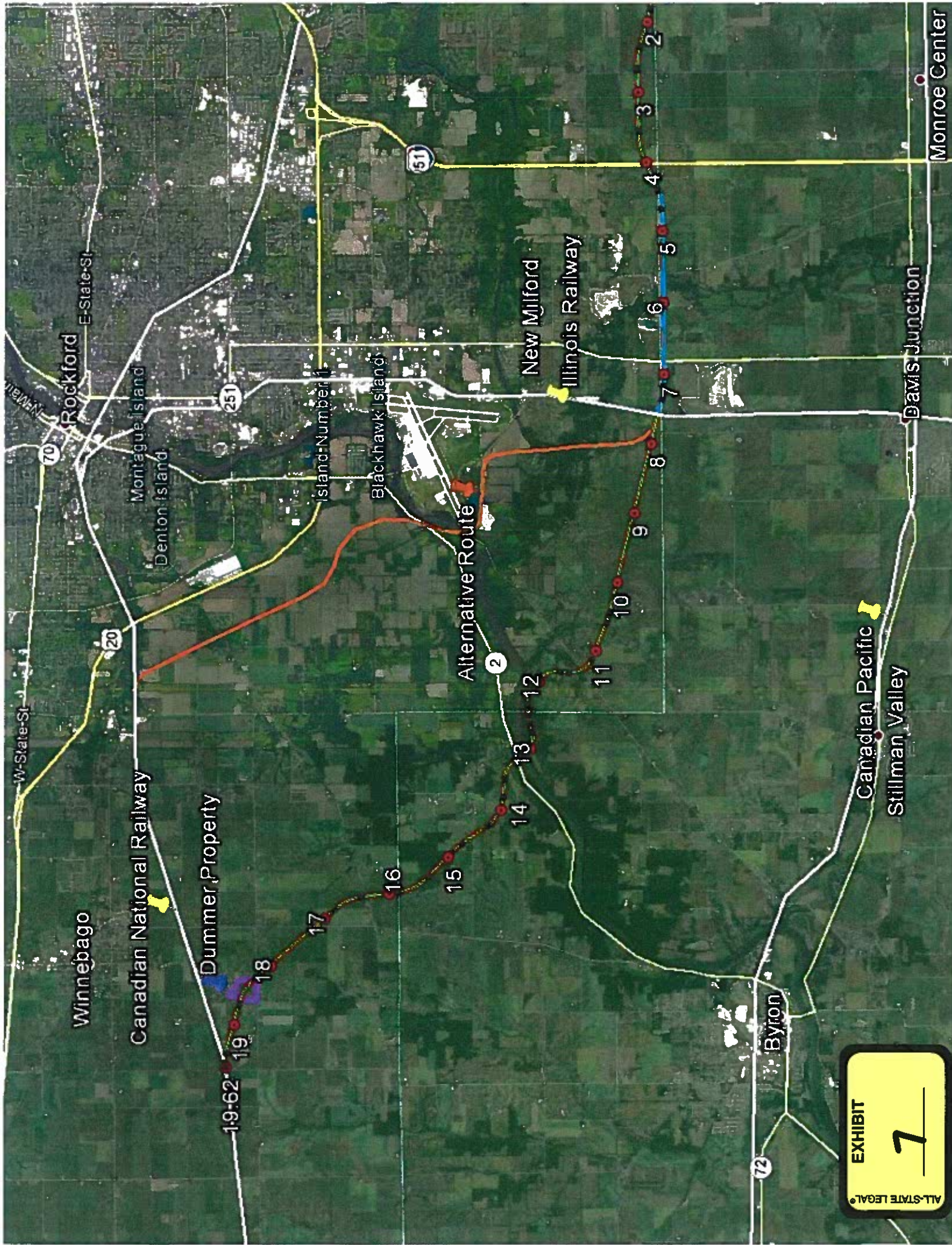
New Home Location

EXHIBIT

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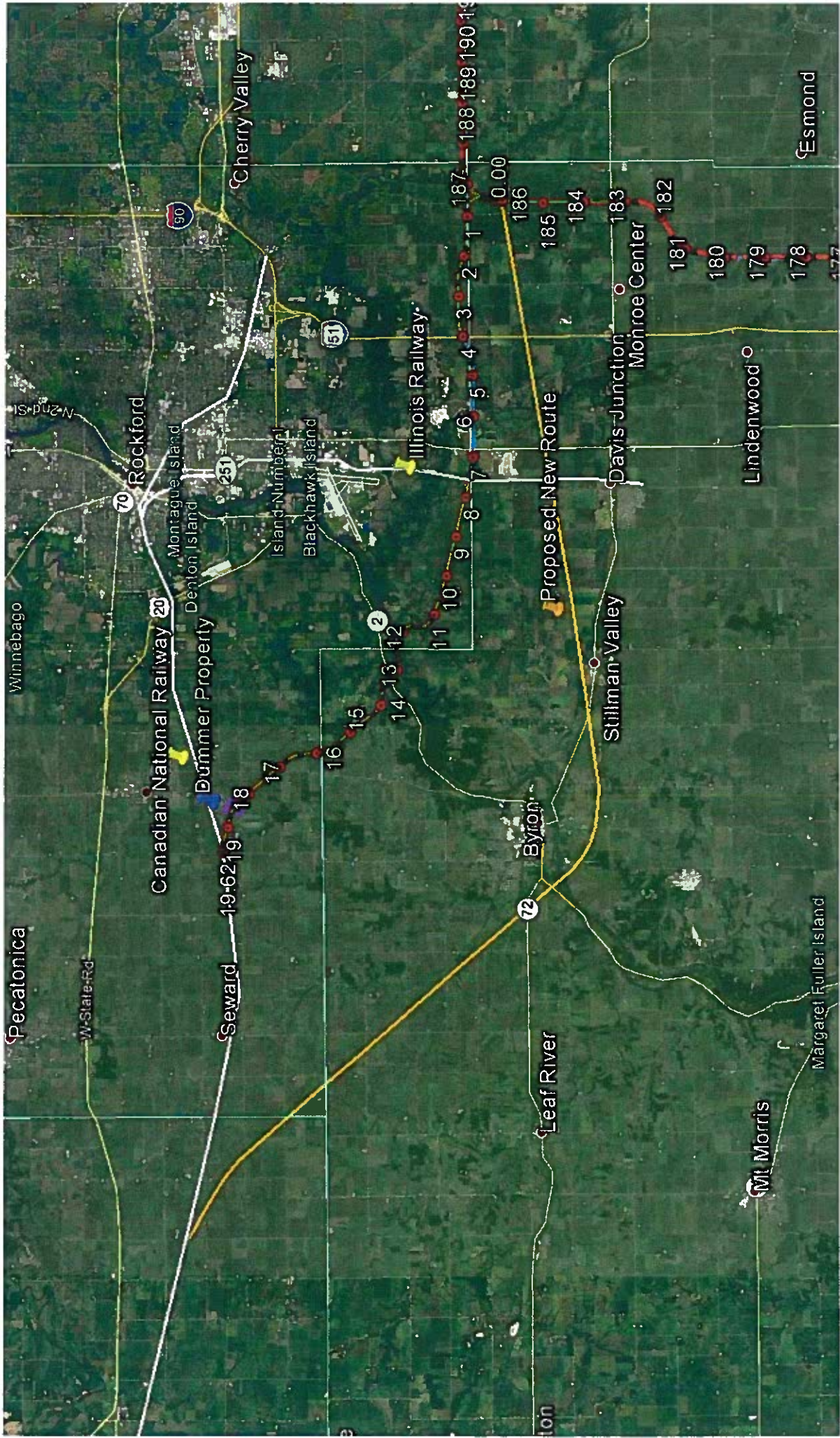




EXHIBIT

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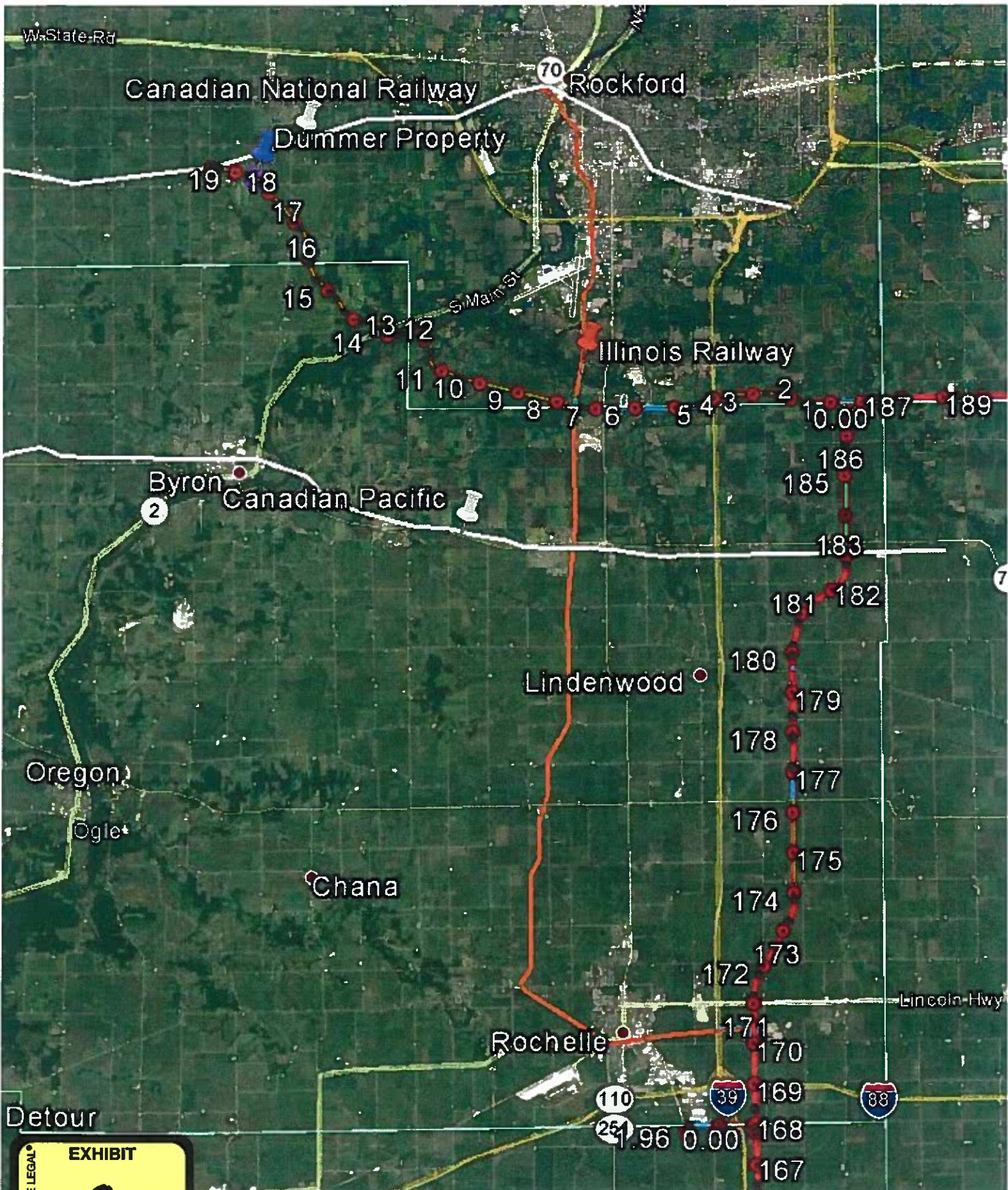
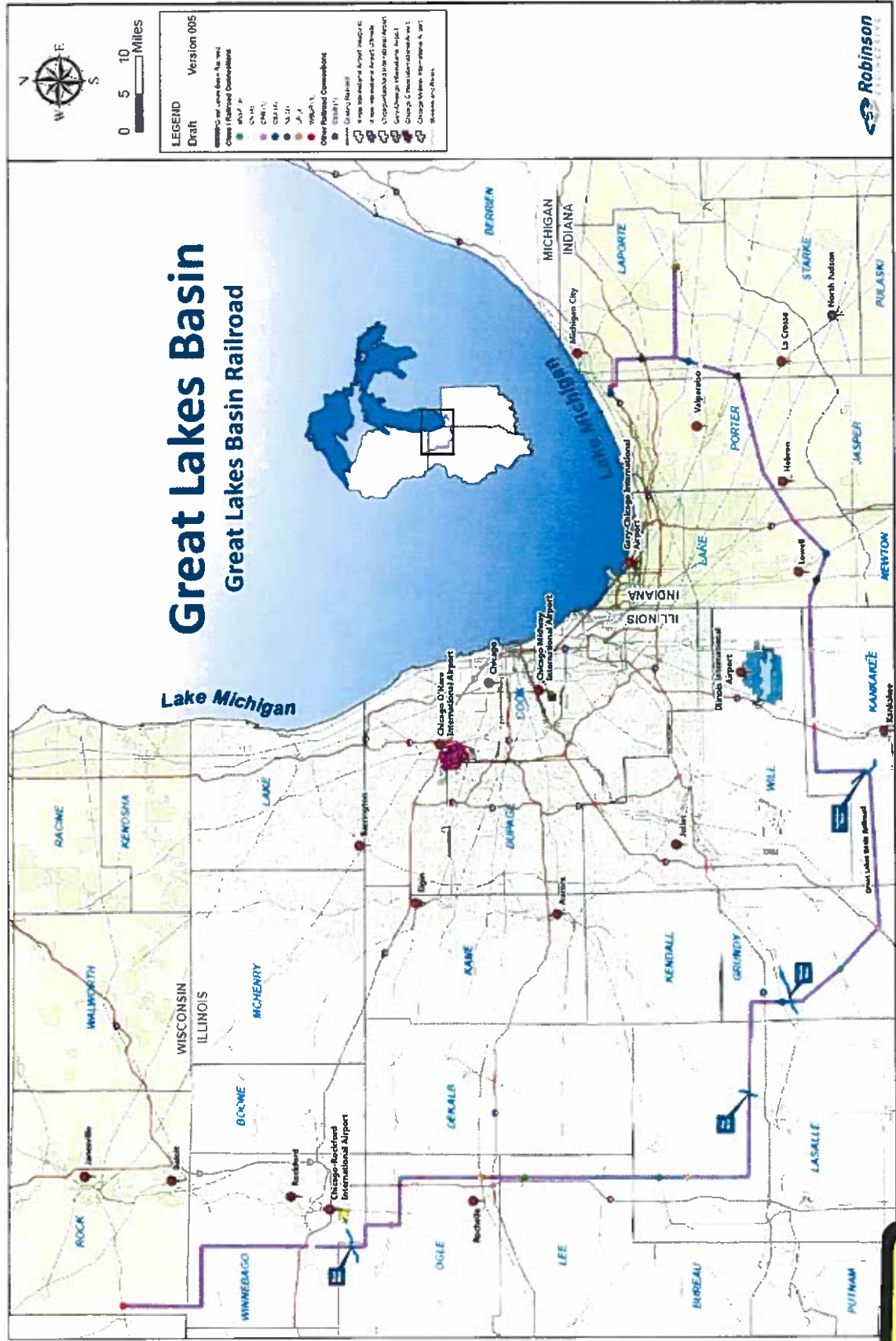


EXHIBIT 9



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