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April 21, 2004

By electronic mail

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

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

Dear Mr. Williams:

Enclosed please find Response to Decision Served April 19, 2004, for filing with the Board
in the above referenced matter.

Very truly yours,

Thomas F. McFarland
Attorney for Offeror

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cc: All parties of record

BEFORE THE
SURFACE TRANSPORTATION BOARD

CSX TRANSPORTATION, INC. --)
ABANDONMENT EXEMPTION -- IN) DOCKET NO. AB-55
LAPORTE, PORTER AND STARKE) (SUB-NO. 643X)
COUNTIES, IN)

**RESPONSE TO DECISION
SERVED APRIL 19, 2004**

TOWN OF NORTH JUDSON, INDIANA
P.O. Box 56
North Judson, IN 46366

Offeror

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street
Suite 1890
Chicago, IL 60604-1112
(312) 236-0204

Attorney for Offeror

DUE DATE: April 21, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

CSX TRANSPORTATION, INC. --	)	
ABANDONMENT EXEMPTION -- IN	)	DOCKET NO. AB-55
LAPORTE, PORTER AND STARKE	)	(SUB-NO. 643X)
COUNTIES, IN	)	

**RESPONSE TO DECISION
SERVED APRIL 19, 2004**

The Town hereby objects to the valuation procedure adopted in the decision served April 19, 2004. The Town's Motion to Strike filed April 8, 2004 is based in large part on insufficient time to respond to CSXT's new evidence on track materials value. The Board's decision compounds the unfairness. A mere 48 hours are allowed for filing evidence, a period during which both the Town's counsel and its consultant are unavoidably away from their offices on other business. The following evidence is submitted without prejudice to the position taken in the Town's Motion to Strike and without prejudice to the Town's objection to the valuation procedure herein.

In the circumstances, the Town obtained a purchase offer from A&K Railroad Materials, Inc., which is one of the largest, oldest and most reliable companies in the business of buying and selling salvaged railroad track materials. A&K was asked to value the track materials in the rail line, accepting CSXT's representations regarding the quantity and quality of those materials. Attached to this Response as Appendix 1 is a copy of A&K's purchase offer in the form of a letter dated April 19, 2004, from Mr. Mark J. Belfiore of A&K to Mr. Harvey H. Stone of Stone

Consulting & Design, Inc. The Town submits that the A&K purchase offer provides reliable, independent evidence of the gross unit values of track materials in the line.

In the circumstances, the Town obtained an estimate of the unit costs for removal and disposal of the track and bridge materials and crossties in the rail line. The estimate was provided by Mr. Tom Koll of CR Construction, Allison Park, PA, in a telephone conversation with Mr. Dan Swanson of Stone Consulting & Design, Inc. on April 20, 2004. Attached to this Response as Appendix 2 is a copy of Mr. Swanson's notes of that telephone conversation, reflecting those unit costs.

Attached to this Response as Appendix 3 are two pages which reflect the net salvage value of the track materials in the rail line, using the unit values in the A&K purchase offer and the removal and disposal costs in the CR Construction estimate. There are two pages to be consistent with CSXT's separate treatment of two segments of the line -- one 14.83 miles in length and the other 18.24 miles in length. The total gross salvage value of the two segments is \$1,532,911.40. The total removal and disposal cost is \$3,038,795.10. The resulting net salvage value is a large negative amount, which is treated as zero under Board regulations. The Town submits that the evidence provided by A&K and CR Construction establishes that the net salvage value of track materials in the line is zero.

The Town submits that the purchase offer by A&K provides the best possible evidence of the gross salvage value of the track materials in the rail line. The Board has often found that a definitive purchase offer provides the best evidence of value of an object offered to be purchased. The Town submits that the A&K purchase offer establishes definitively that CSXT has substantially overvalued the track materials in this rail line. That is the case even if the

evidence of removal cost provided by CR Construction were to be disregarded. Thus, utilizing the gross values in the A&K purchase offer and CSXT's own evidence of removal and disposal costs, the net salvage value of the track materials in the rail line would be \$715,613. as shown below:

	<u>14.83-mile segment</u>	<u>18.24-mile segment</u>	<u>Total</u>
Gross Value (A&K)	\$ 718,515	\$ 814,396	\$ 1,532,911
Removal cost (CSXT)	\$ 311,318	\$ 505,980	\$ 817,298
Net Salvage Value	\$ 407,197	\$ 308,416	\$ 715,613

CONCLUSION

The Board should strike CSXT's new evidence of track materials value for the reasons stated in the Town's Motion to Strike. Consequently, the Board should find that the net salvage value of track materials in the line is \$1,050,550, based on the only evidence submitted by CSXT on a timely and nonprejudicial basis.

Without prejudice to that position, the Board should find, on the basis of the evidence submitted in this Response, that the net salvage value of those track materials is zero, but in no event greater than \$715,613.

Respectfully submitted,

TOWN OF NORTH JUDSON, INDIANA
P.O. Box 56
North Judson, IN 46366

Offeror

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208 South LaSalle Street
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(312) 236-0204

Attorney for Offeror

DATE FILED: April 21, 2004

APPENDIX 1



APP-19-2004 16:45

A & K RAILROAD MATERIALS

724 941 1970 FAX

A&K Railroad Materials, Inc.
 157 Waterdam Road, Suite 220 McMurray, PA 15317
 Phone: (724) 941-1950 Fax: (724) 941-1970

www.akrmfroad.com



April 19, 2004

Stone Consulting & Design, Inc.
 P.O. Box 306
 324 Pennsylvania Avenue West
 Warren, PA 16365

Attention: P.E. Harvey H. Stone
 President

Dear Harvey,

The following is what I would offer to purchase the below referenced materials in today's market.

			UNIT PRICE	TOTAL COST
1	2,875 EA	Relay cross-ties	\$6.00 EA	\$17,250.00
2	73,837 EA	Landscape ties	\$1.50 EA	\$110,755.50
3	21.47 NT	122 CWR Relay Class II	\$185.00 NT	\$3,971.85
4	2,136.11 NT	122 CWER Relay Class III	\$130.00 NT	\$277,694.30
5	14.18 NT	115 CWR Relay Class II	\$225.00 NT	\$3,190.50
6	516.63 NT	132RE Relay Class III	\$165.00 NT	\$85,765.98
7	2,834.32 NT	112RE Relay Class III	\$165.00 NT	\$467,662.80
8	1,689.12 NT	131RE jointed scrap	\$85.00 NT	\$143,575.20
9	162.92 NT	100* jointed scrap	\$85.00 NT	\$13,848.20
10	2 EA	#10 115 RBM relay turnout	\$2,500.00 EA	\$5,000.00
11	2 EA	#10 115 turnouts - scrap	\$600.00 EA	\$1,200.00
12	4 EA	#10 131 turnouts - scrap	\$712.00 EA	\$2,848.00
13	2 EA	#8 100* turnouts - scrap	\$495.00 EA	\$990.00
14	86,772 EA	Relay 8"x12" double shoulder tie plates	\$1.50 EA	\$130,158.00

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A & K RAILROAD MATERIALS

724 941 1972 E.22

15	74,630 EA	Relay 8"x14" double shoulder tie plates	\$2.50 EA	\$186,575.00
16	108 PR	Relay 132RE 6-hole joint bars	\$15.00 PR	\$1,620.00
17	956.80 NT	Miscellaneous OTM	\$85.00 NT	\$81,328.00
			TOTAL COST	\$1,533,226.00

Sincerely


Mark J. Belfiore
Sales Representative

TOTAL P.22

APPENDIX 2



RECORD OF TELEPHONE CONVERSATION

Stone Consulting & Design, Inc.

By Dan Swanson

Project No. _____

Project Title WARASH S/D

Date 1/20/04 Time 9:30 (am) (pm)

Individual TOM KOLL

Title PROJECT MANAGER/ESTIMATOR

Organization CR CONSTRUCTION
4048 111th ROYAL BLVD,
ALLISON PARK, PA 15101

Location PITTSBURGH

Phone No. (412) 492-0344

Subject TRACK REMOVAL

ITEMS DISCUSSED
SPOKE TO TOM ABOUT REMOVING TRACK MATERIALS AND LOADING FOR SALVAGE OR DISPOSAL. TOM INDICATED THAT HE WOULD WORK OUT COSTS PER ITEM AND CALL BACK.
CALL BACK AT 2:00 PM WITH THE FOLLOWING COSTS:
WELDED RAIL REMOVAL - \$5.60/TF includes OTM pick up + loading
JOINED RAIL REMOVAL - \$5.90/TF includes OTM pick up + loading
RESTORE PUBLIC ROAD CROSSINGS - \$285.00/TF
RESTORE UNPAVED CROSSINGS - \$171.00/TF
REMOVE BRIDGES - WOOD - \$1016.00
REMOVE BRIDGES - STEEL - \$663.00
REMOVE/DISPOSE OF SIGNAL EQUIPMENT - \$1110.00 EA
COMMENTS OR ACTION REQUIRED
DISPOSAL OF SCRAP TIES - \$5.15 EA - (includes loading on truck or RAILCAR)
TURNOUT REMOVAL - \$3,220 EA (includes timber disposal)

324 Pennsylvania Avenue West • P.O. Box 306 • Warren, Pennsylvania 16365
Telephone (814) 726-9870 • Fax (814) 726-9855

APPENDIX 3

Description: Wabash S/D--CF 0.47 / 15.30

Includes: 14.83 Miles of Main Line, 4 turnouts and 1.388 TF of Side Tracks

Quantity	Unit	Description	A&K Offer Unit Price	Total
1,643.00	Ea	Cross Ties - Relay	\$6.00	\$9,858.00
33,358.00	Ea	Cross Ties - Landscape	\$1.50	\$50,037.00
21.47	NT	122# CWR - Relay (CL 2) 1056LF	\$185.00	\$3,971.95
14.18	NT	115# CWR - Relay (CL 2) 740LF	\$225.00	\$3,190.50
112.40	NT	132# CWR - Relay (CL 3) 5120LF	\$165.00	\$18,546.00
2,834.32	NT	112# CWR - Relay (CL 3) 151852LF	\$165.00	\$467,662.80
2.00	Ea	#10 / 115# RBM, 16-6 PTS - Relay	\$2,500.00	\$5,000.00
2.00	Ea	#10 / 115# Turnouts - Scrap - 2 Each	\$600.00	\$1,200.00
86,772.00	Ea	Tie Plates 8 x 12" DS Relay	\$1.50	\$130,158.00
4,392.00	Ea	Tie Plates 8 x 14" DS Relay	\$2.50	\$10,980.00
210.72	NT	Misc. OTM	\$85.00	\$17,911.20
		Sub Total		\$718,515.45

		Less Cost to Remove		
79,580.00	TF	Welded Rail Removal	\$5.60	\$445,648.00
571.00	TF	Restore 19 Public Road Crossings	\$283.00	\$161,593.00
100.00	TF	Restore 9 Unpaved Crossings	\$171.00	\$17,100.00
599.00	TF	Remove Bridges (Timber) 10 Each	\$616.00	\$368,984.00
4.00	Each	Remove/Dispose of Signal Equipment	\$1,710.00	\$6,840.00
10,641.00	Each	Dispose of Scrap Ties	\$5.15	\$54,801.15
4.00	Each	Turnout Removal	\$3,220.00	\$12,880.00
		Sub Total		\$1,067,846.15

Estimated Track Salvage Value Total -\$349,330.70

Description: Wabash S/D - CI 212.66 / 230.9

Includes: 18.24 Miles of Main Line, 6 turnouts and 9,608 TF of Side Tracks

Quantity	Unit	Description	A&K Offer Unit Price	Total
1,232.00	Ea	Cross Ties - Relay	\$6.00	\$7,392.00
40,479.00	Ea	Cross Ties - Landscape	\$1.50	\$60,718.50
311.30	NT	132# CWR - Relay (CL 3) 14150LF	\$165.00	\$51,364.50
92.93	NT	132# JTD - Relay (CL 3) 4224LF	\$165.00	\$15,333.45
2,136.11	NT	122# CWR - Relay (CL 3) 105072LF	\$130.00	\$277,694.30
1,689.12	NT	131# JTD - Scrap 77376LF	\$85.00	\$143,575.20
162.92	NT	100# JTD - Scrap 9776LF	\$85.00	\$13,848.20
4.00	Ea	#10 / 131# Turnouts - Scrap - 4 Each	\$712.00	\$2,848.00
2.00	Ea	#8 / 100# Turnouts - Scrap - 2 Each	\$495.00	\$990.00
70,238.00	Ea	Tie Plates 8 x 14" DS Relay	\$2.50	\$175,595.00
108.00	Pr	132#, 36" - 6 Hole Joint Bars - Relay	\$15.00	\$1,620.00
746.08	NT	Misc. OTM	\$85.00	\$63,416.80
			Sub Total	\$814,395.95

		Less Cost to Remove		
59,611.00	TF	Welded Rail Removal	\$5.60	\$333,821.60
46,304.00	TF	JTD Rail Removal	\$5.90	\$273,193.60
993.00	TF	Restore 23 Public Road Crossings	\$283.00	\$281,019.00
140.00	TF	Restore 9 Unpaved Crossings	\$171.00	\$23,940.00
1,417.00	TF	Remove Bridges (Steel) 6 Each	\$663.00	\$939,471.00
4.00	Each	Remove/Dispose of Signal Equipment	\$1,710.00	\$6,840.00
18,125.00	Each	Dispose of Scrap Ties	\$5.15	\$93,343.75
6.00	Each	Turnout Removal	\$3,220.00	\$19,320.00
			Sub Total	\$1,970,948.95

Estimated Track Salvage Value Total -\$1,156,553.00

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2004, I served the foregoing document, Response to Decision Served April 19, 2004, by electronic mail, on Jonathan Gold, Esq., jonathan_gold@csx.com, CSX Transportation, Inc., 500 Water Street, J-150, Jacksonville, FL 32202 and Louis E. Gitomer, Esq., lgitomer@dc.bjllp.com, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Thomas F. McFarland