

SOMMER BARNARD ACKERSON
ATTORNEYS, PC

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May 19, 2004



Via Hand Delivery

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Public Record

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: Docket No. AB-290 (Sub-No. 168X),
Norfolk and Western Railway Company – Abandonment Exemption –
Between Kokomo and Rochester in Howard, Miami, and Fulton Counties, IN

Dear Secretary Williams:

On behalf of Counsel for Petitioners, attached please find one duly-executed original *plus* eleven copies of the Request by Petitioners William C. Friend, Steven Furnivall and Linda Schanlaub, Joined by Tedd. G. Armstrong, To Add Tedd G. Armstrong As A Party To Their Petition. Kindly file this document accordingly, *and* return a time-stamped 'File Copy' to the undersigned with the waiting messenger.

Thank you for your time and consideration.

Sincerely,

Linda Alston
Secretary for the Firm

/la

Attachment(s)

S138750.3

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

RE: NORFOLK AND WESTERN RAILWAY	:	
COMPANY – ABANDONMENT EXEMPTION –	:	Docket No. AB-290
BETWEEN KOKOMO AND ROCHESTER IN	:	Sub-No. 168X
HOWARD, MIAMI, AND FULTON COUNTIES, IN	:	

**REQUEST BY PETITIONERS WILLIAM C. FRIEND, STEVEN FURNIVALL
AND LINDA SCHANLAUB, JOINED BY TEDD G. ARMSTRONG, TO ADD
TEDD G. ARMSTRONG AS A PARTY TO THEIR PETITION**

Nels Ackerson
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SOMMER BARNARD ACKERSON, PC
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Counsel for Petitioners

Dated: May 19, 2004

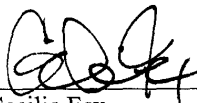
Petitioners, William C. Friend, Steven Furnivall, and Linda Schanlaub ("Petitioners"), joined by Tedd G. Armstrong, respectfully request that Tedd G. Armstrong be added as a party to their petition for reconsideration of the Decision and Notice of Interim Trail Use or Abandonment served on March 10, 2004 (the "March 10 NITU"), and state as follows:

- (1) Tedd G. Armstrong is a landowner whose property abuts the right-of-way in this action that has been identified as the "Southern Segment" (Supplemented Petition of April 19, 2004, Armstrong Affidavit, Exhibit 5);
- (2) As a landowner whose interests are affected by the legal status of the Southern Segment, Mr. Armstrong participated in and supported the filing of the Supplemented Petition by submitting his affidavit in which he attested that the right-of-way immediately south of the Southern Segment has been, *inter alia*, paved over. (Armstrong Aff.);
- (3) Mr. Armstrong wishes to be added as a party to this action, to the extent that he can further participate and contribute to the issues raised by the Petitioners;
- (4) Norfolk Southern Railway Company and the Indiana Trails Fund, Inc. will not be prejudiced by adding Mr. Armstrong as a party because their position is that the Northern Segment and the Southern Segment are a legally contiguous right-of-way, for which the Board's proceedings all tie back to the May 14, 1996 NITU decision; and
- (5) To the extent that the Southern and Northern Segments are not legally contiguous (as is clear from Petitioner's briefing), however, in the interest of justice, Mr. Armstrong should be added as a party so that he may continue to participate in raising issues that are peculiar to the Southern Segment alone.

For the foregoing reasons, the Petitioners, joined by Mr. Armstrong, respectfully request that Mr. Tedd G. Armstrong be added as a party to their petition.

Date: May 19, 2004

Respectfully submitted,
SOMMER BARNARD ACKERSON, PC

By  _____
Cecilia Fex

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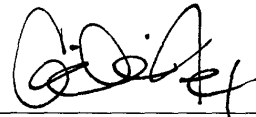
CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of May, 2004, I served a copy of the Request by
Petitioners William C. Friend, Steven Furnivall and Linda Schanlaub, Joined by Tedd G.
Armstrong, To Add Tedd G. Armstrong As A Party To Their Petition by facsimile on the
following:

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