

2/28/04

Law Offices

VUONO & GRAY, LLC

2310 Grant Building

Pittsburgh, PA 15219-2383

John A. Vuono
William A. Gray
Mark T. Vuono*
Dennis J. Kusturiss
Christine M. Dolfi
Louise R. Schrage
Susan C. Indrisano+
*Also Admitted in Florida
+Also Admitted in Maryland

Richard R. Wilson
of Counsel

Telephone
412-471-1800

Facsimile
412-471-4477

December 15, 2004

Re: STB Finance Docket No. 34608- Ohio Valley Railroad Company and Mid
America Locomotive and Car Repair, Inc. – Petition for Expedited Relief for Service
Emergencies

Hon. Vernon A. Williams
Secretary, Surface Transportation Board
Mercury Bldg., #711
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

DEC 20 2004

Part of
Public Record

DEC 20 2004

Dear Sir:

Enclosed for filing please find the original and ten copies of supplemental evidence filed on behalf of Ohio Valley Railroad Company ("OVR") in the above captioned proceeding. The evidence in question is a copy of the Quit-Claim Deed dated March 31, 2000 from Evansville Terminal Company to Indiana Southwestern Railway Company ("ISW") by means of which ISW obtained its current operating right of way from Evansville Terminal Company. OVR has stated in its pleadings before the Board that it is the successor in interest to the Evansville Terminal Company with respect to its rail facilities located at Harwood Yard and that it is the successor in interest to a track easement for direct access to CSX Transportation, Inc. granted by Evansville Terminal Company to Mid-America Locomotive and Car Repair, Inc. The ISW deed submitted herewith was only produced by ISW on December 8, 2004 in a proceeding in the Superior Court of Vanderburgh County, IN.

The ISW deed indicates clearly that the property purchased by ISW was subject to and specifically excluded property under a purchase agreement for Harwood Yard dated June 29, 1996 by and between the Evansville Terminal Company and Mid-America Locomotive and Car Repair, Inc. The property acquired by Mid-America Locomotive and Car Repair, Inc. from Evansville Terminal Company was subsequently conveyed to Harwood Properties, Inc. and assigned to Ohio Valley Railroad Company by Harwood Properties, Inc. The ISW deed establishes that operating rights and properties acquired by ISW from Evansville Terminal Company were subject to the CSXT direct interchange

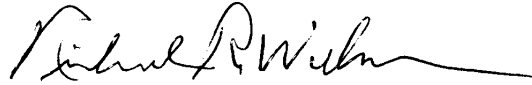
Hon. Vernon Williams
Page 2
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rights conveyed by Evansville Terminal Company to OVR's predecessors in interest and assigned to OVR by Harwood Properties, Inc. for rail operating purposes.

Thank you for your attention to this matter.

Very truly yours,

VUONO & GRAY, LLC

A handwritten signature in black ink, appearing to read "Richard R. Wilson", with a long horizontal flourish extending to the right.

Richard R. Wilson, Esq.
Attorney for Ohio Valley Railroad Company
and Mid-America Locomotive and Car
Repair, Inc.

RRW/bab
Enclosure
xc: Office of Proceedings
Louis Gitomer

ATTORNEYS AT LAW
BAMBERGER, FOREMAN, OSWALD AND HAHN, LLP

7TH FLOOR HULMAN BUILDING
20 N.W. 4TH STREET
POST OFFICE BOX 657
EVANSVILLE, INDIANA 47704
TELEPHONE (812) 425-1591
FAX (812) 421-4936

Christopher C. Wischer
452-3595

December 8, 2004

ROBERT M. BECKER
FRED S. WHITE
R. THOMAS BODKIN
TERRY C. FARMER **
HENRY C. HUDSON
JERRY D. STILWELL
THOMAS J. KIMPEL
DONALD J. FUCHS
MICHELE S. BRYANT
MARC E. HAWLEY
JOHN P. BROADHEAD
J. HERBERT DAVIS
MARJORIE M. BLALOCK **
CATHERINE A. NESTRICK *
M. BETH BURGER
JASON P. LUEKING *
DOUGLAS A. WELP *
LORI A. YOUNG *
LAURA A. SCOTT *
ANDREW C. OZETE **
CHRISTOPHER C. WISCHER *
SHELLIE DEFFENDALL KYLE **
PATRICK A. KOONTZ

JOHN W. COLLINS **
PAMELA J. HENSLEY
MICHAEL G. SMITH
HEATHER H. LACY
SHAWN N. ROUNTREE **
D. ANDREW NESTRICK *
JAMES E. GENTRY, JR. *

SENIOR COUNSEL
C. E. OSWALD, JR.
ROBERT H. HAHN
K. RICHARD HAWLEY
P. MICHAEL MITCHELL

OF COUNSEL
GERALD H. EVANS
JOHN STUFF STASER
MICHAEL J. CORK **
W. TRENT VAN HAAFTEN

ALSO ADMITTED IN:
* KENTUCKY
** ILLINOIS

Marilyn R. Ratliff, Esq.
123 NW Fourth St., Suite 304
Evansville, IN 47708

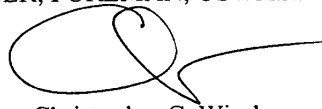
Re: **Mid-America Locomotive and Car Repair, Inc. v.
Indiana Southwestern Railway, Co
Vanderburgh Superior Court, Cause No. 82D03-0308-PL-3530**

Dear Marilyn:

Enclosed herein please find Indiana Southwestern Railway Company's Response to Mid-America Locomotive & Car Repair, Inc.'s Request for Production. Please contact me should you have any questions.

Very truly yours,

BAMBERGER, FOREMAN, OSWALD AND HAHN, LLP



Christopher C. Wischer

CCW/gpr
Enclosure
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DEC 20 2004
RECEIVED

STATE OF INDIANA
COUNTY OF VANDERBURGH

SS:

IN THE VANDERBURGH SUPERIOR COURT

MID-AMERICA LOCOMOTIVE AND CAR REPAIR,
INC.,

Plaintiff,

VS.

CAUSE NO. 83D03-0308-PL-3530

INDIANA SOUTHWESTERN RAILWAY CO.,
Defendant.

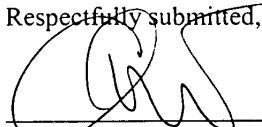
**INDIANA SOUTHWESTERN RAILWAY COMPANY'S RESPONSE
TO MID-AMERICA LOCOMOTIVE & CAR REPAIR, INC.'S REQUEST FOR
PRODUCTION**

COMES NOW the Defendant, Indiana Southwestern Railway Co., and for its response to Plaintiff's Request for Production states as follows:

REQUEST FOR PRODUCTION: Copies of any and all deeds, leases, contracts for sale or other documents, whether recorded or not, that form the basis or any claim of Indiana Southwestern Railway Company to any ownership interest in the real estate upon which the roadway at issue in this action is located.

RESPONSE: See attached Quit Claim Deed dated March 31, 2000, from Evansville Terminal Company, a Delaware corporation, to Indiana Southwestern Railway Company, an Iowa corporation, which Deed is of record at Deed Drawer 13, Card 34356, as Instrument 2000R-9263, in the Vanderburgh County Recorder's office.

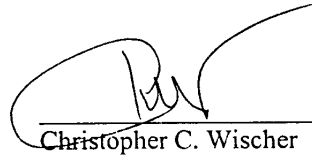
Respectfully submitted,


CHRISTOPHER C. WISCHER IN # 20433-98
BAMBERGER, FOREMAN, OSWALD AND HAHN, LLP
20 N.W. 4th Street, 7th Floor Hulman Building
P. O. Box 657, Evansville, IN 47704-0657
Ph: (812) 425-1591
Fax: (812) 421-4936
cwischer@bamberger.com
ATTORNEY FOR DEFENDANT, INDIANA SOUTHWESTERN
RAILWAY, CO.

CERTIFICATE OF SERVICE

I hereby certify that I have this 8th day of December, 2004, mailed a true and correct copy of the above and foregoing by depositing the same in the United States Post Office at Evansville, Indiana, in a stamped, addressed envelope to:

Marilyn R. Ratliff
Attorney at Law
123 NW Fourth St., Suite 304
Evansville, IN 47708



Christopher C. Wischer

DEED DRAWER 13 CARD 4356

VANDERBURGH COUNTY
BETTY J. HERMANN, RECORDER

2000R00009263

04-04-2000 4:04 PM

RECORDING FEE: 18.00
PAGES: 3

QUIT - CLAIM DEED

THIS INDENTURE WITNESSETH, that EVANSVILLE TERMINAL COMPANY, a Delaware Corporation whose address is 916 Vine Street Connersville, Indiana 47331 ("Grantor"), for and in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable consideration, the receipt and sufficiency whereof is hereby acknowledged does hereby RELEASE and QUIT - CLAIM unto INDIANA SOUTHWESTERN RAILWAY CO., an Iowa corporation ("Grantee"), free and clear of adverse claims created by, through or under Grantor, all of Grantor's right, title and interest in and to a portion of land and right-of-way acquired by Grantor from the Trustee of the Bankruptcy Estate of Sagamore National Corporation, Indiana Hi-Rail Corporation and Garden Spot & Ohio Limited Partnership by Quit-Claim Deed of Trustee and Partnership Deed dated June 29, 1996.

Said land and right-of-way being wholly within Posey and Vanderburgh Counties of the State of Indiana and with a legal description as described on Exhibit 1 attached hereto.

The undersigned person executing this deed on behalf of the Grantor represents that he is a duly elected officer of the Grantor and has been fully empowered by the Board of Directors of Grantor to execute and deliver this deed, that Grantor has full corporate capacity to convey the land and right-of-way described herein, and that all such corporate action for the making of such conveyance has been taken and done.

DULY ENTERED FOR TAXATION SUBJECT
TO FINAL ACCEPTANCE FOR TRANSFER

APR 04 2000 2076

Signature of Auditor
AUDITOR *Lee*

IN WITNESS WHEREOF, EVANSVILLE TERMINAL COMPANY has
caused these presents to be executed this 31st day of March, 2000.

Evansville Terminal Company

By: R. Powell Felix

R. Powell Felix
President

This instrument prepared by Evansville Terminal Company.

STATE OF ILLINOIS)
) SS:
COUNTY OF PEORIA)

I, the undersigned, a Notary Public, in and for said County and State aforesaid,
DO HEREBY CERTIFY THAT R. Powell Felix personally known to me to be the same
person whose name is subscribed to the foregoing instrument appeared before me this
day in person and acknowledged that he signed, sealed and delivered said instrument as
his free and voluntary act as the President of Evansville Terminal Company, for the uses
and purposes therein set forth.

Given under my hand and Notarial seal this 31st day of March 2000.

J. Michael Carr
Notary Public



EXHIBIT "1"

All that portion of the right-of-way and property of the Evansville Terminal Company, formerly a portion of the Illinois Central Gulf Railroad Company's "Newton, Illinois to Evansville, Indiana line" that extends in a general southerly direction on, over and across POSEY COUNTY, INDIANA, commencing at a point on the Centerline of said Main Track located in the Southwest Quarter, Southwest Quarter Section 18, at approximately Railroad Mile Post B-227.5, said point being 140 Feet $\pm$ northwest of the point where said main track interests the EW line between Section 18 and Section 19, Township 4 South, Range 12 West, said right-of-way varying in width and irregular in shape includes any and all trackage, buildings, fences, culverts, bridges and trestles, as well as all other Railroad owned improvements and fixtures situated thereon and continuing in a general southeasterly direction on, over and across a portion of Posey County across said Section 18, North Half Section 19, Northwest Quarter and South Half Section 20 Southwest Quarter Section 21, North Half Section 28, Northwest Quarter and South Half Section 27, South Half Section 26, Northeast Quarter Section 35 and North Half and Southeast Quarter Section 36, Township 4 South, Range 12 West, to the East line of said Southeast Quarter Section 36, Township 4 South, Range 12 West at approximately Mile Post B234.07 being the common "Posey County-Vanderburgh County" county line;

And continuing in a general southerly direction on, over and across a portion of VANDERBURGH COUNTY, INDIANA, said right-of-way varying in width and irregular in shape includes any and all trackage, buildings, fences, culverts, bridges and trestles, as well as all other railroad owned improvements and fixtures situated thereon, and is described as follows: Begin at the point where the centerline of the main track of the aforesaid line of railroad intersects with West line of the Southwest Quarter Section 31, Township 4 South, Range 11 West, Second P.M., at approximately Mile Post B234.07, and run southerly on, over and across the South Half said Section 31, Township 4 South, Range 11 West; the Northeast Quarter Section 6, North Half and Southeast Quarter Section 5, Southwest Quarter Section 4, Northwest Quarter and East Half Section 9, Northeast Quarter Section 16 West Half and Southeast Quarter Section 15, East Half Section 22, Northeast Quarter Section 27, West Half Section 25 and West Half and Southeast Quarter Section 35, Township 5 South, Range 11 West, and East Half Section 2, Southwest Quarter Section 1, West Half and Southeast Quarter Section 12, Township 6 South, Range 11 West, to the centerline of Allen's Lane in the Northeast Quarter Section 12 at approximately Mile Post P-244.7, including the Main Track, the Scale Access Track, the Passing Track and Tracks One, Two and Three in Harwood Yard.

Except:

1. One (1) non-operating Real Estate parcel: a triangular parcel of land lying east of Main Track in the Northwest Corner of the Southwest Quarter, Section 12, Township 6 South, Range 11 West.
2. The property under a Purchase Agreement dated June 29, 1996 by and between Evansville Terminal Company and Mid America Locomotive and Car Repair, Inc.