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August 3, 2006

Vernon A. Williams
Surface Transportation Board
1925 K Street, N.W.
Room 700
Washington, D.C. 20423

RE: F.D. 34893, The Chicago, Lake Shore and South Bend Railway
Company--Acquisition and Operation Exemption--Norfolk Southern
Railway Company

Dear Secretary Williams:

Enclosed is my check for payment of the filing fee covering the Petition to Revoke Exemption filed on behalf of the Brothers of Holy Cross, Inc. in the above-referenced matter. If you have any questions, please give me a call at 202-408-6933. Thank you for your consideration in this matter.

Very truly yours,

Richard H. Streeter

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Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423

The Chicago, Lake Shore and South Bend Railway)
Company--Acquisition and Operation Exemption--)
Norfolk Southern Railway Company)

F.D. Docket No. 34893

Petition to Revoke Exemption

The Brothers of Holy Cross, Inc. ("BOHC"), pursuant to the provisions of 49 U.S.C. § 10502(d) and 49 CFR § 1150.35(f), by and through the undersigned counsel, petition the Board to revoke the exemption invoked by The Chicago, Lake Shore and South Bend Railway Company (CLS&SB) to purchase and operate lines of railroad allegedly owned by Norfolk Southern Railway Company ("NSR"). As shall be demonstrated, the Verified Notice filed by CLS&SB on June 14, 2006 contains false and misleading information. Therefore, pursuant to 49 CFR § 1150.35(f), the Notice is void *ab initio*.

Background

BOHC is concerned with the portion of the lines that cross over its property. BOHC has occupied the underlying real property, which is located in the City of Notre Dame, in St. Joseph County, Indiana, since 1842. The property is the site of the campuses of Holy Cross College and Holy Cross Village. Holy Cross Village is northern Indiana's premier continuing care retirement community. Today, Holy Cross Village is in the process of being substantially expanded so that a full continuum of on-site health care can be offered to senior citizens. The property is also the site for other improvements and uses furthering the charitable mission of BOHC (the properties are collectively referred to hereinafter as "the Campus").

No rail service has been performed over the lines in question for well over a decade. During that period, sections of the track have been paved over and removed. Other sections of the track are overgrown with weeds. Moreover, other portions of the line have been formally abandoned by a prior owner. In the interim, the college and the retirement community have greatly expanded. As a result, CLS&SB's proposed resumption of rail service would interfere with the current use of the Campus as a college and retirement care community and would pose a significant safety issue. Indeed, it would constitute a public nuisance were CLS&SB to be allowed to acquire the right-of-ways (or more accurately, the "former" right-of-ways) that are located on the Campus in order to resume rail service.

Argument

There are two railroad right-of-ways that are the focus of this Petition. The first consists of a one hundred (100) foot wide railroad right-of-way that extends from a point several hundred feet north by northeast of the St. Joseph River to the point where it meets the partial remnants of a second line, which consists of a former sixty (60) foot wide railroad right-of-way that in the past extended in a north/south direction across the Campus. As shall be explained in detail, *infra*, the underlying easement for the 60 foot right-of-way expired by its own terms more than a decade ago.

In its Notice, CLS&SB claims that it intends "to purchase and operate about 3.2 route miles of railroad between MP UV0.0 [which is located within the city of South Bend, Indiana] and MP UV2.8 [which is located on the Campus] and between MP Z09.48 and MP Z09.9 [a portion of which is located on the Campus -- the remainder of which is located on the adjoining campus of Saint Mary's College, which is located to the north of the Campus]." CLS&SB also claims that NSR is the "owner of the subject railroad."

The foregoing claims are false and misleading in at least two respects. First, NSR does not own the right-of-way that extends from Milepost 9.6 to Milepost 9.48. As the files of the STB reflect, the Interstate Commerce Commission ("ICC") authorized the abandonment of that portion of the right-of-way effective August 31, 1984. See, *Conrail Abandonment in Berrien County, MI and St. Joseph County, IN*. In its Order served August 31, 1984, the ICC recited that:

On May 24, 1984, Consolidated Rail Corporation (Conrail) filed an application pursuant to section 308 of the Regional Rail Reorganization Act of 1973 to abandon a total of 6.5 miles of track known as the South Bend Secondary Track extending from a point near Milepost 3.1 in Berrien County, MI to the switch serving St. Mary's College at Douglas Road near Milepost 9.6 in the City of Notre Dame, in St. Joseph County, IN.

Although CLS&SB says to the best of its knowledge that Consolidated Rail Corporation "never sought abandonment authority,"¹ the ICC's Order rebuts that statement. Not only was the abandonment consummated over twenty years ago, but subsequent to that date, the track located between Milepost 9.6 and Milepost 9.48 was removed by the Sisters of the Holy Cross, Inc. See, Letter to the Surface Transportation Board from Sister Joy O'Grady, President, Sisters of the Holy Cross, Inc., dated July 10, 2006, filed in this docket, and Attachment A hereto. Plainly, because Conrail was previously authorized by the ICC to abandon the portion of the line between Milepost 9.6 and 9.48, CLS&SB has no legal right to reinstitute rail service over that stretch of the previously abandoned right-of-way.² As the Board has previously determined, the *Class*

¹ Letter to Vernon A. Williams from John D. Hefner, dated June 26, 2006, at p. 2.

² It is further noted that the Purchase and Sale Agreement provided to counsel by CLS&SB provides that the real estate would extend from "milepost UV0.0 to UV2.8 and Z09.3 to Z010.6." The latter mileposts do not correspond to the mileposts set forth in the Verified Notice filed with the Board. It should also be noted that in ICC Docket No. AB 167 (Sub. No. 407N), Application of Consolidated Rail Corporation Pursuant to Sections 308(a) and (b) of the Regional Rail Reorganization Act of 1973, As Amended by Section 1156 of the Northeast Rail Service Act of 1981, for Approval of the Abandonment of the South Bend Secondary Track in St. Joseph County, State of Indiana, the ICC authorized the abandonment of the line from Milepost 10.5 to Milepost 11.8. Once again, the proposed transaction, as set forth in the Purchase and Sale Agreement, appears to include real property that does not belong to NSR. Counsel for BOHC are informed and believe that the aforesaid Agreement has been executed by NSR and will be duly executed by CLS&SB at closing.

Exemption procedures are not intended to apply to cases in which a noncarrier seeks to convert what would be non-rail property into a rail line. This which would be the case if any of the previously abandoned right-of-way were to be acquired under those procedures. *See, Riverview Trenton Railroad Company--Acquisition and Operation Exemption--Crown Enterprises, Inc.*, STB F.D. No. 33980, Feb. 14, 2002 (slip op. at p. 8).

BOHC has also discovered that a serious issue exists concerning NSR's ownership of the remainder of 60 foot right-of-way between Milepost 9.6 and 9.9, most of which is located on the Campus of BOHC. The 60 foot right-of-way was the subject of a corporate resolution and appropriation by the St. Joseph Valley Railroad Company on March 8, 1870. The appropriation was part of a larger effort to obtain an easement and install rail service between Niles, Michigan and South Bend, Indiana. Pursuant to the terms of its 1870 appropriation by which it acquired its easement, St. Joseph Valley Railroad Company's right to the 60 foot right-of-way was to last only during such period as "said Company shall maintain its road thereon."³

Subsequently, the St. Joseph Valley Railroad Company was merged with the Michigan Air Line Railroad in October 1870. After its completion in 1871, the line was operated and maintained by the Central Railroad Company ("Michigan Central"), which was itself later controlled by the New York Central Railroad Company ("NYC"). In 1929, NYC was authorized to lease the property of the Michigan Central upon agreeing to "maintain the leased properties, to assume and perform during the term of the lease obligations of the lessor under existing leases, mortgages, and other contracts relating to the premises." *New York Central Unification*, 150 I.C.C. 278, 290 (1929).

³ That line has already been removed both north and south of the Campus.

Because the line has not been maintained for well over a decade by Michigan Central, Conrail or NSR, the 60 foot right-of-way has expired by its very terms and the sole ownership of all rights to such land and the right-of-way now lie with BOHC. Hence, the 100 foot right of way, which itself is currently severed at the point immediately after it crosses the St. Joseph River from the remainder of the line of railroad that begins at Milepost 0.0 in the City of South Bend, is not physically connected to any line of railroad or railroad right-of-way owned by NSR that extends in any direction.

Second, CLS&SB states that it "will hold itself out to provide common carrier rail freight service over the subject rail facilities." The Board should be aware that there are no facilities located on any portion of the subject lines east of the St. Joseph River that would utilize rail freight service. BOHC will not use rail freight service. Moreover, BOHC is informed and believes that neither the Sisters of the Holy Cross, Inc. nor the University of Notre Dame have any plans to establish any business contracts with CLS&SB. In this regard, the Board's attention is invited to a news article, *Notre Dame drops coal-by-rail option*, published in the South Bend Tribune on June 22, 2006. In that article, John Affleck-Graves, Notre Dame's Executive Vice President, is quoted as stating that "The university has no intention of entering into an agreement with the South Bend short-line railway company to deliver coal." Attachment B hereto.

As the Board has previously recognized, the "class exemption procedures were adopted to serve shippers and community interests by facilitating continued rail service, on lines that the selling carrier could no longer operate profitably, by new, smaller carriers seeking to provide service more efficiently." *Riverview Trenton Railroad Company, supra*, slip op. at p. 7, citing, *Class Exemption--Acq. & Oper. of R. Lines Under 49 U.S.C. 10901*, 1 I.C.C. 2d 810, 812-13, 817 (1985). In this case, not only has there been no rail freight service for over a decade, but

there is no demand for future rail service. In summary, there is no community interest in renewed rail service that would pass through the Campus (or that of Saint Mary's College). Because of the lack of interest, the proposed transaction cannot be said to fit within the policy that underlies the *Class Exemption*.

BOHC will reserve any comments with regard to that portion of the line that extends from Milepost 0.0 to the point where the line is paved over immediately after crossing the St. Joseph River. However, as demonstrated by numerous articles published in the South Bend Tribune that are attached hereto as Attachment C, as well as the opposition pleadings that have been filed with the Board, the transaction is very controversial and, at a minimum, requires a more detailed record. In this respect, it is noted that CLS&SB has conceded that very controversial transactions have caused the Board to revoke or reject numerous exemptions.⁴ See, e.g., *Riverview Trenton Railroad Company, supra*, slip op. at pp. 7-10.

Last, it is now crystal clear that CLS&SB should be well aware that there is absolutely no present or future commercial activity or need, much less desire, for rail freight service north or northeast of the St. Joseph River. Hence there is no legitimate reason to reactivate any rail service that would use any alleged right-of-way within the Campus (or that of Saint Mary's College).

Given the demonstrated lack of any need for rail freight service by any shipper or receiver located to the north and east of the St. Joseph River, it appears that the underlying purpose for acquiring right-of-way through the Campus may have little or nothing to do with rail freight service.⁵ The absence of any indication that resumption of rail freight service is sought

⁴ Letter to Vernon A. Williams from John D. Hefner, dated June 26, 2006, at p. 3.

⁵ Any suggestion that the line may be used for passenger service at some point in the future is patently specious and must be treated with extreme skepticism. In order to transport passengers, CLS&SB would be required to rehabilitate the track to Class 1 status as Federal Railroad Administration regulations prohibit the transportation of

by any potential customer, coupled with the controversial nature of the proposed transaction and the multiple, potential safety issues involved with the resumption of rail service, provide sufficient reason for the Board to revoke the exemption.

Last, it is respectfully suggested that the underlying purpose of the transaction may be to acquire the rail and other track materials in order to capitalize on the current high price of scrap steel by abandoning the line shortly after the purchase is consummated, a process that has been previously condemned by the Board. *See, e.g., SF&L Railway, Inc.--Acquisition and Operation Exemption--Toledo, Peoria and Western Railway Corporation Between La Harpe and Peoria, Ill.*, STB F.D. No. 33995 (Slip Op. served October 17, 2002) and *Kern W. Schumacher and Morris H. Kulmer--Continuance in Control Exemption--SF&L Railway, Inc.*, STB F.D. No. 33996 (Slip. Op. served October 17, 2002). If that is the case herein, it should not be condoned by the Board. At a minimum, the Board should fully investigate the transaction in order to preserve the credibility of its procedures.

Conclusion

For all the above-stated reasons, the exemption is void *ab initio*. The Board should immediately revoke the exemption claimed by CLS&SB.

Respectfully submitted,
Barnes & Thornburg LLP



Richard H. Streeter
Richard L. Mintz
Richard J. Deahl
Counsel to the Brothers of Holy Cross, Inc.

Dated: August 2, 2006

passengers over excepted track. *See* 49 C.F.R. 213.4(e)(1). As of this moment, there is no available information to show that CLS&SB has the funds that would be necessary to bring the track to Class 1 status. Therefore, no credence can be given to the suggestion that the transaction might facilitate the development of rail passenger service.

Certificate of Service

I, Richard H. Streeter, do hereby certify that a true copy of the foregoing Petition was served this 2nd day of August, 2006, by first-class mail, postage prepaid, and by e-mail as designated, on the following named individuals:

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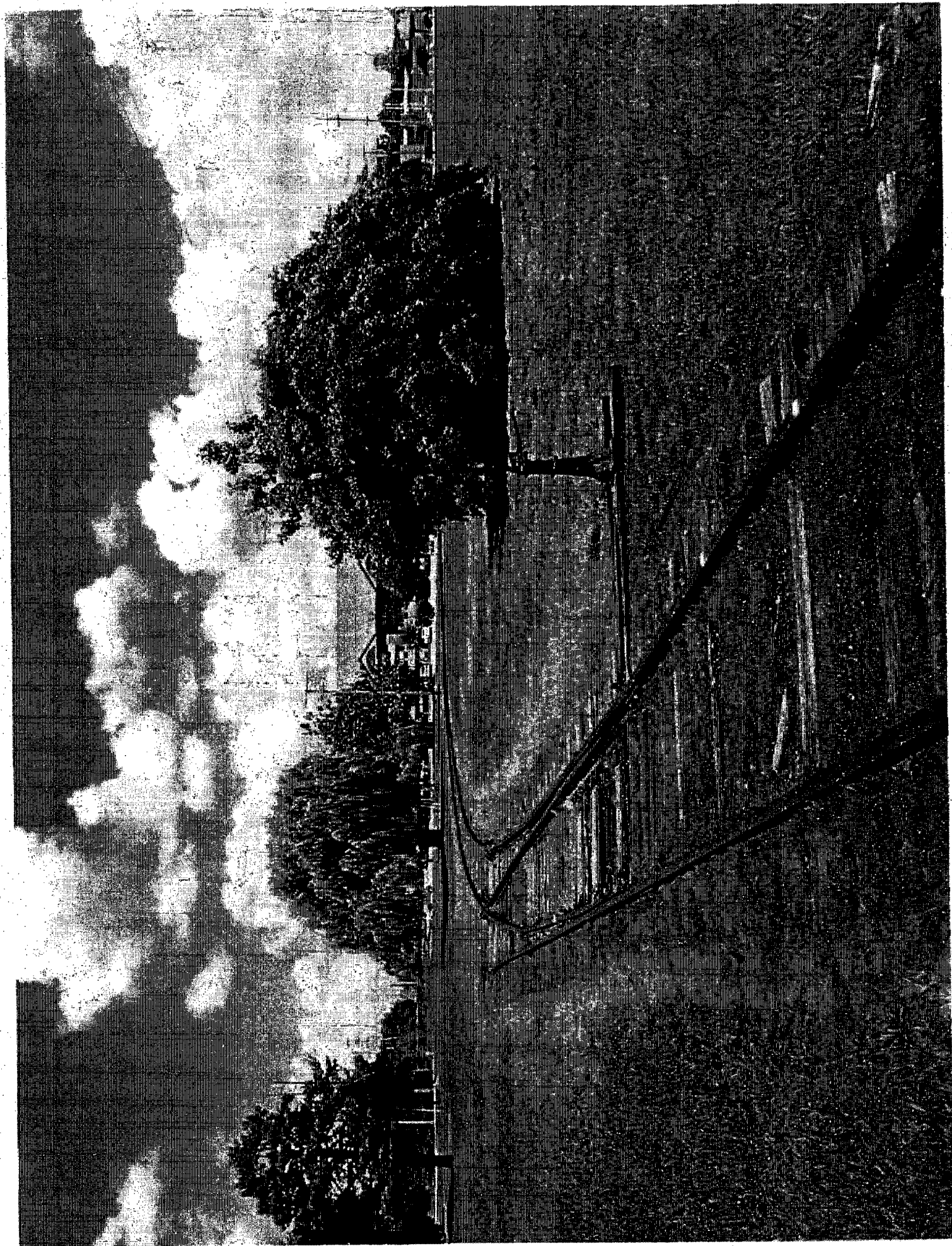
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Richard H. Streeter

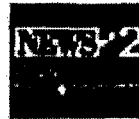
Attachment A

Photograph of Switch at Milepost 4.6 and start of the Notre Dame Spur
located on the campus of St. Mary's College



Notre Dame drops coal-by-rail option

South Bend Tribune, June 22, 2006

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June 22, 2006

Notre Dame drops coal-by-rail option

In keeping with city's wishes, university will stay with truck delivery

By MARGARET FOSMOE
Tribune Staff Writer

SOUTH BEND -- The University of Notre Dame has no plans to establish a business contract with a company that hopes to buy and reopen an old rail line running from the city's west side to campus.

"The university has no intention of entering into an agreement with the South Bend short-line railway company to deliver coal," John Affleck-Graves, Notre Dame's executive vice president, said on Tuesday. "Now and in the foreseeable future, we'll have our coal delivered by truck."

Representatives of the Chicago, Lake Shore & South Bend Railway Co. had some "extremely tentative" talks with Notre Dame's utility services manager and business department representatives in the past two or three years, Affleck-Graves said. "I think it would be pushing the point to say we've been in discussions," he said.

South Bend Railway representatives are



A railroad line still leads into the coal storage area at the University of

considering buying the closed rail line from Norfolk Southern and reopening it to transport coal and other materials to businesses in South Bend. Passenger service might be added later, they said.

Notre Dame, although the university's coal shipments now arrive by truck.

Tribune Photo/SHAYNA BRESLIN

Rail company representatives told city officials that Notre Dame was one of the potential customers.

South Bend Mayor Stephen Luecke and council members are opposed to the idea, citing safety and quality-of-life concerns. The old rail line cuts through residential neighborhoods across the west side and would have 17 at-grade street crossings without flashing lights or automatic gates.

Affleck-Graves said he met with the mayor six or eight months ago to discuss the idea. As a steward of the university and its resources, Affleck-Graves said he is obligated to listen to any proposal that might increase the efficiency and economy of Notre Dame.

Luecke made it clear he views reopening the rail line as a bad idea, Affleck-Graves said.

"I assured the mayor at that stage that if the city and the county were strongly opposed to the railroad proposal, the university would not go forward," Affleck-Graves said.

Notre Dame officials have worked hard over the years to build a strong relationship with the city, the county and local residents. "We would not do anything to damage that relationship," Affleck-Graves said.

That doesn't mean that the university always will agree with local governmental officials on every matter, he said. But in the case of the railroad proposal, Notre Dame will yield to the wishes of the local community, he said.

Most of the energy used on the Notre Dame campus for heating, cooling and electricity is generated by coal burned in the campus power plant. The campus uses 80,000 tons of coal annually. The piles of coal are stored on university property along Douglas Road, near where the old rail line ends.



Affleck-Graves

Until about 10 years ago, when the rail line went out of service, coal shipments were delivered directly to campus by train. The coal now arrives in South Bend via railroad at a site on South Olive Street and is trucked to campus — about 3,000 truckloads a year.

While the distribution varies from year to year, on average 85 percent of Notre Dame's energy comes from coal, 10 percent from natural gas and 5 percent from fuel oil.

If the rail line reopened, the city supported it, safety issues were addressed and neighborhood residents didn't mind it, Notre Dame would consider using rail service

again for coal deliveries, depending on the cost, Affleck-Graves said.

"Given the opposition to it, this is an easy decision for us to continue with truck delivery," he said.

Affleck-Graves said South Bend Railway never presented a formal proposal or contract to Notre Dame.

The company also has said that reopening the rail line could raise the possibility of passenger trains delivering Chicago fans directly to campus for Notre Dame football games.

If the rail line were to reopen and city officials and the Chamber of Commerce thought passenger trains to campus on football Saturdays would be a good thing for the community, the university would be interested in exploring the idea. But Notre Dame doesn't plan to pursue such a proposal itself, Affleck-Graves said.

"Generally, we have a good, strong, working relationship with the city and the county," he said, "and it's our intention to maintain that."

Staff writer Margaret Fosmoe:

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Attachment C

**Various Articles published in the South Bend Tribune
related to the proposed Norfolk Southern Railway Company/
Chicago, Lake Shore and South Bend Railway Company**

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Article published Jul 23, 2006

Railroad head floated trolley plan for M.C. Proposal died in 1997

MARGARET FOSMOE
Tribune Staff Writer

Robert S. Harris, the head of a company planning to reopen a dormant railroad line through South Bend, has been a railroad buff for decades.

Harris spearheaded an effort in the 1990s to establish Trolley to the Dunes, a rail service planned for Michigan City using vintage South Shore commuter cars. The proposal died after failing to get the backing of Michigan City's mayor.

That experience didn't curb Harris' railroad enthusiasm. He's continuing to pursue a plan to re-establish rail service on a Norfolk Southern line that runs from South Bend's west side to the University of Notre Dame.

"We have a contract and a closing date. We want to make this a win-win situation," Harris said in a telephone interview from Colorado.

The startup of the rail line must win approval from the U.S. Surface Transportation Board. Mayor Stephen Luecke and other city officials are fighting the proposal, citing safety and quality of life concerns. "This is a private business. We're not asking the city for any money or help," said Harris, whose primary residence is in Porter, Ind., but he spends much of his time in Colorado in the real-estate development business.

In the interview, Harris declined to answer questions about financing or the identity of his investors, but talked passionately about railroad history.

He said he is leery of talking publicly about his railroad dream for South Bend because of the negative reaction thus far by city leaders.

"Whatever I say, it's not good enough," Harris said of city officials' demands.

Harris said he has walked the three-mile route of the rail line in South Bend many times. Asked to assess its condition, he said: "Some aspects of it are in deplorable condition, but the rail itself is in generally good shape." The rails would be realigned before any trains run, he said.

He said some railroad ties are rotting or weak and need to be replaced. Harris' company intends to run freight trains no faster than 10 mph.

Right now, about three railroad ties of every 39 feet of rail on the line are solid and good,

Harris said. To run a freight train at 10 mph, federal regulations require that at least four ties of every 39 feet of rail be good, he said. All the ties on curves in the rail line would be replaced, he said.

Harris said he's received engineering estimates that the rail line could be repaired to usable standards for \$300,000 to \$350,000.

Harris is a longtime aficionado of the South Shore Railroad, the electric passenger line that runs between Chicago and South Bend. He said he became interested in the South Shore and its rich history in 1977, when he worked as a producer on a PBS documentary about the rail line titled "Passengers Use Light at Night." Harris said he grew up in Chicago and owned a bicycle dealership as a young man, but moved away at age 24. He later lived in Noblesville, Ind., and worked at the Indiana Transportation Museum, which is dedicated to preserving Indiana's railroad history.

In 1994, Harris proposed a plan to establish rail service that would carry passengers between the Indiana Dunes National Lakeshore, Lighthouse Place outlet mall and the riverboat casino then being planned for Michigan City, according to news coverage at the time in The Tribune and the Michigan City News-Dispatch.

The trolley line would have used restored 1920s South Shore passenger cars. The proposal also included opening a railroad museum in Michigan City.

Michigan City's then mayor, Sheila Brillson, brought an end to the proposal in 1997 by opposing public funding of the project, the News-Dispatch reported. The mayor said she had misgivings about the potential cost. The trolley effort would have cost \$6.34 million, including \$4.12 million to be raised over a four-month span, the newspaper reported.

The planners had hoped to get some proceeds from the Blue Chip riverboat casino that was preparing to start up in Michigan City. Brillson earmarked the casino funds for city infrastructure projects, such as paving, sidewalks and construction of a new fire station.

Brillson noted the trolley proposal was a private project, and expressed concern that the city might later be called upon to subsidize its operation.

Harris is the registered agent and principal for the Chicago, Lake Shore & South Bend Railway Co., which was formed in August 2005.

The company hopes to re-establish freight service and possibly passenger service using restored South Shore cars on an old Norfolk Southern rail line that runs through South Bend to Notre Dame. The line has not been used in a decade. The company's name is taken from an early name used by the line that became the South Shore Railroad. Other members of the South Bend Railway board of directors are: Georgette E. Harris, of Porter; Dan Gorstein, of Arlington Heights, Ill.; John Hankey, of Arnold, Md.; and Gary Landrio, of Warren, Pa.

Besides offering freight service, the company has proposed a tourist passenger service using restored South Shore Railroad cars. Passenger trains could carry fans to Notre Dame to attend home football games, the planners said.

Harris said he owns six vintage South Shore cars. One is a wooden car dating from 1908 and is being restored, he said. Five unrestored steel cars from the 1920s are in storage.

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Article published Jul 22, 2006

Residents await news on South Bend rail proposal

By JAMIE LOO
Tribune Staff Writer

SOUTH BEND — It's been more than a month since the public meeting on the proposed Chicago, Lake Shore & South Bend Railway Co. railway, and neighborhood groups are waiting for more news before taking action.

The proposal would revive an old rail line that runs through the city's west side and up to the University of Notre Dame.

Cindy DeLeon, coordinator of the Near Westside Neighborhood Partnership Center, said residents are closely monitoring the issue in the media. Since Notre Dame announced it had no interest in the railway proposal, DeLeon said, residents in her neighborhood are waiting to see if the plan will still go forward.

After the Common Council conducted that first public meeting June 15, DeLeon said, she expected another meeting to take place soon after.

"We're waiting to see what the city or council is going to do. We don't want to waste our efforts if it (the railroad) is already a done deal," she said.

The Near Northwest Neighborhood Inc. also has been waiting for more news, said Rebekah Go, community organizer. Residents have been concerned about maintenance around the tracks, which has standing water in some areas and also has become an illegal trash dumping site, she said. Most neighbors don't want the tracks reactivated, and Go said the group may start a petition against the plan in the future.

Larry Miller, president of the Keller Park Neighborhood Association, said the group hasn't discussed plans for formal action yet. Miller said neighbors are "playing it by ear" and waiting to see what happens next in this process. Miller said he is against the project.

"I think it's a mistake," he said.

Jeff Jankowski, deputy city attorney, said the city encourages residents to get involved. Jankowski said residents should send their comments to the federal Surface Transportation Board.

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July 18, 2006

City seeks full EPA review of rail plan

Feds must study impact before approving use

By MARGARET FOSMOE
Tribune Staff Writer

SOUTH BEND -- The city of South Bend has requested a full environmental review of a plan to revive a dormant railroad line that runs through the city.

The request was filed with the Surface Transportation Board, the federal body that will decide whether to grant the Chicago, Lake Shore & South Bend Railway Co. an acquisition and operation exemption to start rail service.

"There is an important environmental impact with regard to the operation of the railway along these tracks and a (National Environmental Policy Act) review would be an important factor to consider in contemplation of the applied for exemption," assistant city attorney Jeffrey Jankowski wrote in a filing with the board.

The National Environmental Policy Act of 1969 requires that federal agencies study and consider environmental effects in their decision making. When necessary, appropriate steps must be taken to ease potential impact on the environment.

South Bend Railway plans to buy the unused rail line from Norfolk Southern Railway Co. and start providing freight service. The company also is considering providing limited passenger service along the line using old South Shore Railroad passenger cars.

The rail line stretches from the city's west side to the northern edge of the University of Notre Dame campus. It hasn't been used in at least a decade.

If the board approves the exemption before an environmental study, the city would not be able to request such a study in the future, according to Jankowski. The railway operation would have a large impact on the environment within the city, he said.

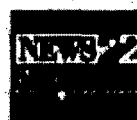
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July 18, 2006

Coal won't be delivered to ND by rail without university's permission

Tribune Staff Report

SOUTH BEND -- A railroad company that hopes to re-establish freight service on an unused rail line in South Bend won't try to arrange rail shipments of coal to the University of Notre Dame against the university's wishes.

John Affleck-Graves, Notre Dame's executive vice president, said in June the university won't seek to have its coal delivered on the rail line if city officials and west-side residents are opposed to reopening the line.

After that announcement, some residents wondered whether the rail company might go around Notre Dame and seek a contract directly with the university's coal vendor to deliver coal by rail.

The Chicago, Lake Shore & South Bend Railway Co. will not do that, said Gary Landrio, vice president of engineering and development for the rail company.

"We wouldn't do anything that would be against what Notre Dame would want," Landrio said.

Notre Dame officials have looked into the matter themselves. "The university has received assurances from its coal vendor that it wouldn't strike a deal for rail delivery against the university's wishes," Notre Dame spokesman Don Wycliff said.

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July 9, 2006

Are you in favor of the proposal by South Bend Railway to re-establish freight train service through South Bend's west side?

OPINION: ON THE STREET

By Photographer SU ANDERSON And Staff Writer MARGARET FOSMOE



"I wouldn't want it in my backyard. Safety is a big issue."

— Bette Roe, South Bend



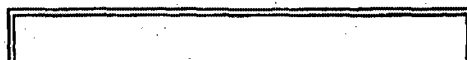
"They'd have to rebuild all the street crossings. That's a whole bunch of money. I don't see it happening."

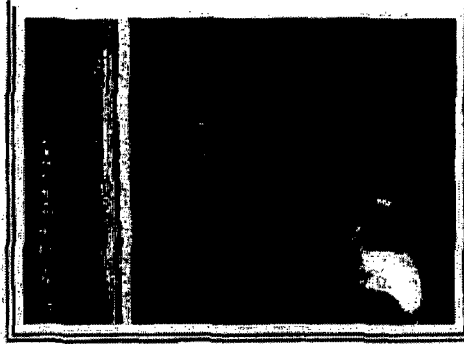
— Richard Ives, North Liberty



"It'll just be more congestion."

— Warren Graham, South Bend





"I wouldn't want the railroad with my kids living here."

**— Lori Brown, South Bend, who just moved into a house
one block from the rail line**



**"It really wouldn't bother me. I live right next to the tracks.
Anything that adds more jobs is pretty good."**

— Victor Seward, South Bend

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June 30, 2006

Mayor Luecke: South Bend Railway plans off track

MICHIANA POINT OF VIEW

By STEPHEN J. LUECKE

A few recent letters to the editor have criticized the city of South Bend for opposing plans by South Bend Railway to re-establish freight trains along the spur line that runs through a west side neighborhood. I would like to clarify some of the information and provide more detailed facts about the city's position on this project. As mayor, I need to balance economic development efforts against health, safety, sustainability and quality of life impacts. Our questions to South Bend Railway about these issues have been ignored or not answered satisfactorily.

If the proposed railway served a derelict industrial area and could help to bring new jobs and investment to the community, if it didn't disturb the quality of life for old and new neighborhoods, and if there were a business plan that adequately addressed safety issues, we would be pleased to welcome the service to South Bend. In fact, we are currently working with the Indiana Department of Transportation and Norfolk-Southern to consolidate rail spurs in the corridor between Indiana Avenue and Sample Street, where there is room for

industrial redevelopment. But that is not the proposal from South Bend Railway. Instead, its line runs through mostly residential areas, touching only a few industrial sites. Its plan has brought objections from both the Sisters and the Brothers of Holy Cross, as well as from residents of the impacted neighborhoods on the west side, at North Shore Club and Holy Cross Village.

There are legitimate concerns about the safety of the trestle and the tracks, as well as the unprotected sections of track that cross numerous streets and run past parks, schools

and recreation centers. This railroad line has been effectively abandoned for years. It needs a solid plan and major investment to bring it to acceptable standards.

We have been told that one reason the spur line has not been used for more than 10 years is that the engineer of the last train to go down the tracks refused to drive his load over the trestle bridge across the

river. He stopped his train at Riverside Drive and drove it in reverse all the way back to the main line. To my knowledge no repairs have been made to that trestle since then.

When we asked South Bend Railway's operators to have an independent engineering analysis done of the trestle, they had their own in-house engineer review it. He suggested that rip-rap should be placed at the base of one of the piers to protect it from erosion, that the 16 shims which have been added to the top of that pier should be replaced with a ball bearing system to properly support the weight of the trestle and that the deck should be replaced. During our conversations with South Bend Railway, the only improvement the company has committed to make is to add a 17th shim to fill the gap between trestle and pier. No work to protect the pier. Not even a coat of paint.

One of the last trains to traverse these tracks derailed on Saint Mary's College campus. Since then, the lines have further deteriorated. Many rails and ties are missing. We have heard that it could cost \$1.5 million to restore the track and trestle to safe condition. (This figure does not include the cost for active traffic control at major street crossings.) Yet South Bend Railway told us that they want to start up operations with just \$200,000 and that by limiting trains to 5 mph, it would only need to meet the minimum safety standards (for example, only four out of every 10 railroad ties would need to be sound). Minimum investment to minimum standards does not give much confidence in South Bend Railway's commitment to safety. Our requests to see a business plan that would show continuous investment in the tracks over a period of time have been ignored.

These trains will cross 17 streets in the city of South Bend, including Lincoln Way West, which carries 23,000 vehicles per day. They will also cross Indiana 933 with its 28,000 vehicles per day. The trains will travel at 5 mph with a flagman walking in front to stop traffic. At each crossing the trains will need to sound their horns. Over the years, excessive train whistles have been the source of ongoing complaints to my office. Since many of these crossings are so close together and with these trains going so slowly, one could expect to hear a continuous horn blast for 10 to 15 minutes rather than the intermittent toots of the horn that many expect. Could all these traffic disruptions lead to road rage and attempts to beat the train? Absolutely. Yet when we asked South Bend Railway about their plans, the company's operators cavalierly responded that we could close off some streets. Only last week did they finally offer to install traffic controls at Lincoln Way and 933.

The partners in this venture have also proposed opening a South Shore museum, running vintage South Shore cars on the track and even running a line down Washington Street. Yet they have provided no estimate of the costs for such ventures, no plan showing where the funds would come from and no indication that these attractions would be sustainable. Museums rarely generate enough revenue to cover operational costs. Who would provide the subsidy?

We have asked the investors in South Bend Railway to provide a business plan which shows the necessary investment in safety and which provides assurance that the project is sustainable. We have asked for a timetable for needed improvements. We specifically asked what will be done to stabilize the trestle across the St. Joseph River. We asked what funding is requested from the city now or in the future and what other sources of funds they expect to receive. We still do not have answers to these questions. The city of South Bend welcomes private investment that creates jobs and improves the quality of life in our community. We also expect straight answers to legitimate questions. I will continue to oppose this project until we get appropriate answers.

Stephen J. Luecke is mayor of South Bend.

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June 23, 2008

More questions than answers on train plan

OUR OPINION

Gary Landrio wants everyone to get on board with his railroad development plan. We do, however, share the concern of the South Bend city administration regarding Landrio's aim to reactivate a spur line of the Norfolk Southern railroad.

The line runs from the University of Notre Dame through the Saint Mary's College and Holy Cross College campuses, and then through several of South Bend's west side neighborhoods to another rail line behind the Goodwill store on Western Avenue.

There hasn't been a train on that track for a decade. We are not railroad people, but in looking at the track -- overgrown, paved over and even missing in places -- we can see that restoration would be a very costly, complicated endeavor.

In addition to the cost, there would be considerable noise, disruption and inconvenience to residents. Many intersections would have to be torn up in order to restore the track.

And to what benefit? It is hard to see how activating the track would be good for South Bend residents, even if it did deliver coal to Notre Dame's power plant, which now seems doubtful.

Landrio, the Warren, Pa., businessman behind what he aims to call the South Bend Railway, claims to wonder what all the fuss is about.

He says he has been talking to the city about his plan for many months -- that he first made a presentation to Mayor Stephen Luecke last August -- and that he has answered all questions, up to and including hiring a bridge engineer to inspect the trestle over the St. Joseph River, near Riverside Drive and Angela Boulevard.

Part of Landrio's pitch has been to minimize the scope of the operation. In a meeting with The Tribune's editorial board, he repeatedly stated that there would be only two 15-car trains a week to deliver coal to Notre Dame.

If, as it now appears, a deal with Notre Dame would not be the foundation of the rail business, the question of how often the train would run is not answered.

In any case, with the sketchy information Landrio has provided regarding his business plan, it is hard for us to understand how the costly, difficult job of restoring the track would be justified.

Landrio says he hopes to establish business relationships with companies located between Notre Dame and the rail yard and even talks about the possibility of electrifying the line so old South Shore cars could run on it.

So, there could be an unknown number of trains running day and night in the years to come. Or maybe no trains.

If Landrio is successful in developing his business, he intends to do so while meeting required rail and crossing safety standards, which would mean that the train would blow its horn at every crossing, as required by the Federal Railroad Administration.

To start with, no lights or crossing gates would be installed at any of the 17 streets the track would cross, except possibly at LincolnWay West and Indiana 933 (at Douglas Road).

If Landrio's business hopes do not work out, then South Bend's residents would be subjected to a lot of disruption and cost to no purpose.

Landrio wants the support of the city and the state in order to obtain funds for crossing improvement.

But he shouldn't count on it until he presents a very detailed plan for track restoration and crossing repair -- including costs and a timetable -- and a thorough explanation of the costs (including neighborhood disruption) and benefits that would accompany this venture.

Right now, there are too many unanswered questions and too many reasons for concern to justify the city's support. If it really is a good, viable project, let's have the details so we all can get on board.

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June 22, 2006

Rail line plan expected to proceed

Official: Company is not disappointed by ND's decision

By MARGARET FOSMOE
Tribune Staff Writer

SOUTH BEND -- A representative for the Chicago, Lake Shore & South Bend Railway Co. remains optimistic about plans for expanded freight train service in South Bend, despite the fact that the University of Notre Dame will not contract with the company for coal delivery.

Gary Landrio, vice president of engineering and development for South Bend Railway, said he isn't disappointed by Notre Dame's announcement.

"Not at all. We did not expect to have a signed contract with Notre Dame," he said.

Landrio said he is continuing to contact possible customers regarding the plan to revive an old rail line that runs across the city's west and north side.

Three local businesses mentioned as potential customers in a 2005 South Bend Railway report say they have no formal ties to the proposed rail line. The report mentions Steel Warehouse, U.S. Scrap & Recycling Services, and Uniroyal Technology.

"Competition for rail service would be good," said Michael Lerman, president of Steel Warehouse, a company based on Tucker Drive on the city's southwest side. The firm uses both rail and truck service for shipments at its headquarters, which isn't on the rail line proposed for reuse.

However, Lerman said he knows of no discussions between his company and South Bend Railway.

"We'd be happy to take a look at anything that would help us be more efficient," he said.

Steel Warehouse also operates a facility at 1400 Riverside Drive, just north of the old rail line near the St. Joseph River. But there is no need for rail service at the Riverside Drive location, Lerman said.

U.S. Scrap & Recycling Services, 1420 S. Walnut St., has no relationship with South Bend Railway, owner Michael Morris said. The scrap yard isn't on the rail line proposed for reuse.

Morris said company representatives contacted him about a year ago to inquire about buying some property, but no sale occurred.

Morris also is a partner in a company that owns Hurwich Iron, an industrial property on Circle Drive off Washington Street. The old rail line runs next to the Hurwich Iron site, which is used for industrial recycling. Hurwich Iron is not a customer of South Bend Railway, he said.

Uniroyal Technology is now known as Royal Adhesives and Sealants. It is based at 2001 W. Washington St. in the former O'Brien Paint complex, near the old rail line proposed for reopening.

"The odds of us using the (rail) service are pretty slim," said Randy Greenlee, the company's vice president of operations. He said he had one brief conversation more than year ago with a South Bend Railway representative who was interested in buying a small portion of the property. No sale occurred, and Greenlee said he has heard nothing more from the rail company.

In a telephone interview Wednesday, Landrio said he is not concerned about the lack of customers so far. "Everyone has said the same thing. 'When you are in business, give me a call,'" he said.

Once South Bend Railroad completes a purchase of the unused rail line from Norfolk Southern, the company will be in a much better position to reach business agreements with customers, he said.

He said signing up freight customers would happen concurrently with restoring and rebuilding the rail line, which hasn't carried train traffic in a decade.

The Chicago, Lake Shore & South Bend Railway Co. was incorporated in Indiana in August. The company president is Bob Harris, who lives near Michigan City, Landrio said. He declined to provide the names of other investors.

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June 16, 2006

Rail line debate heats up

South Bend Railway, ND officials peppered with questions

By JAMIE LOO
Tribune Staff Writer

SOUTH BEND -- South Bend Railway and the University of Notre Dame faced tough questions and stinging remarks from Common Council members and residents Thursday about a proposed plan to revive an old rail line in the city.

The railway could bring boxcars of coal directly to campus and create a passenger train line on inactive tracks through the city's west side.

After a little more than two hours, the meeting ended with few questions answered and a promise by the city: This is not over yet.

"We don't have any control, folks. If the Federal Railroad Administration allows it to happen, it will happen," said Council Member Roland Kelly, D-3rd. "I think all we can do is to make as strong an argument as we possibly can ... rile the federal authorities to let them know we are opposed to this."

Council Member Ann Puzzello, D-4th, said she hopes congressional delegates will be



Mark Boveri, an attorney representing South Bend Railway, answers questions from Common Council members about the group's plans to reactivate old rail tracks on Thursday in Council Chambers. The city is opposed to the plan because of safety, property values and quality of life concerns.

Tribune Photo/GENE KAISER

"on the city's side and work with us."

Mark Boveri, a local attorney representing South Bend Railway, read a letter from company President Bob Harris, addressing the concerns outlined in a council letter sent to the company on Tuesday.

The letter said trains to Notre Dame would run at no more than 25 mph and replace 6,500 truck movements of coal per year on city streets.

The letter said that "the demographics" in the neighborhoods along the rail line have changed since the rail stopped operations 10 years ago. Fewer jobs, vacant and abandoned homes, and other factors have already left a negative impact on the neighborhoods.

"It is difficult to understand how our reactivation of a two mile railroad line will have a further adverse effect on the city," Boveri read.

The timeline for activating the railway is estimated "in the fourth quarter of this calendar year," he said.

Jim Lyphout, Notre Dame vice president of business operations, said the university has been in discussions with the company. Notre Dame has kept the city informed of these meetings, he said.

"We have been given no compelling interest at this point to establish a business relationship. I am not in a position to commit the university to the investment future. I cannot say what the university will do in the indefinite future," he said.

Lyphout said he could pledge the university's commitment to working with the city on this issue.

Council Member Charlotte Pfeifer, D-2nd, said the tracks cross over 19 places in her district where there is pedestrian and car traffic. Pfeifer asked Boveri what the benefit is to residents who live there.

Boveri said trains already run through the city and the community is used to dealing with crossings, whether it's in that district or somewhere else.

"Maybe you're used to it, sir, but I am not," Kelly said. "I get held up by trains often and I don't like it very much. ... The impact would be intolerable."

"Many of us don't like it but sometimes we have to contend with those things," Boveri said.

Kelly asked if Notre Dame's cost savings was directly related to the plan and who would make money off the railway.

Boveri reiterated that there is no business relationship with the university and that delivering coal to Notre Dame was only cited as a possibility.

"This is a private investment by a consortium of investors who will have a South Bend presence," Boveri said. "But you are absolutely correct ... they (Notre Dame) are looking to do this because they anticipate this would be a good business endeavor for them."

Boveri said the direct train delivery of coal would reduce truck traffic through the city. An electric trolley would have minimal impact because it would have less noise and pollution, he said.

Because the official name of the company is The Chicago, Lake Shore and South Bend Railway Co., David Varner, council member for the 5th District asked what type of corporation was formed and if legal filings would be done in Indiana or Illinois. Harris' letter also mentioned a "foundation" as opposed to a corporation. Boveri said the foundation and the investors were separate entities.

Pfeifer asked what would happen if Notre Dame decided not to accept the railway's coal transport proposal.

Boveri said to give a definitive answer would be speculation on his part but said, "I don't think going ahead is contingent upon the university becoming a user of, or reliant upon the train project that's proposed."

After declining to "speculate" on the company's response to some of the other questions asked, Boveri said, "I wish I could be more specific but I just got this assignment today."

"Well, then, you're not that much far ahead of us (in information). In fact you're behind us (council)," Varner said.

Pfeifer and Council Member Karen White, D-at large, were both appalled the company letter implied that because the line runs through poor neighborhoods, it was OK to continue with the plan. White said the council is trying to revitalize those areas and just because problems exist, doesn't mean something with a higher negative impact is welcome.

"The people that live in that district deserve better," she said.

Residents who live around the old rail line said they were worried about safety, property values and pointed fingers at Notre Dame for not being upfront with the university's interest in the railway.

Leslie Bodnar, a representative from the Northshore Woods neighborhood, said the return of a rail line would bring down property values. Part of the tracks sit on a slope, and Bodnar said residents were concerned about erosion on the hill and coal spilling over.

Judith Robert said she remembers when Notre Dame refused to allow the tracks to be turned into a walking and biking trail several years ago. Robert said at the time Notre Dame representatives told her the university was keeping the tracks "just in case," it became cheaper to ship coal in by train.

"What we're looking at is the benefit of one big corporation, Notre Dame, and one small corporation to the detriment of the whole community," she said.

Thomas Burnett, was the only resident at the meeting in favor of the plan. Burnett said the city was creating "silly hysteria" about the impact and was blowing the plan out of proportion.

"You (city officials) are sending a terrible message to anyone who wants to spend any money on economic development in this city," he said.

The council will schedule another public meeting with South Bend Railway investors, which will be announced at a later date.

Kelly suggested residents consider circulating a petition to show opposition to the plan. Council President Timothy Rouse, D-at large, said he feels Notre Dame is still the key to halting the plan. The university and city have built a stronger relationship over the past few years, and Rouse said he doesn't want to see that regress.

"I would urge the university to rethink this thing," he said.

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June 15, 2006

Rail plan foes muster forces

Common Council sets meeting on action public can take.

By **BRENT FORGUES**
Tribune Staff Writer

SOUTH BEND -- A few blocks from Cindy DeLeon's home on the west side, two active railroad lines run east and west, flanking her home.

DeLeon, who can hear the train whistles from her home, expressed concern about the proposal to put the long-idle tracks that run north and south near her home back in service.

"That's horrid," she said in surprise after a reporter described the plan. "This runs through the heart of the neighborhood, and nobody wants to live next to more railroad tracks."

On Tuesday, a private company announced it wants to buy and renovate an old rail line stretching from South Bend's west side to the University of Notre Dame.

The company, South Bend Railway, discussed buying the Norfolk Southern line that has been unused for years and now sits partially under roads and neighborhoods.



South Bend Railway hopes to run trains along these tracks, which pass a church and the Martin Luther King Jr. Recreation Center in South Bend. That possibility has raised concerns about the safety of children in the area.

Tribune Photo/JIM RIDER

Running straight by a day care, the part of the line near DeLeon will form a triangular island when it connects with the already established lines, trapping the portion of the neighborhood within.

"I can't believe they got that far and proceeded without city approval," she said. "To me, this is something that needs public opinion."

The Common Council scheduled a public meeting for today about the deal after it was brought to the council's attention earlier this week.

Mayor Stephen Luecke said he opposes the plan, citing safety and quality-of-life concerns, and council members are angry they didn't know about it earlier.

But Gary Landrio, a company representative for South Bend Railway, said he had spoken with Luecke and other city officials, including city engineer Carl Littrell, about a year ago. Littrell said city officials told Landrio they didn't like the idea because of concerns about the plan's effect on the city.

But Landrio proceeded with the plan anyway, and his company's deal would be finalized if it weren't for a mandatory two-month waiting period that will push the closing to mid-August.

Tonight's meeting will address what actions the public can take to stop the deal.

"We're doing everything we can at this point," deputy city attorney Jeff Jankowski said Monday. "But I think that a grass-roots movement at the neighborhood level could be the strongest fight we have going in this battle."

DeLeon, who's the vice president of the West Side Neighborhood Organization, has already started her fight.

Although DeLeon can't attend the meeting, she said she will begin petitioning and informing her neighborhood about what lies ahead.

"Hopefully, it's not too late to do that," she said. "There's enough other ways to transport their goods."

But the west side is not the only area affected by the deal; a report compiled by the city lists almost 20 other sites, including parks and schools.

Part of the rail crosses Linden and Circle avenues, both named in the report and the homes of a Frankie's Barbecue and the Martin Luther King Jr. Recreation Center. And the possibility of the rails coming back to life is something that can't happen, said Sean Trotter, president of the Frankie's Barbecue franchise.

"Not in our neighborhood," he said with certainty. "We've got too many kids running around."

The King Center, a community and recreational center for South Bend, sits with its tennis courts alongside the tracks on Linden.

The presence of trains near the center creates the potential to attract mischievous children, said Ron King, the center's summer camp director.

"And the number one concern of the general public should be the safety of children," he said. "They can do a lot of damage to themselves if certain safety measures aren't put in place."

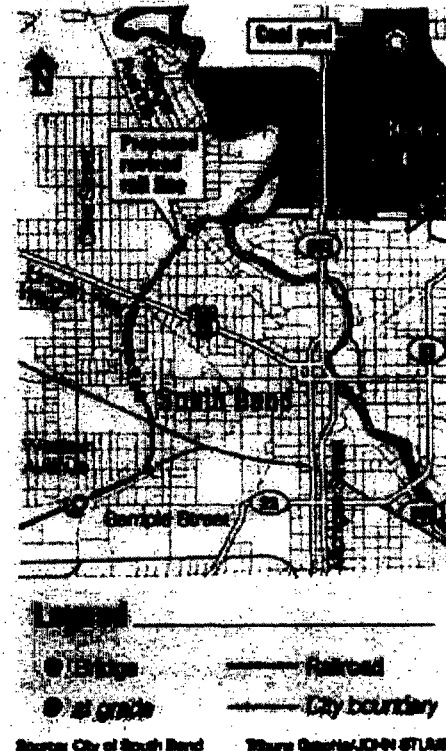
But Peggy Clark, who lives and works a few blocks from where the rails cross Portage Avenue and remembers when trains rode them, said people will become used to the sound of train whistles and maybe even enjoy them, as she does.

Clark said the possibility of the rails' reactivation may also prevent people from dumping their garbage on them, which are littered with empty beer cans and plastic bottles.

"I think (a train) adds a bit of nostalgia to the neighborhood," she said. "There's more important things in life to worry about."

Potential rail line

This map shows South Bend Railway's plan. The star shows the end of existing line and the beginning of the revived spur line. Coal from this location is currently transported by truck up Michigan Street to the University of Notre Dame. The revived rail line could run north through the west side of the city past Western Avenue, Lincoln Way West and Portage Avenue to the Notre Dame coal yard. According to city officials, parts of the line have been removed, paved over or have deteriorated over the years.



Enlarge Graphic

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June 15, 2006

Tracks lead to regulatory crossings

Safety and environmental concerns pending.

By **JAMIE LOO, JAMES WENSITS and JOSHUA STOWE**
Tribune Staff Writers

SOUTH BEND -- The South Bend Railway may not be going full steam ahead just yet as the company prepares to tangle with regulatory red tape.

Mayor Stephen Luecke said Wednesday that the city is still contacting state and federal officials on ways to stall the plan.

"We're looking for ways to help federal regulators understand the issue and that it isn't a fully hatched plan," Luecke said.

U.S. Rep. Chris Chocola, R-2nd, said Wednesday that he will work at the federal level to help the city, and Andy Fisher, a spokesman for U.S. Sen. Richard Lugar, R-Ind., said Lugar's transportation staff will also look into the matter.

Gary Landrio, a representative for South Bend Railway, said the closing for the purchase of old rail lines from Norfolk Southern is expected in mid-August because of a 60-day waiting period in real estate regulations.

Chocola's initial response was to send a letter seeking assistance from the Federal Railroad Administration, which has jurisdiction over rail safety issues.

Chocola said it is too early to tell whether his efforts will be successful, but added that "my impression right now" is that this is not a very viable project.

On the Web

For more photos of the old railroad tracks as they are now, see southbendtribune.com/photos.

In a separate letter to the Common Council, Chocola assured council members that he will not seek any federal money to help the South Bend Railway buy or improve the line and asked members to keep him informed "as you identify specific federal areas where I can be of assistance."

The red tape

Jeff Jankowski, deputy city attorney, said the old rail lines are designated "inactive." Based on his understanding of the law, Jankowski said that because the railroad was never "abandoned," it can simply be reactivated with few guidelines to stop it.

Carl Littrell, the city engineer, said, "It's regulated by the Federal Railroad Administration. It can be started and go without any regard for South Bend."

Jankowski said Norfolk Southern petitioned to abandon the rails about 10 years ago, but the University of Notre Dame protested the petition and won.

Landrio, of the South Bend Railway, said an attorney for the company will decide how it will pursue any approval it requires, adding that he does not know when that will happen. It was not immediately clear Wednesday what approval the company might need.

Angie Fegaras, a spokeswoman for the Indiana Department of Transportation's LaPorte office, said the maintenance and inspection of the tracks and bridges is up to the Federal Railroad Administration. The state transportation agency is responsible only for the rail crossings.

In South Bend Railway's plan, the 17 crossings along the rail line would not have flashers and automated gates. The safety proposal includes train horns and a flagger walking in front of the train at each crossing.

Landrio said he has had some discussions with the Indiana Department of Transportation about a "change in protection" for places such as the Lincoln Way West crossing. That would allow Landrio to install additional safety measures such as flashing lights and gates.

If the rail line is revived, Fegaras said the state agency would review the crossings to determine the appropriate safety measures. The agency currently has no project plans scheduled along the rail line.

"It would have to be reviewed once they determined what the plan was and the project scope," Fegaras said.

Because the area around the tracks is private property and the state transportation agency regulates crossings, the city couldn't legally install more safety features, Littrell said.

Landrio said his company is willing to discuss crossing arrangements with the city.

Safety concerns raised

Another train line running through South Bend would increase the possibility of more accidents and heighten the need for more public education, a safety advocate said on Wednesday.

Thomas Kinser, the state coordinator for Indiana Operation Lifesaver, said education would be necessary to remind people that trains were traveling what had been an inactive line.

Kinser said his major concerns are accidents at crossings and on the tracks themselves, where people might trespass. He said he is especially concerned that trains traveling onto Notre Dame's campus might strike students who wandered onto the tracks.

Indiana and St. Joseph County already have a large amount of train traffic and a large number of accidents, Kinser said.

Nationally, about 75 percent of freight traffic going east-west passes through Indiana, he said, adding that the state had about 170 train-related crashes last year, killing 20 people and injuring 25.

Indiana ranked third nationally in train-related crashes last year, he said, adding that it was fifth in fatalities and 14th in injuries.

Limited regulations exist for environmental concerns related to boxcars of coal traveling through residential neighborhoods. Rob Elstro, a spokesman for the Indiana Department of Environmental Management, said the agency has guidelines for "fugitive dust emissions."

If particles such as soot from coal travel off the private property and into the public right of way, the agency can be called in to take measurements and assess whether there's a violation at that site, according to state codes.

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June 14, 2006

Rail line revived?

Proposal to refurbish west-side track riles mayor

By JOSHUA STOWE
Tribune Staff Writer

SOUTH BEND -- A private company announced a controversial plan Tuesday to buy and refurbish an old rail line stretching from the city's west side to the University of Notre Dame.

The move would allow it to profit from hauling materials such as coal. Company officials said that later, passenger travel might also be added.

The company, South Bend Railway, has been privately discussing the plan to buy the line from Norfolk Southern with local government and economic development officials, according to Gary Landrio, a representative.

Landrio told The Tribune early on Tuesday that the deal would close a week from today. But later Tuesday afternoon, he cited a mandatory 60-day waiting period he had not earlier been aware of that will push the closing to mid-August.

Meanwhile, Mayor Stephen Luecke strongly opposes the plan, citing safety and quality-of-life concerns, and Common Council members are angry they didn't know about it



A vehicle passes over railroad tracks at Angela Boulevard in South Bend on Tuesday.

Tribune Photos/MARCUS MARTER

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earlier.

Firm sees several options

Plans call for running trains starting in the fall, Landrio said. South Bend Railway hopes to carry commodities for three undisclosed west-side businesses, he said.

South Bend Railway also plans to haul coal that will be used to generate electricity and heat water at Notre Dame, although representatives for both sides said there is no deal yet.

The company is also exploring the possibility of partnering with the Northern Indiana Commuter Transportation District, the entity that operates the South Shore line, to carry passengers from Chicago to Notre Dame's campus for home football games, officials said.

Finally, Landrio said, in addition to some other ideas, it may help create a local railroad museum.

Opposition and questions

Although South Bend Railway has been holding private discussions with city officials for some time, questions and concerns remain.

Luecke sent a letter opposing the plan on June 1 to John Affleck-Graves, Notre Dame's executive vice president.

He questioned whether the project will have adequate funding, raised safety and noise concerns, and noted that South Bend Railway has proposed that the city close streets at crossings instead of installing traffic control gates.

Landrio said he's aware of the concerns and his company is in ongoing dialogue with the city about them.

Luecke discussed his concerns in a memo issued Monday to the Common Council and city department heads.

Monday was the first time most council members had heard of the plan.

The city is now scrambling to assemble city and county officials, Congress, the Federal Railway Administration, Notre Dame and Landrio to publicly discuss the city's concerns Thursday.

In a letter to Notre Dame, council President Timothy Rouse, D-at large, wrote, "The city is prepared to take all legal actions necessary to protect the public health, safety and welfare of our citizens, our neighborhoods, our businesses and the many cultural and entertainment venues located in South Bend."

Although Luecke and the Common Council have raised concerns, it's not clear what

opponents can do about it.

Landrio said the federal Surface Transportation Board must approve South Bend Railway's application for a certificate of "convenience and necessity as a common carrier." The application goes before the board this month, he said.

An agency spokesman did not immediately provide information Tuesday explaining how the application review process works.

Many details to address

Opposition aside, South Bend Railway would have to attend to many details to carry out its plan.

For instance, the company would have to arrange a business deal that would allow it to haul coal to Notre Dame. The university is aware of such an offer, both sides said.

But Don Wycliff, Notre Dame's associate vice president for news and information, said Tuesday, "Notre Dame has said nothing in response, and the university is not planning on doing that at this moment."

South Bend Railway would also have to secure a deal with the South Shore line before transporting passengers.

John Parsons, a spokesman for the commuter line, said that organization will evaluate South Bend Railway's ability to haul commodities before it pursues a partnership to carry passengers.

"It's really too early to tell," he said. "I just don't know."

Staff writers Brent Forgues and Jamie Loo contributed to this report.

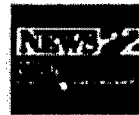
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June 14, 2006

Swift development of plan catches the city off guard

Officials say developer has ignored their concerns.

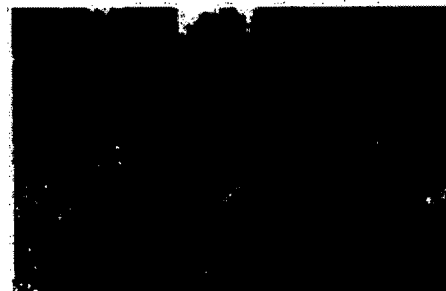
By JAMIE LOO and JOSHUA STOWE
Tribune Staff Writers

SOUTH BEND -- It was like being hit by a train.

The speed of development for a potential railway carrying coal through the city blindsided most members of the Common Council and some city administrators this week.

Gary Landrio, a company representative for the proposed South Bend Railway, said he had spoken with Mayor Stephen Luecke and other city officials including city engineer Carl Littrell about a year ago. Littrell said that after the presentation, city officials told Landrio they didn't like the idea and had many concerns about the effect the plan could have on the city.

But that didn't stop Landrio from going forward with his plans, researching and preparing a contract to buy the old rail line.



Tires litter railroad tracks between Portage and Woodward avenues in South Bend on Tuesday. A private company has announced plans to run trains along an old Norfolk Southern line.

Public rail meeting

The South Bend Common Council plans a meeting to discuss the rail line plan at 5 p.m. Thursday in the Council Informal Meeting Room on the 4th floor of the

"He's been working behind the scenes, apparently unconcerned he didn't have the backing of the city government," Littrell said Tuesday.

County-City building.

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Rail line revived?

Luecke said Landrio met with various departments over the past year, where the city repeatedly brought up concerns such as safety, neighborhood stability, noise and traffic. The city hasn't been satisfied with Landrio's response, and the mayor said he was concerned with how quickly Landrio was moving forward.

"I'm disturbed that he seems to brush aside our objections and not give much credence to the objections we are raising," Luecke said Tuesday.

Luecke said he is "unable to find the benefits to the city."

The announcement shocked most of the Common Council members when they learned of it this week.

"This is a citywide issue. We need to be kept in the loop," said Council Member Karen White, D-at large.

The only two council members who were aware of the potential rail line -- Derek Dieter, D-1st, and then-council President Charlotte Pfeifer, D-2nd -- said Landrio spoke with both of them about a year ago and since then hasn't contacted them about it. Pfeifer said Tuesday she didn't hear about the proposal again until about two weeks ago, when she heard that Landrio met with other city officials.

Other council members weren't informed and public meetings were not called about the project last year because, Pfeifer said, at the time she "had no reason to think they were doing anything other than fact-finding."

Pfeifer said it's not unusual for someone to present a plan to council members, solicit an opinion, then follow through with addressing concerns and keeping in contact. Even if council members disagree with a project, some developers ask to schedule public meetings to discuss plans with neighbors. Landrio never approached Pfeifer or Dieter about that possibility, they say.

"I cannot remember a businessperson wanting to do something like this on this scale with complete disregard for the city," Pfeifer said.

Landrio said he offered to be available, and if council members asked him for public meetings, he would have complied.

Dieter echoed Pfeifer's statements Tuesday that many proposals presented to council members never materialize. After meeting with him last year, Dieter said, Landrio never contacted him again. Not communicating with council members, neighbors and setting plans into motion this quickly is terrible, Dieter said.

"That's not good. That's not the way to do business," he said.

Based on Landrio's lack of communication with the council, Pfeifer said, it seems Landrio has a "callous disregard" for residents living on the rail lines. Pfeifer said projects like this rarely affect higher income neighborhoods.

The council plans a public meeting Thursday to discuss the plans. Landrio, who has an invitation to the meeting, said he is trying to rearrange his schedule to attend.

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