



APPENDIX G

NEPA Re-Evaluation date September 14, 2018



Double Track Northwest Indiana Project

Finding of No Significant Impact

November 1, 2018

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Subject: FW: NICTD's Double Track Project Re-Evaluation Concurrence

AMServiceURLStr: <https://slingshot.hdrinc.com:443/CFSS/control?view=services/FTService>

From: "Brookins, Kelley (FTA)" <kelley.brookins@dot.gov>
Date: September 26, 2018 at 4:38:41 PM CDT
To: michael.noland [nictd.com](mailto:michael.noland@nictd.com) <michael.noland@nictd.com>
Cc: "Ciavarella, Jason (FTA)" <jason.ciavarella@dot.gov>
Subject: NICTD's Double Track Project Re-Evaluation Concurrence

Greetings Mike,

We received your re-evaluation memo dated September 14, 2018 requesting concurrence on the continued validity of our NEPA class of action determination for NICTD's Double Track NWI Project. Please be advised that we have reviewed the documentation provided noting that in response to comments received from Chicago South Shore & South Bend Railroad (CSS) during the Environmental Assessment (EA) public comment period, a modification to the Preferred Alternative as published in the EA has been identified. The modification alleviates CSS concerns and meets the purpose and need of the project. The modification does not increase the limits of disturbance as defined in the EA and results in reduced impacts to surrounding wetlands. No other environmental impacts have been identified with this modification.

In addition, the memo details new land conveyances that do not result in physical impacts to the environment. The memo also identifies infrastructure improvements to the Green Street intersection resulting from Michigan City's request that NICTD address safety and emergency response access at this location. Through coordination with NICTD and their consultant, FTA determined the improvements would result in no historic properties affected under Section 106. The Section 106 determination for the Green Street modification received SHPO concurrence on September 14, 2018. No other environmental impacts have been identified with this modification.

Based on our review of the information provided, FTA concurs that the project modifications do not result in significant impacts that would require supplemental environmental review and that an Environmental Assessment remains the appropriate NEPA class of action. Should additional project changes be identified prior to the issuance of an environmental decision document, the project may be subject to further re-evaluation of this determination.

Thank you,

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1. INTRODUCTION

On June 6, 2018, NICTD met with FTA to discuss the coordination efforts and negotiations that NICTD conducted since the publication of the Environmental Assessment (EA) on September 21, 2017. NICTD proposes modifications to the Double Track Northwest Indiana (DT-NWI) Project in response to comments received from various agencies, including the Chicago South Shore & South Bend Railroad (CSS) and the City of Michigan City.

NICTD re-evaluated the Project to determine if the proposed modifications change the level of impact to resources in the EA approved and signed on September 18, 2017. It is NICTD's conclusion that the proposed changes do not constitute significant impacts to the environment, that an EA is still the proper NEPA class of action, and that a Finding of No Significant Impact (FONSI) is warranted.

This document describes the proposed Project changes and their resultant impacts. With many resources, there is no change to the impact. With a few resources, there is a reduction in impact. Table 1 summarizes the impact changes for each resource.

TABLE 1: SUMMARY OF RE-EVALUATION RESOURCE IMPACTS

Resource	EA Identified Impact?	Change in Impacts?	Post-EA Impact
Transportation	Yes	No	No change
Land Acquisition/Displacement	Yes 158 properties	Yes -3 properties	Reduction: 155 properties
Land Use and Economic Development	No	No	No change
Neighborhoods, Communities and Businesses	Yes	No	No change
Historic, Archaeological and Cultural Resources (Section 106)	Yes	No	No change
Visual and Aesthetics	Yes	No	No change
Noise	Yes	No	No change
Vibration	Yes	No	No change
Hazardous/Regulated Materials	No	No	No change
Biological Resources	Yes 29.3 ac	Yes - 1.3 ac	Reduction: 28.0 ac
Water Resources	Yes 5.7 ac	Yes - 0.3 ac	Reduction: 5.4 ac
Section 6(f) Resources	No	No	No change
Environmental Justice	No	No	No change
Safety and Security	No	No	No change
Indirect and Cumulative Impacts	No	No	No change



Resource	EA Identified Impact?	Change in Impacts?	Post-EA Impact
Air Quality	No	No	No change
Farmland	No	No	No change
Energy	No	No	No change
Navigable Waters	No	No	No change
Coastal Zone Management	No	No	No change
Geology, Soils and Karst	No	No	No change
Section 4(f) Resources	Yes	No	No change

2. CHICAGO SOUTH SHORE & SOUTH BEND RAILROAD (CSS)

During the development of the EA in the segment of the Project area known as Bailly, NICTD studied several design options to address the operational, engineering and environmental concerns expressed by CSS and developed a design option that would satisfy these concerns. Bailly Design Option 4 separated the commuter and freight operations, extended the Wilson siding for additional freight storage and capacity, and avoided the use of national parkland. The EA's Preferred Alternative included Bailly Design Option 4, discussed in detail below.

During the formal EA 30-day comment period, the CSS sent an objection letter dated October 23, 2017, which stated that the Preferred Alternative would have an adverse effect on CSS' freight operations, operational efficiency, and performance, and that it would not support this alternative. The CSS further stated that of the options studied and presented in the EA, the only option that satisfied their concerns was one that encroached upon national parkland to the south (Attachment A).

Since receipt of the CSS letter on October 23, 2017, NICTD, CSS and the Northern Indiana Public Service Company LLC (NIPSCO), who own property within the Bailly area, have negotiated a series of agreements to convey the necessary property, easements and rights to achieve a new alternate design that satisfies all parties and does not affect national parklands. These agreements result in modifications to the Preferred Alternative. The existing conditions, EA Preferred Alternative, and changes to the Preferred Alternative are as described below. Following these negotiations, CSS sent a retraction to their objection on August 10, 2018.

2.1 EXISTING CONDITIONS

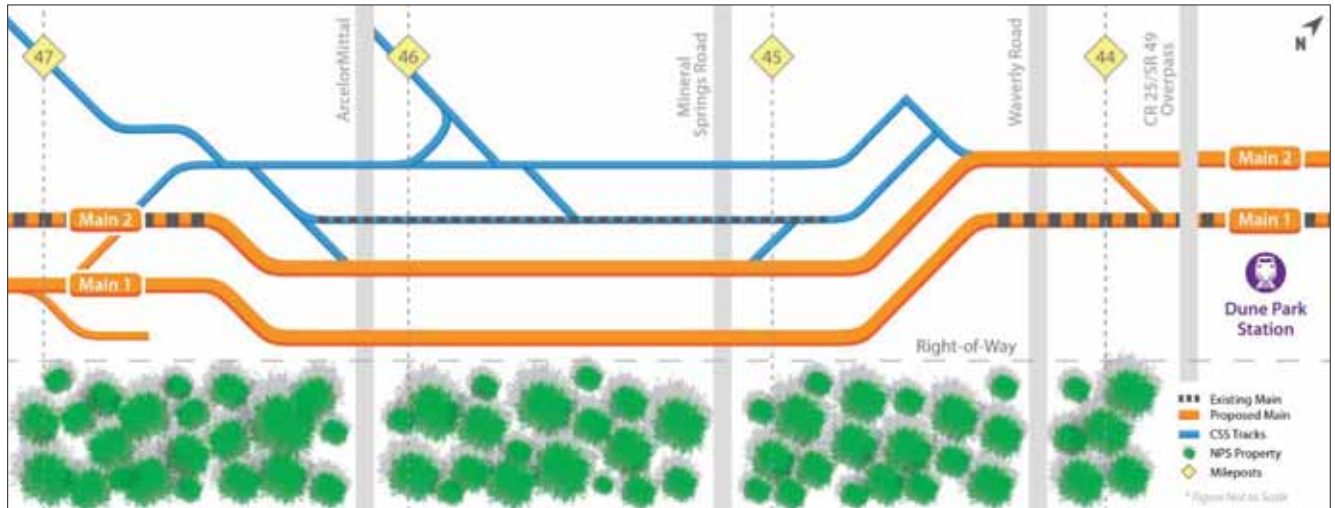
The area known as Bailly is located roughly between railroad mileposts 47 and 44. Currently there are four tracks. From north to south, there is one CSS freight track, one electrified NICTD mainline track (used by both NICTD and CSS), and two CSS freight tracks. The Bailly area is constrained by the Indiana Dunes National Lakeshore national parkland to the south and NIPSCO's Bailly Generating Station (BGS) to the north. NIPSCO owns property to the north of the tracks where various overhead and underground utilities are located. NIPSCO also owns a wye track that connects the CSS mainline to the yard tracks in the BGS, as well as a short Maintenance of Way (MOW) track. NIPSCO closed the BGS in May 2018.

2.2 EA PREFERRED ALTERNATIVE

The Preferred Alternative proposed to separate the four tracks through Bailly for freight and commuter use. NICTD would use two of the three CSS-owned tracks for the NICTD South Shore Line mainline, leaving CSS with two reconfigured switching/storage tracks at Bailly. In addition, NICTD would extend a

separate freight switching/storage track located two miles from Bailly (Wilson Siding) for CSS' use. Figures 2-8 and 2-9 from the EA illustrated this plan (Baily Design Option 4) and are shown here as Exhibits A and B, respectively.

EXHIBIT A: BAILY DESIGN OPTION 4, MP 46.5 TO MP 44 (PREFERRED)



(EA FIGURE 2-8)

EXHIBIT B: BAILY DESIGN OPTION 4, WILSON FREIGHT SIDING, MP 49.7 TO MP 48.3 (PREFERRED)



(EA FIGURE 2-1)



2.3 CHANGES TO THE PREFERRED ALTERNATIVE

The negotiations resulted in three agreements between NICTD, CSS and NIPSCO. The following list describes the tenets of the agreements (Exhibits C through F).

- NICTD would purchase 8.807 acres of (certain) Bailly yard tracks and property from NIPSCO. The purchase would occur after a Full Funding Grant Agreement (FFGA) or equivalent funding for the DT-NWI Project is obtained. **There is no construction associated with this transaction. See Exhibit C.**
- CSS agrees to swap the two Bailly south tracks consisting of 7.13 acres for the 8.807 acres purchased by NICTD and described above. This will allow for commuter trains to run on the two south tracks, for freight trains to run on the two north tracks, and for CSS to store trains on the Bailly yard tracks. Further, the proposed siding extension at Wilson is unnecessary. There is no impact to the national parkland. **The separation of commuter and freight traffic in this manner was included in the EA Preferred Alternative. See Exhibit C.**
- The CSS will purchase an easement for the wye tracks from NIPSCO. There is an active Resource Conservation and Recovery Act cleanup at the wye track that USEPA is monitoring and NIPSCO will be required to finish as part of the agreement. CSS will allow NICTD the right to cross the wye tracks to access the existing MOW stub track that NICTD will purchase from NIPSCO. **There is no construction associated with these transactions. See Exhibit C.**
- NICTD will construct the “north siding extension” between mileposts 44 and 46 for CSS and convey this property and track to the CSS (approximately 3.05 acres). **This extension was included in the EA Preferred Alternative. See Exhibit C.**
- The CSS would withdraw its EA objection letter and issue a new statement in support of the Project and the revised Preferred Alternative. **See Attachment B.**

In addition to the agreement tenets described above, NICTD and CSS agreed on the following land conveyances during negotiations:

- NICTD and CSS agree to swap property near the Gary (Miller) station as well. NICTD will convey to CSS a 1.361-acre linear parcel of land generally located south of the existing Miller station building and parking lot, proposed for the new CSX Transportation (CSXT) connection track. **The EA Preferred Alternative included this parcel.** NICTD will build the new CSXT connection track as part of the Project, and will turn the track and property over to CSS when construction is completed. In exchange, CSS will convey to NICTD the “old CSXT connection”, which is a 0.45-acre CSS-owned linear parcel located between the existing NICTD mainline and 7th Avenue. **See Exhibit D.** After NICTD takes ownership, they will remove the track; however, there are no current plans to develop the land. All of the properties that are subject to this transaction are within the environmental survey boundary. **No new construction occurs with this transaction;** however, the parcel that CSS will convey to NICTD falls slightly outside of the construction footprint. NICTD will update the construction footprint to include the entirety of this parcel. **See Exhibit E.**
- CSS will convey two properties in Michigan City to NICTD. **These properties were included in the EA Preferred Alternative’s construction footprint.** One is a vacant property along 11th Street adjacent to the (former) Bride Church; and the other is a small lot on 11th Street between the existing South Shore Line station and the NICTD parking lot. **See Exhibit F.**

EXHIBIT C: REVISED PREFERRED ALTERNATIVE AT BAILLY

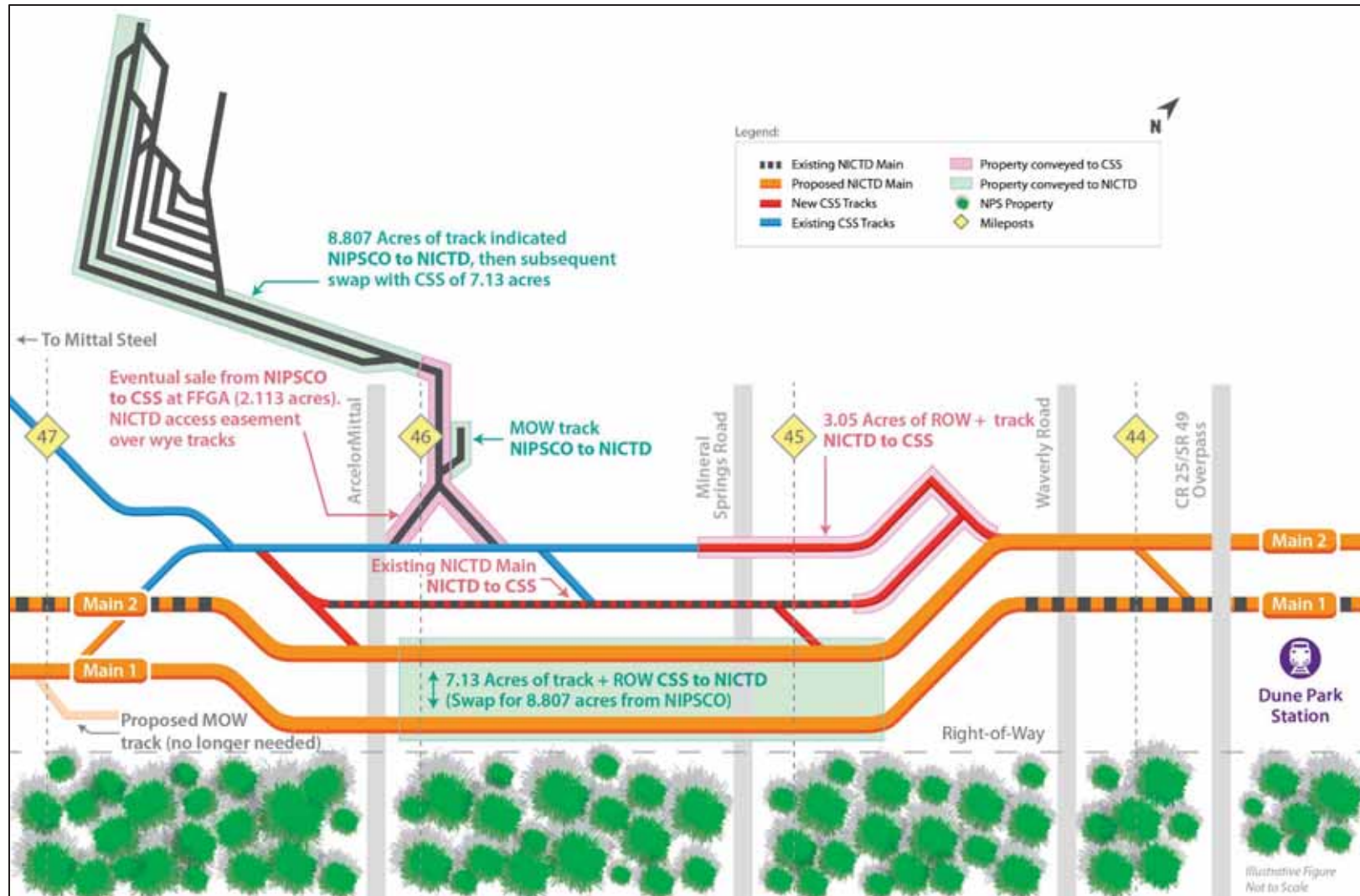


EXHIBIT D: NICTD/CSS PROPERTY TRANSFER AT GARY/MILLER

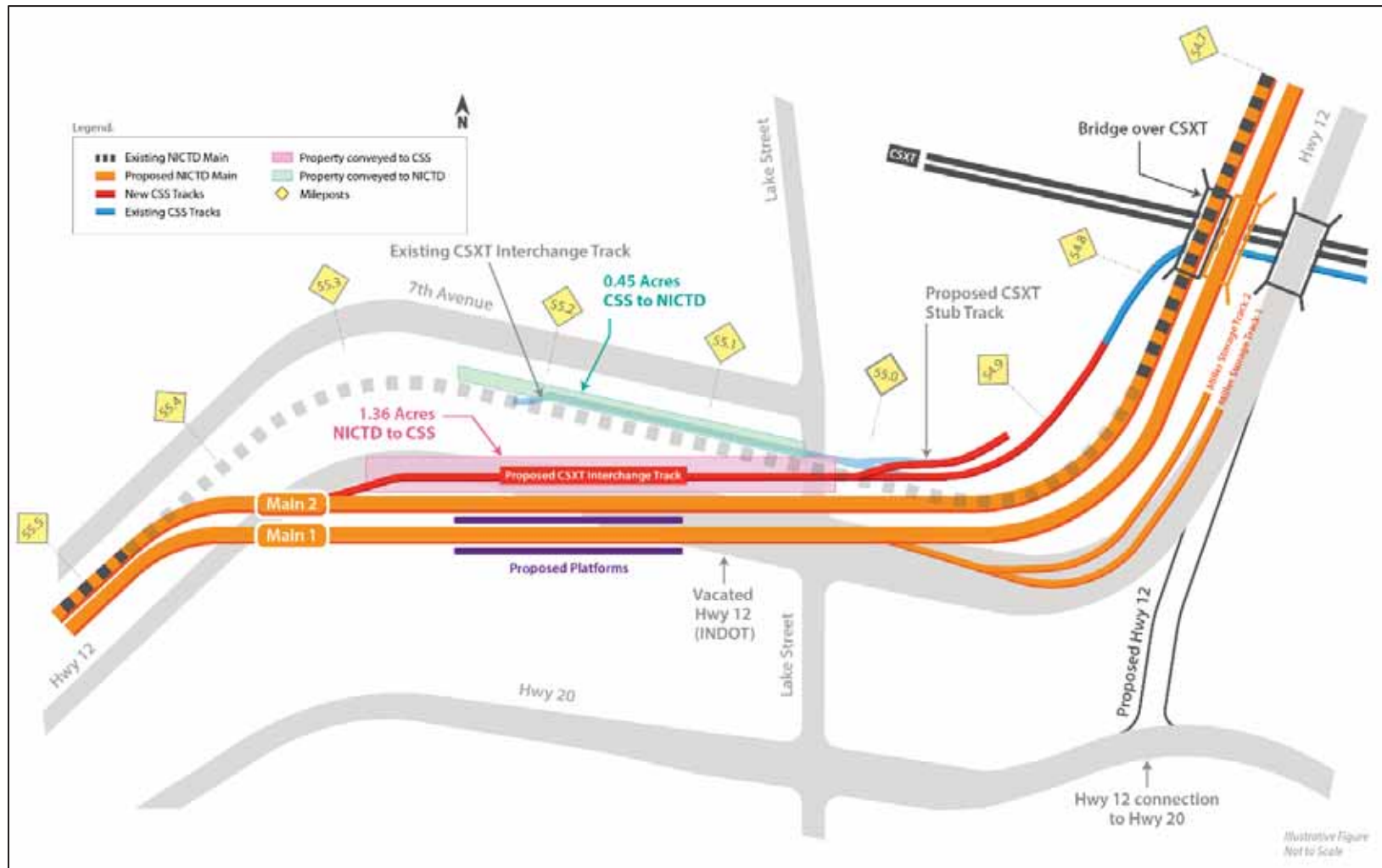
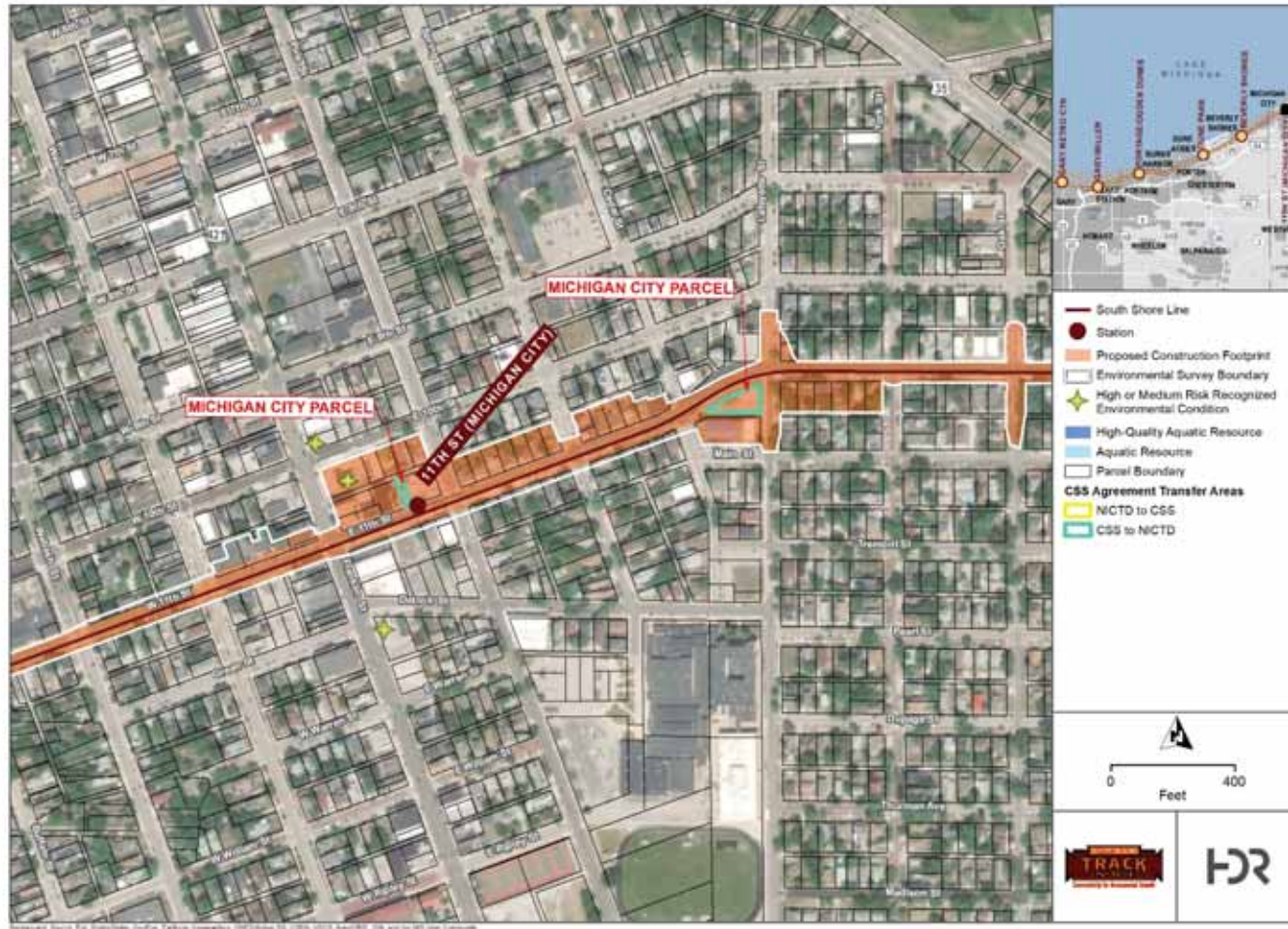


Exhibit E: ENVIRONMENTAL RESOURCES IN GARY/MILLER AREA



EXHIBIT F: CSS to NICTD PROPERTY TRANSFER IN MICHIGAN CITY





2.4 CHANGES IN IMPACTS

The proposed Project changes resulting from the negotiations between NICTD, CSS and NIPSCO have reduced impacts to the number of properties to be acquired, as well as to Water and Biological Resources – specifically wetlands and habitat of two threatened and endangered species. Corresponding sheets from the revised Project mapbook showing environmental resources are included in Attachment C.

These changes have a net reduction in project cost of approximately \$3 million.

TABLE 2: CHANGES IN WATER AND BIOLOGICAL RESOURCE IMPACTS

Resource	EA Preferred Alternative Impact (acres)	Change due to Design Modifications (acres)	Revised Impact (acres)
High Quality Wetlands	4.9	- 0.1	4.8
Low Quality Wetlands	0.8	- 0.2	0.6
Total Wetlands	5.7	- 0.3	5.4
Suitable Habitat (high & moderate quality) - eastern massasauga & Kirtland's snake	29.3	- 1.3	28.0

The changes to the Project save seven acres of permanent acquisition and two acres of temporary easement as indicated in Tables 3 and 4.

TABLE 3: CHANGE IN PERMANENT PROPERTY ACQUISITIONS, BY LAND USE

Land Use Type	EA Preferred Alternative		Changes Due to Design Modification		Revised Impact	
	Number of Parcels	Acres	Number of Parcels	Acres	Number of Parcels	Acres
Commercial (land only)	47	15.0	0	0	47	15.0
Commercial (w/Building)	15	n/a	0	n/a	15	n/a
Residential (land only)	29	9.76	0	0	29	9.76
Residential (w/ Building)	51*	n/a	0	n/a	51	n/a
Industrial	0	0.0	0	0	0	0.0
Transportation, Communication, Utilities (TCU) (includes CSS, other railroads, INDOT, NIPSCO)	9	18.31	- 3	- 7.39	6	10.92
Municipal (includes City and County)	7	1.02	0	0	7	1.02



Double Track Northwest Indiana Project

FINAL Post-EA Re-evaluation Memo

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Land Use Type	EA Preferred Alternative		Changes Due to Design Modification		Revised Impact	
	Number of Parcels	Acres	Number of Parcels	Acres	Number of Parcels	Acres
Public (includes federal and state that are not INDOT)	0	0	0	0	0	0
Total Acquisitions	Land Only: 92 Buildings: 67* 158	44.09 ac	Land only: - 3 Buildings: 0	-7.39 ac	Land only: 89 Buildings: 67 155	36.7 ac

*There are two residential buildings on one parcel, making the total number of buildings to be acquired 67 rather than 66.

TABLE 4: CHANGE IN TEMPORARY PROPERTY ACQUISITIONS (CONSTRUCTION EASEMENTS), BY LAND USE

Land Use Type	EA Preferred Alternative		Changes Due to Design Modification		Revised Impact	
	Number	Acres	Number	Acres	Number	Acres
Commercial	1	2.10	0	0	1	2.10
Residential	0	0	0	0	0	0
Industrial	3	0.51	0	0	3	0.51
Transportation, Communication, Utilities (TCU)	37	17.54	- 1	- 2.37*	36	15.17
Municipal	1	0.01	0	0	1	0.01
Public	0	0	0	0	0	0
Total	42	20.16	- 1	- 2.37	41	15.17

*This total is the result of two changes. 2.74 acres of CSS property is no longer required during construction; and 0.37 acres of property from Seaboard System Railroad Inc./CSXT is temporarily needed for Green Street improvements. The result is a net reduction in temporary easements of 2.37 acres.



3. MICHIGAN CITY/GREEN STREET

NICTD's on-going collaboration with the City of Michigan City has determined that Green Street between Kentucky and Chicago Streets must be improved in order to better accommodate City services and emergency vehicles after the Project is constructed. The changes result in an expansion of the Project's construction footprint and the Section 106 Area of Potential Effect (APE).

3.1 EXISTING CONDITIONS

Green Street is an east/west, 20' wide, rural local street without drainage, shoulders or sidewalks, and connects Kentucky Street and Chicago Street. The right-of-way is 66' wide and is owned and maintained by Michigan City. There are residential properties on both sides, as well as some vacant land and one commercial business.

Kentucky Street is a north-south local street that intersects 11th Street to the north and is owned and maintained by Michigan City. The Michigan City Public Works Department and emergency vehicles currently use Kentucky Street and 10th Street as a primary route to access and serve the west side of the City. This route requires that the vehicles cross 11th Street and the existing SSL tracks. There are residences on both sides of the street, and the previously identified DeWolfe's Addition historic district is located north and east of the intersection with Green Street.

Chicago Street is a north-south minor arterial that intersects 11th Street to the north. It is adjacent to the Amtrak line on the west and there are residences and vacant land to the east side. According to LaPorte County Assessor Data, Seaboard System Railroad Inc./CSXT owns that portion of the right-of-way that intersects with Green Street¹.

3.2 EA PREFERRED ALTERNATIVE

The Preferred Alternative includes constructing two tracks within the 11th Street right-of-way, and converting the two-way road to one-way eastbound. The new alignment will close several intersecting roadways, including Kentucky Street.

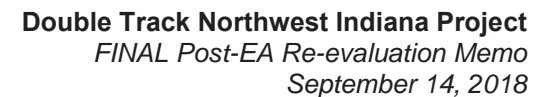
During discussions with Michigan City that were concluded after publication of the EA, Michigan City informed NICTD that closing the Kentucky/11th Street intersection would eliminate the direct route that the City's Public Works vehicles and emergency vehicles use to access the west side of the City. The City requested that NICTD identify an alternate route for these vehicles to use.

3.3 CHANGES TO THE PREFERRED ALTERNATIVE

The closest and most reasonable east-west road to use is Green Street, between Kentucky Street and Chicago Street, just to the south of the Kentucky/11th Street intersection. Given the condition of Green Street as described above, NICTD modified the Project and construction footprint to include the upgrade of Green Street with one 16' travel lane in each direction, curb and gutter, and a five foot sidewalk on each side. The Green Street/Chicago Street intersection will be improved to define the travel ways of the large angled intersection near the Amtrak railroad crossing. All improvements will occur within the right-of-way owned by Michigan City or NICTD. **Exhibit G** shows a conceptual plan for the improvements.

¹ LaPorte County Assessor. 2017. "Parcel Search." Accessed March 24, 2017.

<http://www.laportecounty.org/Finance/Assessor/>.





3.4 CHANGE IN IMPACTS

The Project's track alignment along 11th Street already crosses the Chicago Street parcel further north. As such, the easement agreement with CSXT will also include the Chicago Street/Green Street intersection.

See Exhibit H.

Due to the proposed design change, NICTD and their consultant, prepared a proposed revision to the Area of Potential Effects) APE, associated studies, and survey recommendations for FTA to review that includes the residential and business structures on the south side of Green Street. **See Exhibit I.** HDR prepared an architectural history survey of the expanded APE consistent with the Secretary of Interior's standards to comply with Section 106 of the National Historic Preservation Act. None of the properties within the revised APE were determined to be eligible for the National Register of Historic Places and thus the eligibility and effects determinations for the Project remain valid. The survey memo is included in Attachment D, as well as the letter notifying the SHPO, dated August 15, 2018.

There are no previously identified archaeological resources within the expanded APE along the south side of Green Street. Ground disturbance for the Project is expected to be limited to 10 to 15 feet of Green Street, which would be within the limits of previous disturbance due to existing sidewalks and prior installation of public utilities. Therefore, no archaeological survey was conducted within the expanded APE and no further archaeological investigations are recommended.

There are no other impacts associated with the construction of Green Street improvements.

EXHIBIT H: GREEN STREET, MICHIGAN CITY

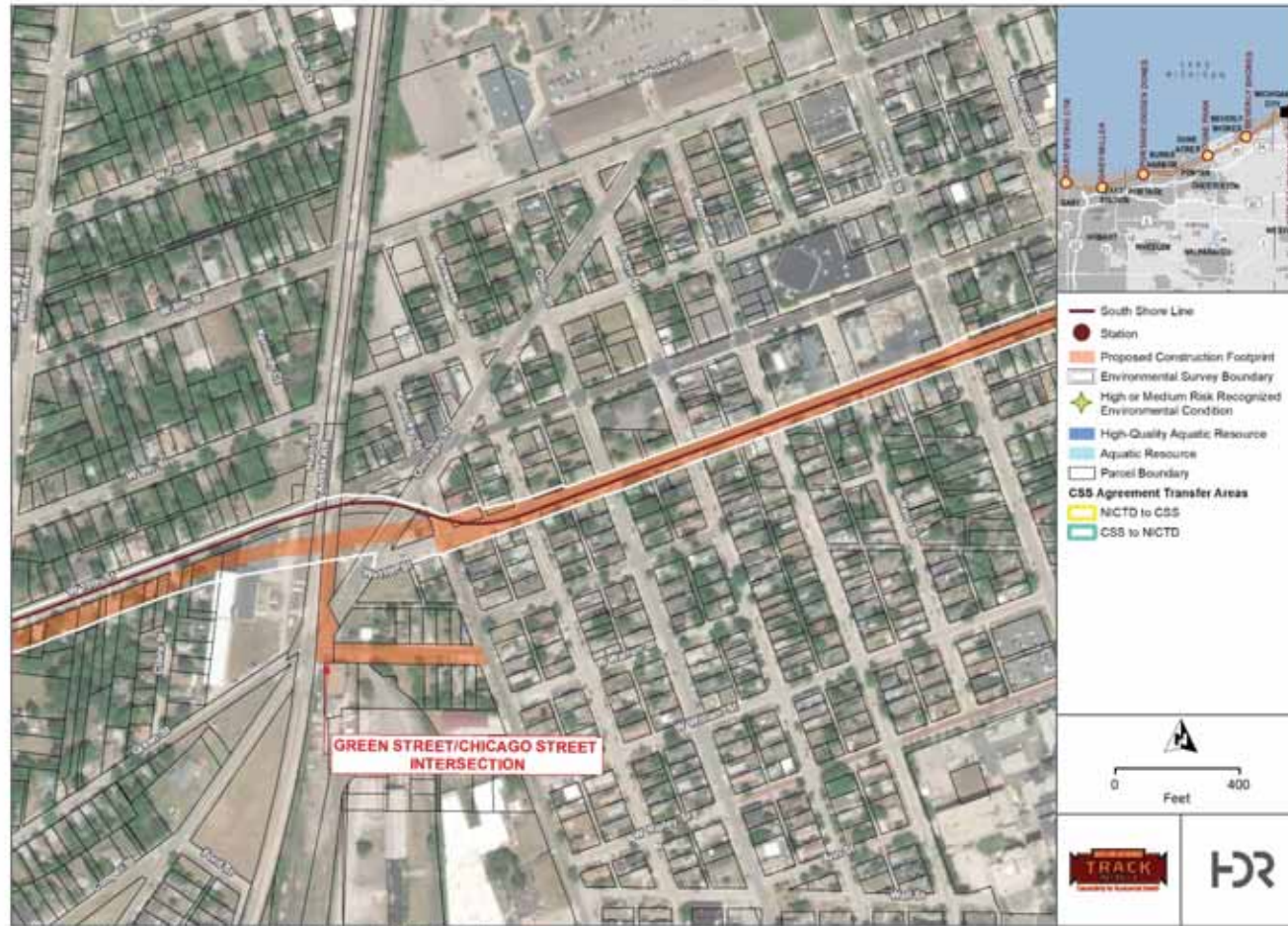
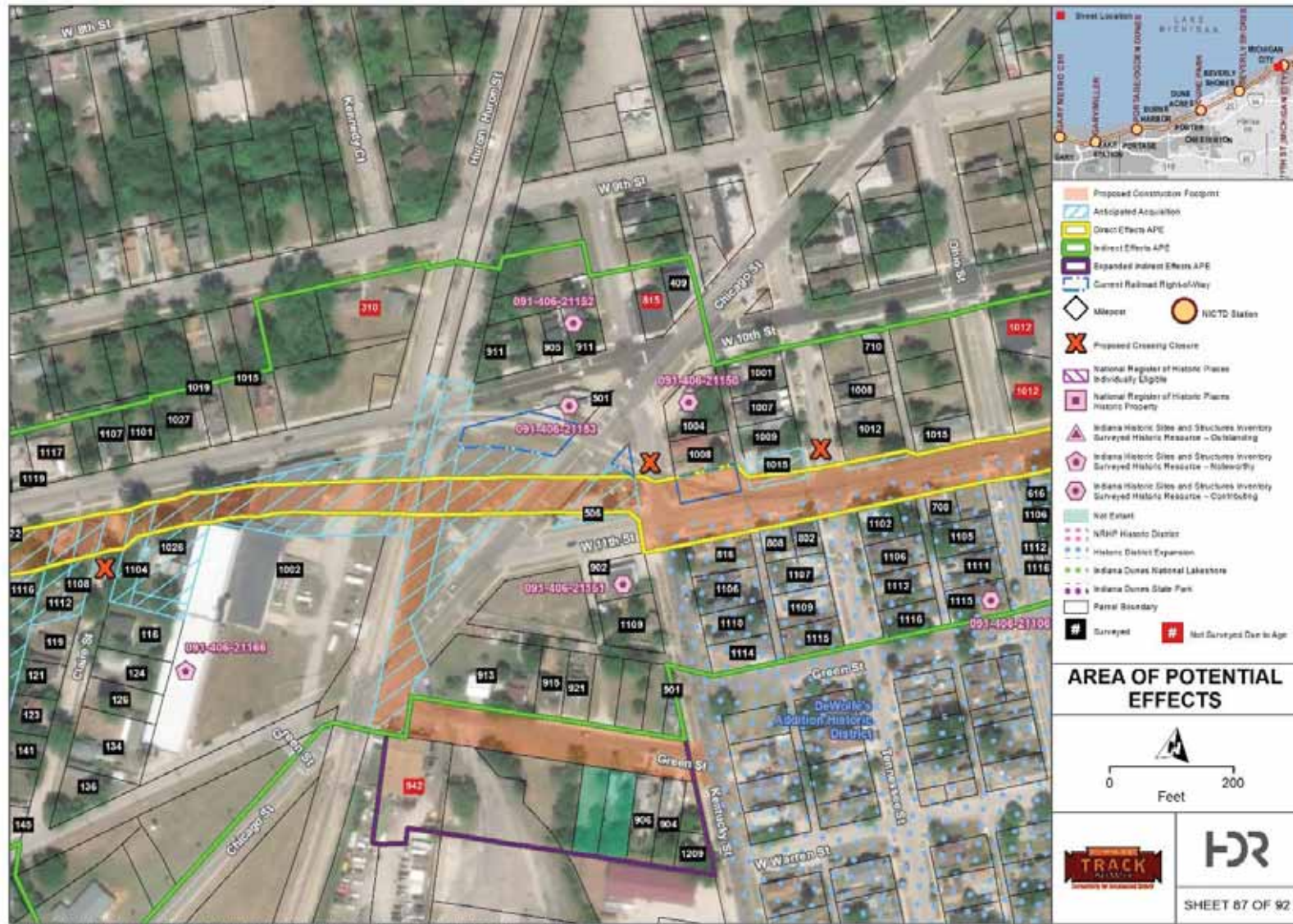


EXHIBIT I: RECOMMENDED APE EXPANSION (IN PURPLE)





4. CONCLUSION

The changes to the Project that have occurred since the publication of the EA do not have significant impacts and do not change the findings or the proposed mitigation. Based on our analysis, the changes reduce previously identified impacts. NICTD concludes that the proposed changes do not constitute significant impacts to the environment, that an EA is still the proper NEPA class of action, and that a FONSI is warranted.



Double Track Northwest Indiana Project

FINAL Post-EA Re-evaluation Memo

September 14, 2018

ATTACHMENT A

CSS Letter (Comments on EA)

**WRITTEN COMMENTS OF
CHICAGO SOUTH SHORE & SOUTH BEND RAILROAD
ON THE
ENVIRONMENTAL ASSESSMENT AND
SECTION 4(F) EVALUATION FOR THE
DOUBLE TRACK NWI PROJECT
GARY TO MICHIGAN CITY, INDIANA**

**SUBMITTED TO THE
FEDERAL TRANSIT ADMINISTRATION
AND THE
NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT**

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Dated: October 23, 2017

INTRODUCTION

On September 18, 2017, the Federal Transit Administration (FTA) and the Northern Indiana Commuter Transportation District (NICTD) issued an Environmental Assessment and Section 4(f) Evaluation for the Double Track NWI Project Gary to Michigan City, Indiana (EA). The EA was prepared by the FTA and NICTD in accordance with the requirements of the National Environmental Policy Act and Section 4(f) of the U.S. Department of Transportation Act of 1966 because NICTD is seeking to partially fund the Double Track NWI Project (Project) with federal funds administered by the FTA. Future planning and implementation of the Project will depend upon FTA's findings through the environmental review process, which includes the EA and comments submitted thereon.

Chicago South Shore & South Bend Railroad (CSS)¹ submits the following written comments on the EA and requests that these comments, including the accompanying Report on the EA prepared at CSS's request by Oliver Wyman (OW Report) attached as Appendix I, be included in the environmental review record for the Project.

The Project involves proposed infrastructure improvements to the single track main rail line currently being jointly used by CSS to provide rail freight service and by NICTD (operating as the South Shore Line) to provide commuter passenger service. The planned infrastructure improvements include double tracking segments of the single main line, including a segment of the line at Bailly, a 2.7-mile section located approximately between Arcelor Mittal Entrance Road and Waverly Road. At that location, the single joint main line runs between three CSS-owned freight switching and storage yard tracks. (The location at Bailly is more fully described

¹ CSS is an affiliate of Anacostia Rail Holdings Company, which owns four other common carrier railroads and a private switching company.

at pages 2-10 through 2-16 of the EA.) The goals of the proposed Project, as summarized in the EA, are to “expand capacity, increase service, modernize infrastructure, reduce passenger travel times, and improve system reliability, mobility and safety.” (EA, pg. 1-1).

These CSS comments are directed to the discussion and conclusions in the EA regarding the proposed Project design at Bailly. CSS owns and uses one track north and two tracks south of the current NICTD/CSS main line at Bailly for freight switching and storage operations. The EA set forth various design options for improvements at Bailly and selected as the preferred option a design (Design Option 4) that would take one of the three CSS-owned switching/storage tracks at Bailly for the second (double track) main line and leave CSS with the reconfigured switching/storage tracks at Bailly, and provide one separate switching track approximately two miles from Bailly. The separate switching track would also be on the opposite side of the main lines from the two reconfigured yard tracks.

For the reasons discussed below and in the OW Report, CSS submits that the preferred option in the EA for the design of improvements at Bailly (Design Option 4) is fundamentally flawed. It is not based upon sound findings and is infeasible. Implementation of Design Option 4 would, contrary to the EA’s conclusions, have a material adverse effect on current and future CSS freight operations, impair the ability of CSS to serve its customers, and degrade safety. In addition, implementation of Design Option 4 would be inconsistent with CSS’s rights to maintain its freight service under the terms of the Trackage Rights Agreement between NICTD and CSS governing operations over the joint line. And, to the extent that the EA’s preferred design option would cause NICTD to plan on using or taking one or more of the current CSS tracks used for freight operations without CSS concurrence, such taking would be preempted by the ICC Termination Act of 1995 (See 49 U.S.C. § 10501(b)). The Project’s current proposed

design for Bailly should not proceed to the Engineering phase without resolution of the issues raised in these comments.

CSS further submits, as explained in the OW Report, that Design Options 2 or 2A, which would involve the acquisition of a strip of National Park Service land (some or all of which was once railroad owned) to provide for a double track main line through Bailly and would preserve at least three CSS freight storage tracks at Bailly, are the only two feasible alternatives presented in the EA that would meet NICTD's stated objectives for the Project, allow CSS to meet its current and projected freight service demands, not degrade safety, and be consistent with NICTD's Trackage Rights Agreement with CSS.

DESIGN OPTION 4 ADVERSELY AFFECTS FREIGHT AND COMMUTER OPERATIONS

The EA states that the preferred design option at Bailly (Design Option 4) "would provide the best balance between meeting NICTD's need for a second main line and operational flexibility; addressing CSS's need for operational flexibility, rail car storage, and expansion of service; and causing no impacts on NPS parkland in the Indiana Dunes National Lakeshore." (EA, pg. 2-14).

CSS retained the consulting firm of Oliver Wyman (OW) to review CSS operations at Bailly and provide an assessment of the impact of the design options in the EA on CSS. The OW Report is included as Appendix I to these comments.

The OW Report concludes that Design Option 4 would "have a material adverse effect on CSS's freight operations, as CSS's three yard tracks would not be side by side, and the third track would be approximately two miles away . . . which would lead to additional freight usage of the main line for switching." (OW Report, pg. 7). The additional CSS operations on the

mainline would also adversely affect commuter operations. “Design Option 4 clearly will add to CSS’s operational burden, while degrading the fluidity of the double-tracked mainline.” (OW Report, pg. 35). Moreover, the OW Report notes that to the extent the reconfiguration of the CSS current tracks and the separation of one CSS track by two miles as proposed under Design Option 4 would diminish CSS operational efficiency or limit Bailly’s use for switching or storage, CSS’s ability to offer competitive options to shippers would be reduced.

The OW Report further concludes that “the combination of a physically separate location for [the separate] siding and [its] location on the opposite side of the main line (south side) from the rest of the Bailly storage tracks makes Design Option 4 the least desirable solution from an operational standpoint – either for commuter or freight.” (OW Report, pg. 38).

DESIGN OPTION 4 DEGRADES SAFETY

The EA addresses safety considerations of Design Options by summarily stating “[w]here the proposed Project would be co-aligned with freight rail operations, NICTD expects safety to be improved because of the separation of freight and commuter trains in high-traffic locations.” (EA, pg. 4-118).

As the OW Report shows, that EA safety assessment is incorrect if the preferred design is Design Option 4 at Bailly. Under Design Option 4, the freight and passenger operations will not be fully separated from each other. “[S]low speed freight switching operations will be occurring over lines on which passenger trains will be operating at 79 mph. . . . [S]afety risks will be exacerbated by the need to cross over the two mainlines from the Bailly tracks on the north side [of the mainlines] to the . . . track on the south side” (OW Report, pg. 43). Moreover, CSS only crosses one mainline track today during switching operations at Bailly, not two mainline tracks as proposed in Design Option 4. Also, the existing track configuration at Bailly does not

require CSS to travel approximately four round-trip miles on mainline tracks to access its third yard track, as would be the case with Design Option 4. The safety implications resulting from these operational changes are substantial and the EA does not take these increased risks into consideration in evaluating the Design Options.

DESIGN OPTION 4 IS INCONSISTENT WITH NICTD/CSS AGREEMENTS

The single track main line over which CSS and NICTD currently operate their respective freight and passenger rail service has been owned by NICTD since 1991. NICTD acquired the line at that time from CSS in connection with a coordinated acquisition by CSS and NICTD of the assets of the then-bankrupt predecessor-in-interest to CSS (which bankrupt entity conducted both freight and passenger operations). At the time of the acquisition by CSS, NICTD was granted an option to purchase those assets necessary for commuter operations subject to CSS reserving “an exclusive perpetual franchise including trackage rights for the operation of freight service consistent with its common carrier obligations ...” and NICTD was to “take no action to encumber or sell [the line] in a fashion that would impair such freight services....”

(Memorandum Agreement Between The Northern Indiana Commuter Transit District And Anacostia & Pacific Company, Inc., dated as of September 27, 1989 (Memorandum Agreement), pages 16-17). NICTD exercised its option to acquire the line; and, upon such acquisition, entered into a Trackage Rights Agreement with CSS, as of December 31, 1990, granting CSS the exclusive franchise provided for in the Memorandum Agreement “to include trackage rights over the [line] fully sufficient to conduct operations as a rail freight common carrier ... and in no event less extensive than the facilities and rights used to maintain the service levels, train lengths, train speeds, and transit times provided or exercisable by CSS immediately prior to the

transfer of [the line] to NICTD.” (Trackage Rights Agreement, dated as of December 31, 1990, pages 1-2).

As the OW Report explains in detail, Design Option 4 is inconsistent with the terms of the Memorandum Agreement and Trackage Rights Agreement between NICTD and CSS because it would not allow CSS to provide the same level of service as it currently provides (and as it provided at the time immediately prior to the transfer of the main line to NICTD). (“[Design Option 4] would have a material adverse effect on CSS’s freight operations.” (OW Report, pg. 7)). The choice of Design Option 4 does not, as the EA otherwise suggests, “address[] CSS’s needs for operational flexibility, rail car storage, and expansion of service. . . .” (EA, pg. 2-14)) and does not mitigate CSS’s concerns. Instead, the EA would impose an additional burden on CSS and on interstate commerce and adversely affect the performance by CSS of its common carrier obligation pursuant to 49 U.S.C. § 11101(a). Design Option 4 is also inconsistent with tenets of the national Rail Transportation Policy set forth at 49 U.S.C. § 10101, which states, in part, that it is the policy of the U.S. Government to “promote a safe and efficient rail transportation system” and to “ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers. . . .” (49 U.S.C. § 10101(3) and (4)).

The EA notes at pages 3-4 and 3-5 that CSS operates over the existing NICTD/CSS track, that NICTD has had ongoing coordination with CSS about the project; and that “NICTD would continue coordinating with [CSS] and would enter into third-party agreements as required, during final design.” However, the EA fails to note that NICTD, under the existing agreements with CSS, must allow CSS to, among other things, maintain service levels and NICTD cannot encumber or sell the jointly used property in a fashion that would impair freight service by CSS.

To the extent that the current preferred Design Option 4 for Bailly would, according to the OW Report, in fact, impair CSS service, the preferred Design Option is inconsistent with the current NICTD agreements with CSS and adversely affects CSS's ability to perform its common carrier obligation. It would be premature to proceed to the Engineering phase of the Project at Bailly when there is a significant open question as to how NICTD can obtain the necessary third-party agreement from CSS to alleviate its concern and to implement the EA's preferred design option if it remains as Design Option 4.

In addition, under the Memorandum Agreement and Trackage Agreement, NICTD provides dispatching services for all freight and passenger trains. In order to carry out its dispatching obligations, NICTD has entered into dispatching protocols with CSS which reflect both parties' operational needs and obligations. The EA estimates that the Project "would allow for five additional westbound and seven additional eastbound commuter trains per day, primarily during rush hour. This represents a 25 percent increase in peak-period capacity." (EA, pg. 2-3). The expected increase in passenger train frequency contemplated when the Project is completed, whichever design option is ultimately selected, will require renegotiation of the dispatching protocols to reflect operational changes and safety considerations. The EA should take this requirement into account as well.

PROPERTY ACQUISITION FOR DESIGN OPTION 4 IS REQUIRED AND PROBLEMATIC

The EA's preferred design option for improvements at Bailly would require the taking or acquisition of the two existing CSS freight tracks south of the current single main line. (See EA, Figure 2-6 and pg. 2-14). All of the switching/storage tracks at Bailly are on property owned by CSS. The tracks and property were not necessary for commuter operations by NICTD and were

not conveyed to NICTD for joint use when NICTD acquired the single track main line as described above.

As demonstrated in the OW Report, Design Option 4 introduces rail operating inefficiencies, renders CSS less competitive for freight traffic, and creates enhanced safety risks. As the OW Report further noted, Design Option 2 and 2A are the only feasible design options presented for Bally that would both meet NICTD's Project goals as set forth in the EA and maintain safe, efficient, and competitive freight service at Bailly. Those Options were not selected in the EA because each would require the acquisition of National Park Service land. (Design Option 2A was not selected also because the EA did not find additional transit benefits.) However, the EA failed to note that Option 4 also requires the acquisition of property. The two new main lines in Design Option 4 will not be on NICTD's current property. NICTD will need to acquire an interest in the property from CSS. Thus, both Design Options would require acquisition of properties through negotiations with the owners: National Park Service for Options 2 and 2A and CSS for Option 4. Accordingly, to the extent that Option 4 was preferred in the EA because no land acquisition would be required, that premise is unfounded.

Also, if property acquisition for the Project is necessary and agreement cannot be reached with the property owner, the EA states that "NICTD may acquire the property through eminent domain." (EA, pg. 4-3). However, any NICTD acquisition of CSS property at Bailly through eminent domain proceedings is problematic.

The Surface Transportation Board (STB) has broad and exclusive jurisdiction over interstate rail transportation (49 U.S.C. § 10501(b)). Transportation is defined to include any "yard, property, facility, instrumentality or equipment of any kind related to the movement of passengers or property, or both, by rail . . ." (49 U.S.C. § 10102(9)) and "railroad" is defined

broadly to include a “ switch, spur, track, . . . and a freight depot, yard, and ground used or necessary for transportation . . .” (49 U.S.C. § 10102(6)). As a result, the STB and the Courts have consistently held that state condemnation proceedings to take rail property for a conflicting use or where the taking would have the effect of preventing or unreasonably interfering with rail operations are preempted and not permitted under federal law. (See, e.g., Union Pac. R. R. Co. v. Chicago Transit Authority, 647 F. 3d 675 (7th Cir. 2011); and City of Lincoln v. Surface Transp. Bd., 414 F. 3d 858 (8th Cir. 2005)).

Design Option 4 raises the same issues. It would adversely affect CSS’s ability to conduct switching operations at Bailly, which would degrade rail freight service to CSS customers and impair the ability of CSS to fulfill its common carrier obligations under 49 U.S.C. § 11101(a). “CSS provides local shippers with competitive connections to other railroads through switching arrangements via the Bailly line segment. . . Thus, any of the EA Design Options that would diminish CSS’s operational efficiency or would reduce CSS’s ability to use Bailly for storage or switching would both diminish the franchise value of CSS and reduce current competitive options for shippers. . . .” (OW Report, pg. 20).

**DESIGN OPTIONS 2 AND 2A ARE THE
ONLY FEASIBLE OPTIONS IN THE EA**

Of the design options considered in the EA for Bailly, all of the Design Options except 2, 2A, and 4 were eliminated from consideration because they did not meet the Project’s stated goals or did not meet CSS’s operational needs. The status quo at Bailly is also an untenable solution if the rest of the Project is progressed. Design Option 0 in the EA would leave in place both the current single mainline track through Bailly and the CSS yard tracks on both sides of the main line, but double track the rest of the mainline in the Project. As the OW Report found,

Design Option 0 “would materially degrade freight performance” because the expected increase in rail passenger traffic resulting from the double tracking elsewhere on the line will mean an increased frequency of passenger trains passing through Bailly, thus reducing freight operations windows and increasing operational risk (OW Report, pg. 7).

As the OW Report further found, “[o]nly Design Options 2 and 2A provide the operational flexibility and capacity to enable NICTD to meet its operational and capacity goals as stated in the EA; ensure CSS can maintain its current service levels, grow freight volumes in the future, and preserve competitive options for area freight shippers; and not degrade safety. In addition, only Design Option 2 and 2A fully separate freight and passenger activities, thereby also enhancing safety compared to all of the other options presented.” (OW Report, pg. 46). Design Option 4 was chosen in the EA because it did not require the acquisition of NPS land. However, the operational and safety problems identified in the OW Report that are associated with Design Option 4 “are severe enough in terms of their adverse long-term impacts on freight and commuter operations that it is unclear why the conversion of a small amount of parkland – which was previously railroad-owned – is not being prioritized. Procuring a small amount of land for at least one track of right-of-way from NPS would provide the only feasible solution of the Design Options presented in the EA to support the current and future operations of both CSS and [NICTD].” (OW Report, pg. 40).

It should also be noted that Design Options 2 and 2A lend themselves to a “phased” approach for implementation at Bailly as described in the OW Report at page 38. As the OW Report notes, the approach “may work well for construction, budgeting, and negotiation with NPS”

CONCLUSION

The EA's stated basis for selection of Design Option 4 has a number of fundamental flaws. First, the EA states that Design Option 4 "address[es] CSS's needs for operational flexibility, rail car storage, and expansion of service" (EA, pg. 2-15). As explained in the OW Report, that statement is incorrect and unfounded. CSS freight operations, including switching and storage services, will be impaired and CSS will lose operational flexibility. As a result, CSS will also be competitively disadvantaged in the transportation marketplace. Second, the EA states that NICTD assets would remain on railroad property at Bailly, but it fails to note that the property needed for implementation of the design is owned by CSS. Third, the EA states that any property needed to advance the Project can be acquired through state eminent domain proceedings if NICTD and the owner cannot agree. However, NICTD cannot acquire the CSS property through eminent domain proceedings if the acquisition conflicts with CSS usage or unreasonably impairs CSS's ability to provide common carrier service. Fourth, the EA summarily stated that NICTD expects safety to be improved; but as the OW Report shows, Design Option 4 will actually degrade rail safety and increase safety risks.

As the EA has noted, NICTD and other stakeholders in the EA process have listened to CSS's views on the Project design, have expressed an intent to accommodate CSS's concerns, and have explored ways to mitigate any adverse impacts that the Project would have on freight operations. CSS appreciates those efforts. CSS supports the broad objectives of the Project and is committed to continue to work with all appropriate stakeholders to resolve open issues in a way that will preserve the freight franchise while at the same time meet the Project's goals.

In that vein, CSS respectfully submits that, on the basis of the above comments, the EA reconsider Design Options for Bailly before advancing to the Engineering phase of the Project for Bailly and select Design Options 2 or 2A as the only feasible designs in the EA that would meet NICTD's stated goals for the Project, maintain CSS service, and enhance safety.

Respectfully Submitted,

A handwritten signature in black ink, reading "Louis P. Warchot". The signature is fluid and cursive, with a large, stylized "L" and "W".

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APPENDIX I

Expert Report
On The

Federal Transit Administration
And
Northern Indiana Commuter Transportation District

Assessment of NICTD Double-Track Options at Bailly and Impact on Freight Operations

By:



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October 23, 2017

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I. Overview and Key Findings

A. Oliver Wyman Introduction

William Rennie, a Partner at Oliver Wyman, was asked by Chicago South Shore & South Bend Railroad (CSS) to conduct an expert evaluation of CSS freight operations and the competitive and freight growth characteristics at Bailly, IN; and, based on this review, to assess the impact on rail freight service of the Design Options in the “Environmental Assessment and Section 4(f) Evaluation for the Double Track NWI Project Gary to Michigan City, Indiana” (EA) that the Federal Transit Administration (FTA) and the Northern Indiana Commuter Transportation District (NICTD) are considering for Bailly. NICTD operates commuter rail services under the operating name of South Shore Line (SSL).

Oliver Wyman is a leading global management consulting firm and its Rail Practice employs the largest and most experienced staff in the world dedicated to the rail industry. Oliver Wyman is widely recognized as the premier management consultancy to state-owned and private freight and passenger railroads. It has carried out major strategic, operational, and financial planning and evaluation assignments for railroads on six continents. Oliver Wyman’s North American rail experience includes evaluating infrastructure, equipment, and operations activities for the major Class I railroads, many regional and short line freight railroads, and intercity passenger/urban transit authorities and operators. Oliver Wyman staff members are leading experts in network planning and operations.

B. Key Findings

As part of a larger project, FTA and NICTD are considering double-tracking segments of the single-track main rail line currently being jointly used by NICTD for SSL commuter trains and by CSS for freight trains between Gary and South Bend, IN. One segment of the line under

consideration for double-tracking is at Bailly, a 2.7-mile section located approximately between ArcelorMittal Entrance Road and Waverly Road, where the SSL/CSS joint mainline track runs between three CSS-owned freight switching and storage tracks.

On September 18, 2017, NICTD/FTA issued the EA pursuant to the National Environmental Policy Act of 1969 and Section 4(f) of the United States Department of Transportation Act of 1966. The EA included a discussion and evaluation of design alternatives for double-tracking at Bailly. The EA's preferred option, Design Option 4, would take one of the three CSS-owned switching/storage tracks at Bailly for the second (double-track) mainline and leave CSS with two reconfigured switching/storage tracks at Bailly and one separate switching/storage track two miles from Bailly.

Based on its assessment and the findings set forth below, Oliver Wyman has concluded that Design Options 2 and 2A in the EA are the only feasible options for double-tracking at Bailly that would allow CSS to maintain its current level of common carrier freight operations, provide the opportunity for CSS freight operations to expand to meet future increased transportation demands, preserve competitive options for freight customers, and not degrade safety. Design Option 2 would provide two (double-track) mainline tracks for joint NICTD/CSS operations and three adjacent CSS switching/storage tracks, while Option 2A would provide two mainline tracks and four adjacent CSS switching/storage tracks.

Oliver Wyman's key findings are as follows:

- Freight/passenger shared-use railroad lines generally have more infrastructure needs than single-use railroads to maintain fluidity for all operators – this includes track, signals, and places to conduct switching operations off of main tracks. In particular, the current single-track mainline from Gary to Michigan City will not support increases in the frequency of

commuter trains operated by NICTD nor will it support any new services, such as express trains that skip stations or groupings of stations, to provide faster commute times for passengers traveling to/from Chicago/Gary and eastern stations on the NICTD network. To the extent that NICTD desires such increased frequencies or new services, doing so without adversely affecting rail operations will require double-tracking of the joint mainline.

- In assessing the best Design Option, NICTD has an explicit responsibility to provide continuous freight access for CSS and Northwest Indiana major rail shippers and employers. Moreover, NICTD has a direct financial interest in the continued viability and growth of the CSS common carrier freight business, since CSS provides annual trackage use fees that help support NICTD's budget. Thus, any improvements at Bailly must support CSS's current freight operations and provide the same level of track utility that CSS has today. This includes at least three side-by-side tracks to sort cars, a switch lead to switch cars, and at least 16,815 total feet of track to store cars.
- CSS also needs to maintain a competitive switching location at Bailly, so that Northwest Indiana shippers and receivers can continue to have the same 24/7 service options from more than one railroad that they currently utilize, while ensuring needed train paths and capacity for current and future passenger trains. Although ArcelorMittal is one of the primary customers served from Bailly, US Steel and other customers to the east and west are served from trains that utilize Bailly as well. CSS is a linehaul carrier and is part of the interline linehaul movement for a range of freight customers, together with Class I carriers such as CSX, BNSF, Union Pacific (UP), Canadian Pacific (CP), and Canadian National (CN). CSS's primary competitor at Bailly is Norfolk Southern (NS), which utilizes a 19-track local yard

that was built for the purpose of serving the adjacent ArcelorMittal (previously Bethlehem Steel) plant.

- Just as NICTD seeks to increase capacity for future passenger services, CSS also must have the capacity to serve future freight volumes. Oliver Wyman estimates that potential growth in Indiana freight volumes requires 20 percent latent capacity at Bailly if freight operations are to remain fluid. CSS has several future potential client sites to consider that are located near Bailly. CSS may need to serve a potential future lakeside rail customer at the existing NIPSCO Bailly facility after the plant is shut down. This could be another customer at the plant or the land could be redeveloped. Additionally, the Port of Indiana at Burns Harbor also represents a potential growth opportunity for CSS rail. These possible customers, as well as other unforeseen customers, lead to CSS needing to potentially grow operations utilizing the railroad infrastructure at and near Bailly.
- Of the various Design Options considered, the No Build Alternative would retain all of the issues of today's physical infrastructure at Bailly, which include the use of the mainline as a switching lead, as well as freight traffic needing permission from the NICTD train dispatcher to access the mainline to perform crossover moves between the north and south yard tracks at Bailly. All of these time request windows slow the switching efficiency of CSS, and the situation would worsen if passenger train frequencies should increase as projected by NICTD.
- Of the various Design Options considered, Design Option 0 would not mitigate freight interference but would materially degrade freight performance, because a greater volume of passenger trains would have to pass Bailly on the single-track mainline, reducing freight

operations windows. Design Option 0 would not allow NICTD to increase passenger train frequency without causing further operational congestion, while also increasing the safety risk profile.

- Of the various Design Options considered, Option 4 is preferred in the EA. This option would have a material adverse effect on CSS's freight operations, as CSS's three yard tracks would not be side by side, and the third track would be approximately two miles away (Wilson siding) – which would lead to additional freight usage of the mainline for switching. Due to the time requirements for repositioning operations, Design Option 4 could cost CSS an additional 2.25 to 6 hours per day to support *one* switching round trip from Bailly to Wilson.¹ Additionally, the long transit across the railroad between two yard track locations, which would require the crossing of a double-track passenger mainline, would introduce new safety risks.
- Of the Design Options presented, only Design Options 2 and 2A provide the operational flexibility and capacity to enable NICTD to meet its operational and capacity goals as stated in the EA and CSS to meet its current service levels, grow freight volumes in the future, and preserve competitive options for area freight shippers. Options 2 and 2A would ensure that both NICTD and CSS receive the infrastructure they need to maximize customer service and operational fluidity both now and in the future. This design would provide NICTD with two side-by-side main tracks and minimal freight interference in the Bailly area and would provide CSS with the side-by-side yard tracks it needs to fully support switching and storage operations for ArcelorMittal and other local customers.

¹ See description of Wilson siding in Section VI.B. under "Design Option 4."

Options 2 and 2A also would mitigate safety risks better than any of the other options, by separating passenger and freight trains as much as possible at Bailly. Options 2 and 2A are the only feasible solutions that would address all of CSS's freight and NICTD's stated passenger needs, without degrading safety.

- Design Option 2 requires procuring 3.9 acres of land from the National Park Service (NPS) for the construction of one of the joint mainline tracks. (Option 2A would impact up to ten acres of NPS land.) If the need to procure this previously railroad-owned land would unreasonably delay the construction process, a "phased" solution for Option 2 could be constructed through Bailly that would address the needs of NICTD and CSS in the short term. A phased Option 2 could work well to balance construction, budgeting, and negotiations with NPS. This phased solution would entail proceeding with Option 2 as planned, minus the addition of the second mainline crossing onto NPS property. Option 2 could then be finalized at a later date when permission was secured from NPS, at which time the second 1.75-mile stretch of (south) mainline could be added.

Operationally, a phased Option 2 would provide NICTD with double-track mainline to Bailly, at which point there would be approximately 1.75 miles of single-track mainline. Unlike Option 0 which retains the separated yard tracks present in today's layout, this phased solution would help alleviate most of the freight train interference at Bailly, which is a key capacity concern for passenger trains. Because this solution provides CSS with three switching/storage tracks, the NICTD train dispatcher would not need to provide CSS access to the mainline for switching moves as it does now, thus reducing the potential for passenger train delays. Meanwhile, the remaining 1.75 miles of single track would be a significantly

shorter bottleneck than it is today, since a passenger train would take less than two minutes to traverse this segment. The second mainline could then be added at Bailly to bridge the 1.75 mile gap at a later date, once land acquisition had been completed.

- Lastly, it is critical that the selected Design Option not adversely impact safety. A key factor in mitigating the risk of accidents is separating freight and passenger trains to the greatest extent possible. This means reducing the frequency of freight trains crossing over the mainline to get to yard tracks, or using the mainline for switching activities. Design Option 4 will actually increase the safety risks. Only Options 2 and 2A reduce risks from a safety perspective, by removing the need for freight trains to cross the mainline and reducing the need to use the mainline for switching activities.

II. CSS Freight Business

A. Overview

CSS was formed to acquire certain railroad assets from a trustee-in-bankruptcy in December 1989. The corridor over which the bankrupt carrier operated was designed to support high-density freight and passenger services. The transaction conveyed the responsibility for passenger operations to NICTD, the regional commuter authority.² CSS acquired the common carrier freight franchise on the corridor (and the right-of-way, which it sold a year later to NICTD). CSS is an affiliate of Anacostia, which owns four other short line railroads and a private switching company.

CSS serves Northwest Indiana's industrial corridor and the Illinois International Port in Chicago and connects with all Class I railroads in Chicago. In all, CSS connects with 16 railroads either directly or through a switch carrier railroad: BNSF, BOCT, BRC, CF&E, CN, CP, CRL, CSXT, GRW, IAIS, IHB, INRD, NS, SCIH, UP and WSOR (see Exhibit II-1). CSS services include interchange switching, industrial switching, weighing, and providing access to port and transloading facilities. Commodities handled by CSS include chemicals, coal, grain, manufactured products, paper, plastics, pig iron, steel, and roofing materials. CSS runs across 102 system miles,³ including 75 miles jointly operated with NICTD. The railroad owns 12 locomotives and owns or leases 600 freight cars (including covered coil – both insulated and regular, plain gondolas, flatcars, and trough gondolas).⁴ In 2015, it handled 52,000 carloads.⁵

² CSS website (<http://www.anacostia.com/railroads/css>).

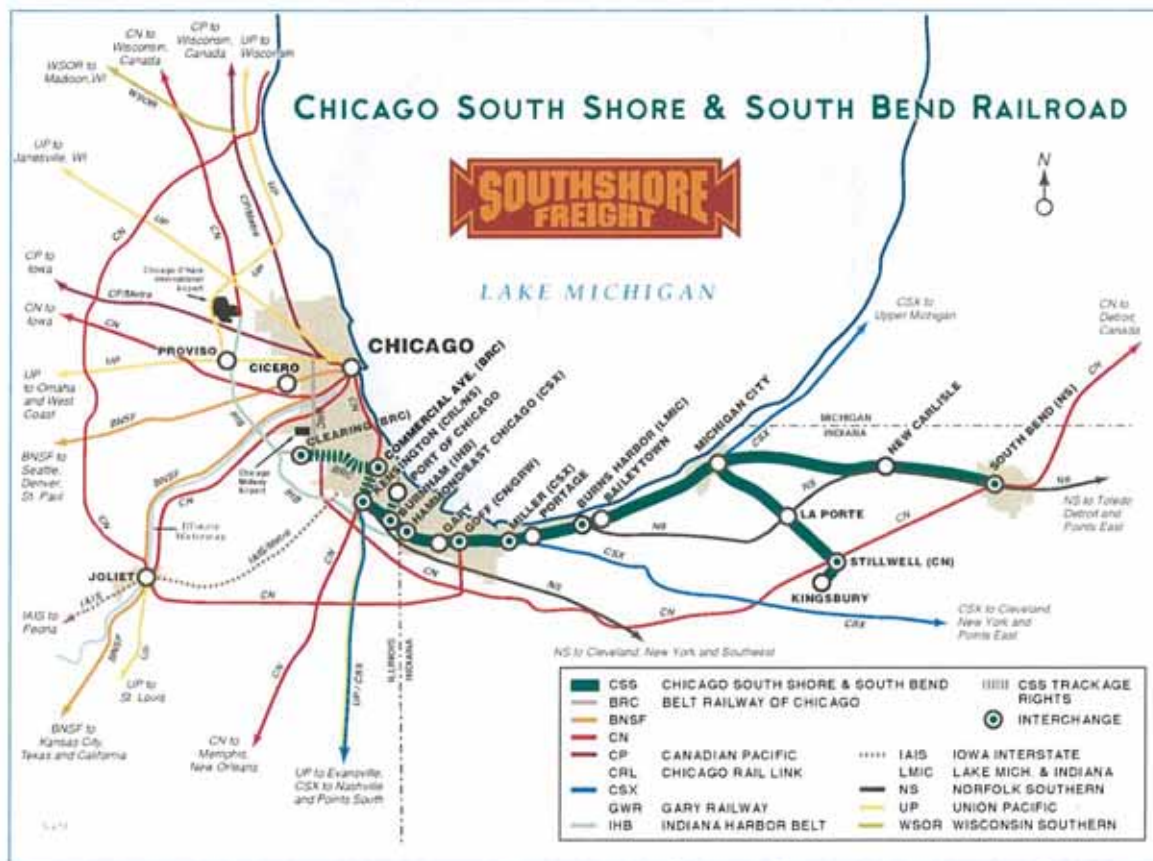
³ South Shore Freight's Fabulous Franchise," *Trains Magazine*, June 2017.

⁴ CSS website (<http://www.anacostia.com/railroads/css>).

⁵ "South Shore Freight's Fabulous Franchise," *op. cit.*

CSS plays an important role in providing linehaul rail freight service to Northwest Indiana shippers and receivers. In some cases, such as the ArcelorMittal steel mill at Burns Harbor, CSS is one of only two rail carriers (the other being NS) that directly serve the plant. CSS is part of the interline linehaul movement with CSX, CP, CN, BNSF, UP or any other railroad, in competition with NS. The role of CSS is acknowledged in the EA at page 1-8: "Many of the freight trains serve power plants and steel plants along the lakeshore, as well as other customers east of Michigan City. In addition, CSS switches freight cars from CN, NS, and CSX to deliver goods to their final northwest Indiana destinations."

Exhibit II-1: CSS System Map⁶



⁶ CSS website (<http://www.anacostia.com/railroads/css>).

B. NICTD-CSS Relationship

Approximately 75 miles of mainline that CSS shares with NICTD are owned by the commuter authority, operating from South Bend, IN to Kensington, IL. In connection with NICTD's acquisition of the mainline in 1990, CSS retained exclusive perpetual trackage rights to operate freight services over this rail infrastructure, taking over the freight services of the former Chicago, South Shore & South Bend Railroad Company. These rights are granted at a level that is in "no event less extensive than the facilities and rights used to maintain the service levels, train lengths, train speeds, and transit times provided or exercisable by CSS immediately prior to the transfer of Joint Assets to NICTD."⁷ CSS also has trackage rights deeper into the Chicago rail network.

CSS pays NICTD for trackage rights on a per car-mile basis, which means that the more freight cars CSS hauls, the more revenue CSS earns for NICTD.⁸ According to Anacostia's chairman, "Over the past 26 years, the freight railroad has paid the commuter authority close to \$81 million."⁹ On an annual basis, CSS pays NICTD approximately \$3 million to \$4 million per year (depending on traffic volume), which accounts for an estimated 10 percent of NICTD's annual budget. Thus, if CSS can continue to fully support and grow freight volumes at Bailly, this will translate into direct revenues that NICTD can use for its passenger services.

C. CSS Freight Operations at Bailly

From Gary to South Bend, IN, the rail line shared by CSS and the SSL commuter service run by NICTD is mostly single track. CSS runs 14-18 trains daily on this shared-use mainline. FTA

⁷ Trackage Rights Agreement, p. 1-2.

⁸ "South Shore Freight's Fabulous Franchise," op. cit.

⁹ "South Shore Freight's Fabulous Franchise," op. cit.

and NICTD propose to expand a portion of NICTD/CSS track between milepost (MP) 58.8 in Gary and MP 32.2 in Michigan City, a distance of 26.6 miles (Project Area).

One portion of the Project will involve double-tracking a section of mainline railroad between ArcelorMittal Entrance Road and Waverly Road (approximately between MP 44.5 and MP 46.5) known as the Bailly area (due to the nearby Bailly Generating Station, a coal-fired electric generating plant in Burns Harbor owned by Northern Indiana Public Service Company – NIPSCO).¹⁰

Options under consideration for double-tracking around and through Bailly thus will impact CSS freight operations for local customers. CSS currently serves three major customers at this location: It moves steam coal to and from the NIPSCO Bailly generating station, and metallurgical coal and steel products to and from the ArcelorMittal steel mill at Burns Harbor and US Steel west of Bailly at Wilson.¹¹

NIPSCO has announced that it will close the Bailly generating station in May 2018 but also is exploring the option of “selling the plant to a company that might want to run it and sell the electricity itself,” which could mean the continuance of rail service.¹² Today, NIPSCO coal trains operate through Bailly’s yard tracks to access the yard located on the plant property. Once on NIPSCO property, the coal hopper cars are switched by a NIPSCO locomotive. Even if closed for power generation purposes, the site will remain a prime site for rail-served industrial development, which CSS would serve, and access to the NIPSCO site through Bailly yard needs to remain unhindered at all times.

¹⁰ Environmental Assessment, op. cit., p. 2-10.

¹¹ Environmental Assessment, op. cit., p. 2-10.

¹² “NIPSCO will close Bailly power plant May 31, 2018,” NWI Times, December 18, 2016.

In addition to current customer volumes, Design Options under consideration will need to take into account future freight growth. As noted in the EA, “Historical national statistics indicate that, in general, freight rail traffic grows at an annual rate of 2 percent per year, which could add approximately 10 more freight trains per day by 2040 (USDOT 2017).”¹³ However, a number of factors could push that volume growth higher. As an example, the largest customer at Bailly, ArcelorMittal, recently received an international certification that could significantly increase demand for its products in the maritime industry.¹⁴

In addition, CSS serves the Port of Chicago, a ship, barge, rail, and truck-served terminal owned by the city of Chicago. CSS accounts for the majority of the port's rail freight. The port has extensive yard tracks and “The vast port...has a growing list of railroad customers. Among them are Maryland Pig, which barges in pig iron for area steel mills; Kloeckner Metals, a steel distributor; and a corn syrup distributor.”¹⁵

Finally, CSS could have opportunities in the future to expand service at several locations that are located near Bailly. One example is the Port of Indiana at Burns Harbor, which would likely be partially served from Bailly and which is located just west of the ArcelorMittal steel mill (see Exhibit IV-1 for a map showing the location of the port). The port advertises its proximity to Chicago as an important selling point, yet stresses it is located outside of city congestion, where it excels at “providing tremendous competitive advantages for companies that ship steel, grain, minerals, fertilizer, heavy-lift cargo and oversized equipment via multiple transportation modes.”¹⁶

¹³ Environmental Assessment, op. cit., p. 1-8.

¹⁴ “ArcelorMittal Burns Harbor could land more shipbuilding, energy business,” NWI Times, August 24, 2017.

¹⁵ “South Shore Freight's Fabulous Franchise,” op. cit.

¹⁶ Ports of Indiana website (<http://www.portsofindiana.com/burns-harbor/global-markets/>).

III. Freight Activities at Bailly

A. Key Components of Switching and Sorting

On a “local” rail move where shippers are served directly (often referred to as first-mile or last-mile rail service), railcars are picked up from shippers and then gathered together, sorted by final or intermediate destination, and assembled into a block (grouping of similar destinations) or a train in a rail yard before moving onto the mainline. If the yard facility is serving destination shippers, the inbound train is disassembled in the yard and cars are moved to designated receivers’ facilities. This type of local rail movement is known as “switching.”

Except for instances in which a customer tenders a trainload of freight from a single origin to a single destination (a unit train), shipments from different customers must be consolidated into trains. The process of switching – shipment and railcar consolidation and the splitting apart of trains close to final destinations – is typically handled in dedicated rail yards where multiple side-by-side tracks are located together. Additionally, empty cars must be sorted and temporarily stored until they are delivered to a customer for loading, based on the type of cars the customer needs each day. CSS for example keeps empty cars on hand at Bailly (multiple types of cars) to suit different customer needs. Geographic positioning near the customer is critical to facilitate competitive service, as large customers like ArcelorMittal require multiple switches per day and often have dynamic shipping requirements, including needing a variety of different car types for loading outbound steel products.

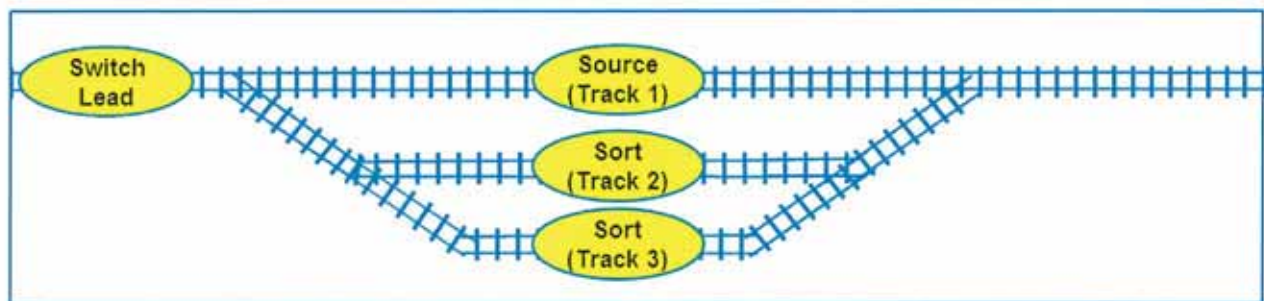
Serving yards (also called “local yards” or “gathering yards”), such as the three-track yard at Bailly, are yards where individual railcars from customer sidings are collected and distributed and empty cars sorted for delivery to customers. Such yards utilize flat switching (a process where cars are sorted in the yard using a locomotive). Serving yards are typically broad, wide

parcels of land with multiple contiguous tracks for sorting. It is critical that such yards have side-by-side tracks (parallel and interconnected) to facilitate blocking and sorting of inbound and outbound cars.

During switching operations, cars are sorted between tracks. If one track is separated and located away from the other sorting tracks, the train must then reposition and travel to the far sorting track to drop or pick up cars, and/or conduct other switching requirements. Such repositioning is a time-consuming operation and requires the entire crew to board the train to go to the remote track. On the way, the train may encounter other train movements that slow down the repositioning process. The repositioning operation to and from a non-contiguous track also requires significantly more communication between train crews, yard authorities, and/or train dispatchers, and introduces new safety risks versus switching operations on side-by-side tracks. And since switching operations require multiple movements, the time and resource-consuming process of repositioning would be repeated potentially multiple times, consuming yet more time and rail capacity and increasing safety risks.

Finally, most yard switching operations require a minimum of three tracks. Exhibit III-1 below provides an example layout and details the purpose of each set of side-by-side tracks for a hypothetical local service yard.

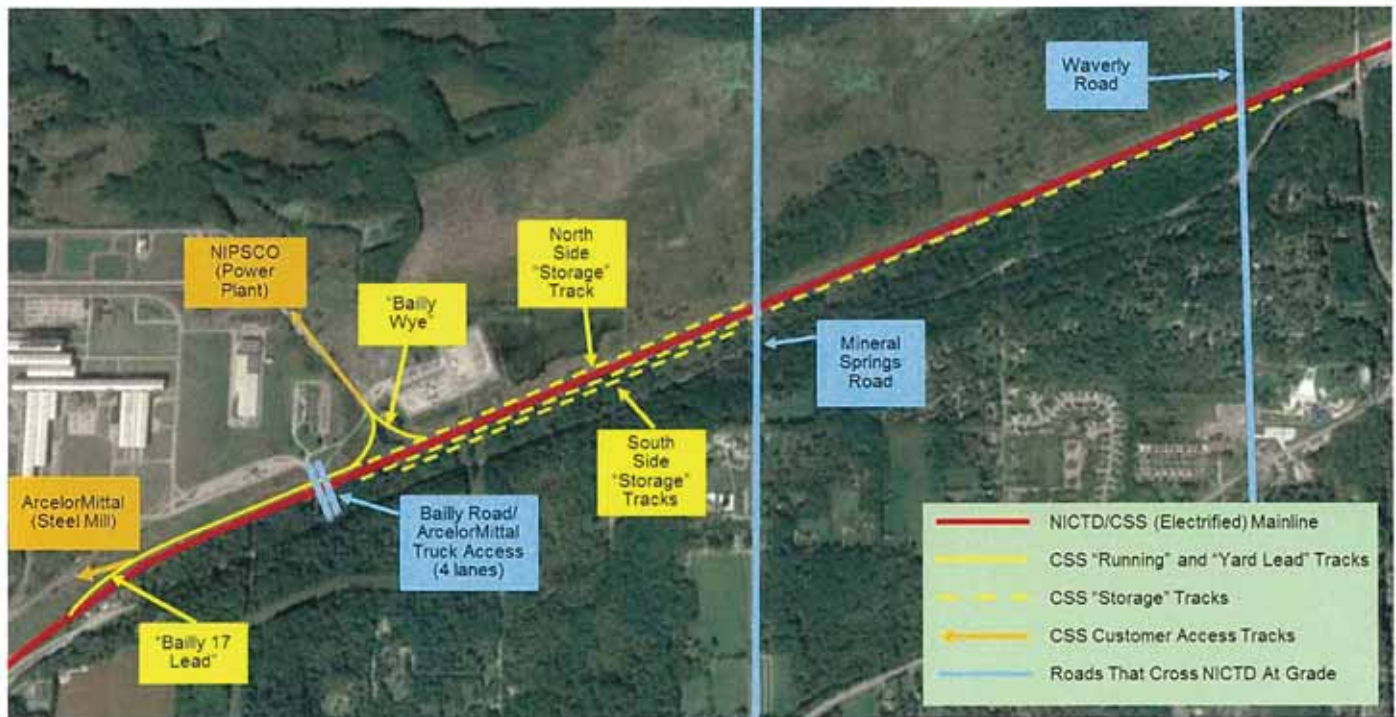
Exhibit III-1: Illustrative: Side-by-Side Tracks Use in a Local Service Yard



In the above example, “Track 1” is the source track for the supply of railcars to “pull” from – in other words, this is the track from which the train crew and locomotive start the switching operation, using the “Switch Lead” to pull back the cars. Track 2” and “Track 3” are the destination tracks the train crew and locomotive will sort (switch) cars into. In many real-world examples, two sort tracks are not sufficient for switch operations. For instance, if the switching operation calls for four separations of cars, but there are only two tracks available for sorting, then the cars would need to be sorted out a total of three times. This prolongs the time needed for switching operations and consumes more track capacity, time, and crew/locomotive resources.

B. Primary Bailly Activities

Bailly is unlike most local yards, in that its track layout is not integrated. Instead, it is bisected by the NICTD single-track mainline. Bailly’s infrastructure includes three yard tracks: two on the south side of the mainline and one on the north side (Exhibit III-2). All three are used by CSS for switching and storage. Additionally, the north track serves as a “lead” track to access the NIPSCO power plant.

Exhibit III-2: Overview of Trackage at Bailly¹⁷

The NIPSCO power plant requires coal delivered by train for power generation. These coal trains must leave and enter the mainline at Bailly and must traverse some of the yard lead trackage at Bailly, where they enter the power plant at the “Bailly wye.”¹⁸ When a more than 100-car coal train arrives at Bailly, the small size and tight space of the Bailly yard can lead to these trains temporarily blocking the mainline: “CSS transfers many long coal unit trains, a complex process that requires that the train switch off the mainline for temporary storage. These switching moves are done at low speeds and temporarily block the mainline. This can delay SSL commuter trains because they cannot pass the blockage due to the single-track configuration.”¹⁹ The long coal trains are then switched on NIPSCO property by a NIPSCO locomotive. Whether

¹⁷ Source: Google Earth, Oliver Wyman.

¹⁸ A wye is a triangular junction of three tracks that allows direction to be reversed for locomotives and/or railcars.

¹⁹ Environmental Assessment, op. cit., p. 1-8.

the NIPSCO property remains as a power plant or is repurposed for some other use, the yard trackage at Bailly will need to continue to be available to support this customer site.

Double-tracking would alleviate this blockage, but at the same time it is critical that, as further discussed in the next section, CSS (and by extension the other freight railroads with which it interchanges) retains sufficient switching and storage facilities at Bailly to competitively serve local freight shippers. As “250 railcars frequently occupy its freight tracks at Bailly....matching capacity in both length and width (that is, more than two tracks) is very important to maintain CSS operations, sustainability, and potential growth opportunities.”²⁰

²⁰ Environmental Assessment, *op. cit.*, p. 2-10.

IV. Competitive and Safety Implications of Bailly Activities

A. Importance of Continued Competitive Options at Bailly

Large industrial railroad customers are frequently served by more than one railroad. Where this is not the case, customers often have access to two or more railroads through switching agreements. At Bailly specifically, CSS competes for local traffic such as ArcelorMittal with NS, a Class I railroad with a 19-track local yard. CSS and NS both provide direct rail access to the ArcelorMittal steel mill and serve other customers in the Northwest Indiana lakefront area through direct linehaul service. In addition, CSS provides local shippers with competitive connections to other railroads through switching agreements via the Bailly line segment. Exhibit IV-1 below shows the CSS and NS rail infrastructure at Bailly, as well as key customers served by the two railroads.

As the map makes clear, CSS's yard at Bailly is very small relative to the overall footprint of ArcelorMittal, and even smaller compared to the two steel plants plus the port. The three-track Bailly yard is also much smaller than the 19-track NS yard. From a competitive standpoint, CSS is somewhat strategically disadvantaged relative to NS due to yard size and location – since the NS yard is both larger and closer to the two steel plants, making switching, storage, and delivery/receiving at the plants easier for NS. Thus, any of the EA Design Options that would diminish CSS's operational efficiency or would reduce CSS's ability to use Bailly for storage or switching would both diminish the franchise value of CSS and reduce current competitive options for shippers – which in turn could impact the competitiveness of Northwest Indiana shippers in the larger US and global market.

Exhibit IV-1: CSS and NS Rail Infrastructure at Bailly and Key Customers²¹



B. Importance of Safety Risk Mitigation at Bailly

It is also critical to ensure that the chosen Design Option does not adversely impact safety. For more than 150 years, railroads have continuously made technological and physical enhancements to reduce railroad equipment accidents. These risk mitigation practices have contributed to declines in fatalities and in injuries for both employees and railroad passengers.

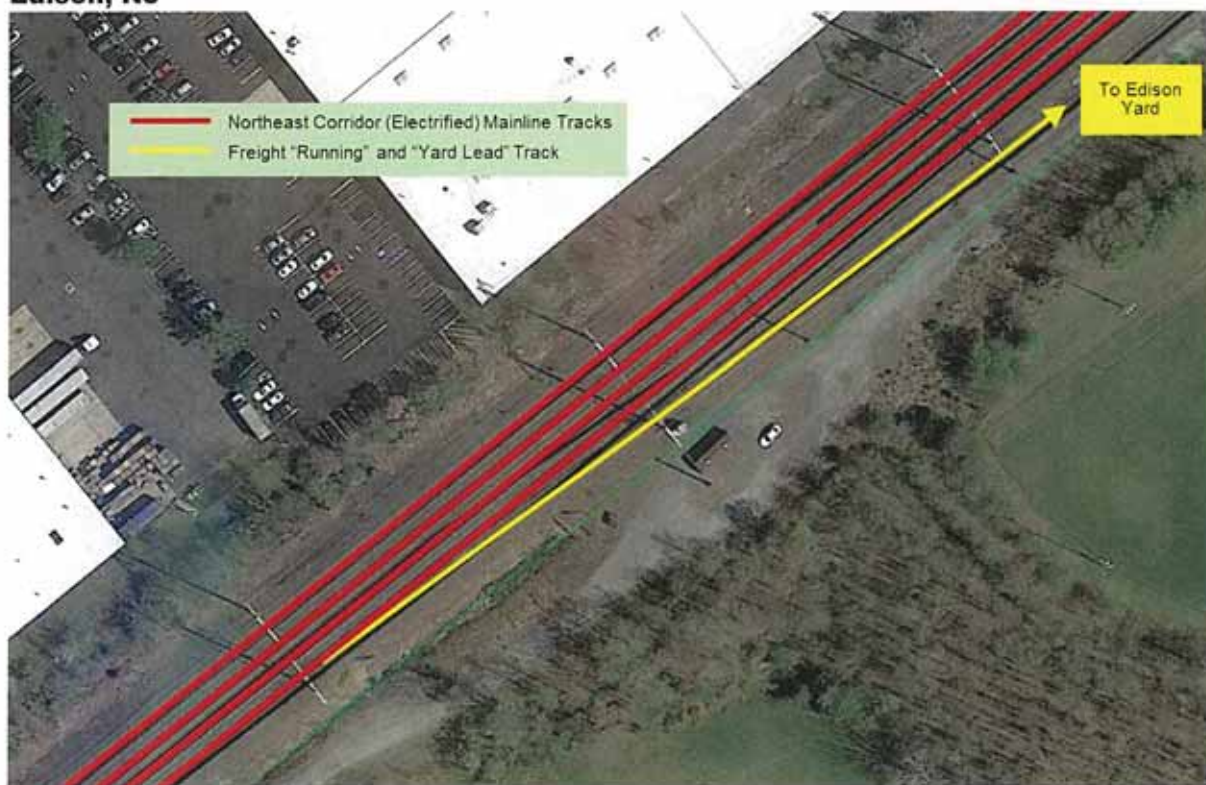
A fundamental mitigation practice is the separation of freight and passenger trains to the largest extent possible. Segregated yards are commonplace on railroads that have a mix of slow-speed freight switching and fast freight and passenger trains. The Northeast Corridor for example has several segments where slower freight trains conduct switching operations using segregated

²¹ Source: Google Earth, Oliver Wyman.

running tracks, yard leads, and yard tracks so as not to interfere with higher-speed passenger trains.

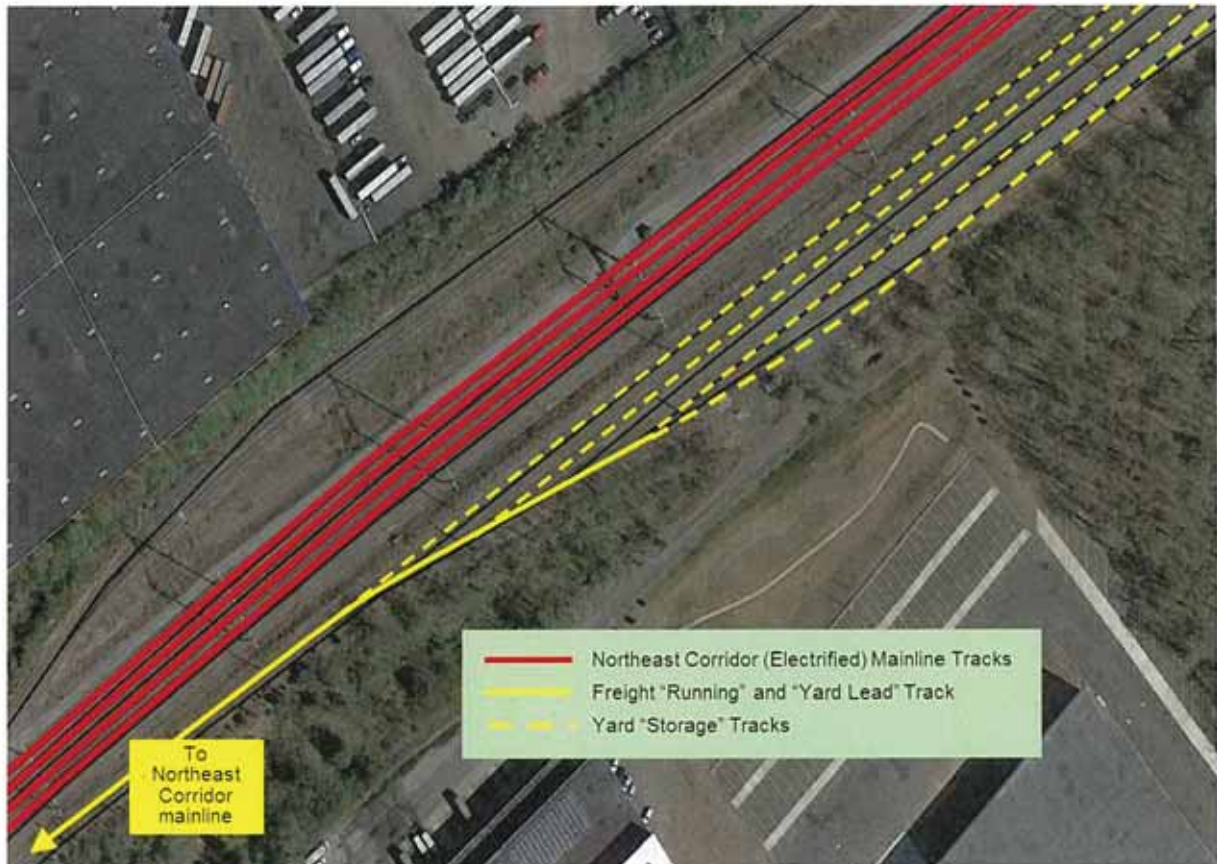
One example is Edison Yard, NJ, which was constructed decades ago in a segregated manner from the Northeast Corridor mainlines. Exhibit IV-2 below shows the location where the freight lead trackage into the yard leaves the electrified mainline tracks. Note that this lead is sufficiently long so that freight operations do not need access to the mainline to conduct yard switching operations, potentially disrupting mainline train operations. Instead, the freight switching operation is completely segregated from the mainline. Exhibit IV-3 shows the segregated side-by-side yard tracks away from the mainline.

Exhibit IV-2: Northeast Corridor Freight Lead Separating from Electrified Mainline at Edison, NJ²²



²² Source: Google Earth, Oliver Wyman.

Exhibit IV-3: Northeast Corridor Freight Segregated Switch Tracks at Edison, NJ²³



The Northeast Corridor at Edison hosts a wide mix of train services, most of which operate under electrified catenary similar to NICTD. These include NJ Transit commuter trains and Amtrak regional and intercity trains. Freight railroads CSX and NS operate local and road freight trains on the Northeast Corridor, but like CSS they operate with diesel locomotives. While Edison's rail geography has some curves that require reduced speeds for safe operating practices, the top speed of the Northeast Corridor in this area is 135 mph. Segregation, however, greatly improves the safety risk profile of this area.

²³ Source: Google Earth, Oliver Wyman.

In the case of Bailly, even though freight trains must cross the passenger mainline to get to yard tracks, rail operations are conducted safely at the current level of passenger and freight operations. But the current layout where freight trains must cross passenger mainline tracks is not ideal from a safety perspective if passenger train volumes increase as NICTD intends. In that instance, any Design Option for Bailly must look to reduce or remove the need for freight trains to cross or utilize the mainline in order to maintain and improve safety. As discussed in detail in Section VI.D., only Design Options 2 and 2A completely separate freight and passenger activities.

V. Freight Operational Needs at Bailly

If NICTD infrastructure is to continue to support competitive freight operations in the safest manner possible at Bailly, then from an operational perspective, CSS needs at least the same level of track utility that it has now. That track utility has the following four aspects:

1. **Three tracks (at least) to sort cars:** CSS needs at least three different tracks to sort cars into for switching operations. These tracks need to be in the same geographic location such that cars can be sorted between tracks on a repetitive basis, without long “travels” between switching moves – in other words, the tracks should be located side by side. To perform switching moves, one track functions as the supply track, from which cars are sourced; cars are then sorted into different groups using the other two tracks (see Exhibit III-1 above for an example). Design Options for Bailly that propose only two adjacent tracks for sorting are insufficient for switching, as this would provide only one supply track and one sorting track.
2. **A switch lead to switch cars:** When a CSS train crew switches railcars using a locomotive, they need track infrastructure to lead off cars from the supply track (“pull”) before then pushing those cars onto a sort track. Some yards have a dedicated pull track for this purpose, while at other locations, mainline track is used. When cars must be pulled onto the mainline, then time (and capacity) must be made available on the mainline to switch cars. The freight crew must request permission from the train dispatcher to access the mainline, and then the dispatcher creates a time “window” that the freight train must adhere to. Given the frequency of SSL commuter trains on the NICTD mainline, the time needed to “clear the railroad” for the passenger train(s) and the corresponding window of time available can be a challenge for freight crews at certain times, impacting freight productivity and causing delays.

3. **At least 16,815 total feet of track to store cars.** The current track arrangement at Bailly provides 16,815 total feet of track capacity, and CSS needs to maintain this amount of space.²⁴ CSS today utilizes most of this “standing” track capacity to store empty coil, flat, and gondola cars awaiting interchange into the ArcelorMittal steel mill and some capacity for other purposes; it has 250-300 railcars on hand on a typical day.²⁵ It is important to note that some track space must remain available for sorting purposes (“switch capacity”), as well as other unforeseen railroad movements related to switching and storage.
4. **Access to the Bailly wye:** Part of the complexity of Bailly is the need to maintain clear tracks to serve the NIPSCO Bailly Generating Station, where railroad-supplied coal arrives at Bailly in unit trains via the NICTD mainline. As noted previously, NIPSCO plans to shutter the plant on May 31, 2018, although it is looking at the option of selling the plant to another company that might want to operate it, which could lead to a continuing need for rail-hauled coal.²⁶ Even if this does not occur and the land is redeveloped instead, access to the wye needs to remain in place for efficient operation. It is the only wye on CSS or NICTD at Bailly. Furthermore, the likelihood of this land being redeveloped for industrial use requiring rail service is high, given its proximity to rail, road, and water transport. The timeline for all of this may not be immediate, but the potential need for the Bailly wye and potential rail-water accessibility needs for a future customer on the NIPSCO property need to be considered in any future state scenarios.

²⁴ Preliminary NICTD Double Track NWI Proposed Track Schematic – Bailly Area Option 2.

²⁵ Interview with Todd Bjornstad, President, CSS, October 3, 2017.

²⁶ “NIPSCO will close Bailly power plant May 31, 2018,” op. cit.

VI. Assessment of Bailly Design Options

A. Overview of Options

The EA considered seven Design Options at Bailly, five of which were dismissed due to failure to meet the purposes and needs of various stakeholders, including CSS, or a high number of environmental impacts. The remaining options, Options 2 and 4, would include a second mainline track and assume that trains would operate at planned speeds. Exhibit VI-1 on the next page provides a summary assessment of the feasibility and desirability of the baseline options (No Build and Option 0), Option 4, and Options 2/2A from a freight railroad operating and management perspective. Discussion of the individual Design Options is included below the table. (Oliver Wyman concurs with the EA's assessment that the other Design Options it lists and discusses are not feasible, insofar as they would apply to CSS operations at Bailly.)

From a railroad operations standpoint, the Project's critical goals are to increase passenger train frequency/capacity by adding a second mainline between Gary and Michigan City. A second mainline will provide a positive benefit for freight, as it will open more "slots" for trains to move on the NICTD joint mainline. But at locations like Bailly, a second mainline could potentially reduce fluidity if freight capacity is reduced through the acquisition of a CSS switching/storage track. For example, if a freight yard track is reassigned to mainline use instead, then a new freight track will need to be constructed in its place to maintain operational fluidity and capacity at the status quo. As Bailly has no land readily available on either side of the railroad right-of-way, this is a significant issue with regard to the optimal Design Option to meet both passenger and freight needs.

Exhibit VI-1: Summary Operational Assessment of Bailly Double-Track Options²⁷

Design Option (report pages)	Synopsis	Freight Perspective (CSS)					Passenger Perspective (NICTD/SSL)	
		Mainline Bisects Yard (Crossover Moves)	Lead For Switching	Total Yard Tracks	Side-by-Side Yard Tracks	Storage/Sort Track Footage	Tracks for Current Passenger Trains	Tracks for Future Passenger Trains
No Build Alternative (2-1 to 2-2)	No change to layout	Yes	Single track mainline	3	No	~16,815	1	No, a constraint
Option 0 (2-11)	Static layout at Bailly, add 2nd mainline track east and west	Yes	Single track mainline	3	No	~16,815	1	Even more of a chokepoint
Option 4 (2-14 to 2-16)	SSL operates 2 tracks to south, CSS 2 north, with new "Wilson" siding 2 miles to the west	Partially	North mainline track or Bailly North	3	No	~24,000	2	Good (2 tracks)
Option 2 (2-12 to 2-13)	Change layout, SSL operates 2 tracks to south, CSS 3 north; NPS land required for one track	No	North mainline track or Bailly North	3	Yes	~25,000	2	Good (2 tracks)
Option 2A (2-14)	Same as Option 2 but CSS has 4 tracks; NPS land required for one track	No	North mainline track or Bailly North	4	Yes	~31,000	2	Good (2 tracks)
		Key	Not feasible	Partial solution	Optimal solution			

B. Review of Specific Options

No Build Alternative

Although the No Build Alternative is unlikely to be adopted ultimately, it is clear that this option would retain all of the issues of today's physical infrastructure at Bailly. First, the single-track stretch of railroad is fairly long between control points. This means that freight trains must

²⁷ Oliver Wyman analysis.

run within specific “slots” to travel to and from Bailly. Once at Bailly, the freight traffic must switch off of the mainline, or switch utilizing the main track when occupancy can be provided by NICTD between passenger trains. Freight traffic also must seek permission to cross the NICTD mainline to travel between the north yard track and the two south yard tracks. All of these time request windows slow the switching efficiency of CSS, and the situation would worsen if passenger train frequencies should increase.

Design Option 0

Design Option 0 is defined as maintaining the status quo track layout at Bailly, where the NICTD electrified mainline bisects the CSS yard, with two tracks to the south of the NICTD mainline (“Middle Track” and “South Track”) and one track to the north of the NICTD mainline (“North Track”). Design Option 0 differs from the current state because it calls for construction of a second mainline immediately to the east and west of Bailly, but the mainline through Bailly would remain single track, effectively an operational constraint for both passenger and freight operations.

Not only would this option not mitigate freight interference, but it would materially degrade freight performance, as a greater volume of passenger trains would have to pass this point on single track, reducing freight windows. Freight operations would continue to utilize the mainline to switch cars, and freight trains would continue to cross over the mainline between the two sets of yard tracks. Oliver Wyman agrees with the EA assessment that Design Option 0 should be eliminated from further consideration, since it does not meet the stated goals of the Project. Most important, Design Option 0 would not allow NICTD to increase passenger train frequency without simultaneously increasing operational congestion, due to the combination of additional passenger trains and continued freight crossover and switching operations.

Design Options 1, 3, and 5

The EA groups together the assessments of Design Options 1, 3, and 5. In each of these options, the NICTD mainline would be relocated to the south of Bailly, and thus would no longer bisect the yard tracks. These options were dropped from consideration, as “after discussion with CSS, it was determined that this would not meet CSS’s operational needs,”²⁸ and Oliver Wyman agrees with that assessment.

Design Option 4

In Design Option 4, the NICTD mainline also would be repositioned south of Bailly and would no longer bisect the yard. It would use the footprint of two current yard tracks: “Middle Track” and “South Track.” Bailly would continue to be a location where freight cars are switched and stored, but would have only two tracks located side by side. To make up for the loss of the third yard track, a siding called “Wilson” that is currently 2,500 feet long would be extended to 7,000 feet long. The east switch would be about two miles further west than the current west end of track on the “17” lead.

The result would be a two-mile gap between the west switch used for car sorting at Bailly (MP 46.5) and the Wilson siding east switch (MP 48.3) – this is the distance over which CSS would have to reposition cars to use this new track. Performing switching movements using this remote track would consume substantial additional time, as outlined in Exhibit VI-2.

²⁸ Environmental Assessment, op. cit., p. 2-13.

Exhibit VI-2: Time Required To Support Design Option 4 Train Operations at Wilson²⁹

Per switching round trip, in minutes

Step	Operational Task	Option 4 High	Option 4 Low	Option 2
1	Assemble and test the train to reposition from Bailly to Wilson	60	30	0
2	Request mainline access and dispatcher provides access	45	0	0
3	Reposition Bailly to Wilson	30	15	0
4	Switch cars at Wilson	90	45	45
5	Assemble and test the train to reposition from Wilson to Bailly	60	30	0
6	Request mainline access and dispatcher provides access	45	0	0
7	Reposition Wilson to Bailly	30	15	0
Extra minutes from Wilson operation		360	135	45
Extra hours from Wilson operation		6	2.25	0.75

The steps required for the CSS train crew to work at Wilson are significant. For each round trip, seven major steps would need to occur:

1. Assemble and test the train to reposition from Bailly to Wilson – this includes the time required to build the train to reposition. During normal switching operations, this might be done during the many pulls and pushes of the crew's shift. With a repositioning event, the train has to be assembled as a special and separate operation. Once the train is assembled, an air brake test operation has to be performed, which is a visual confirmation of brake set and release at the rear of the train. It requires a member of the train crew to make a round trip walking from the front to the rear of the train, inspecting the cars that make up the train on the way.

²⁹ Oliver Wyman analysis.

2. Request mainline access and dispatcher provides access – this includes the time required for the train crew to request mainline access. The train crew must explain where they need to go and how long they expect to take. This would typically be done while the air brake test operation is being performed and only takes a few minutes. Waiting for the dispatcher to provide access is where significant time can be spent, however. Access could be instantaneous, or it could be 45 minutes or more, depending on what time the request is made and where passenger trains are located on the line. Also, time is needed for signals to be “set up,” which includes a series of necessary safety mechanisms and other mechanics to “line up” a train to make a movement onto the mainline. It is typical for CSS freight crews to work in concert with NICTD train dispatchers, but “everyone recognizes that the passenger trains take priority,” according to Michael Noland, President and General Manager of NICTD.³⁰
3. Reposition Bailly to Wilson – this includes travel time between the two locations. A typical train would travel at a maximum speed of approximately 10-20 mph, but when safe acceleration/deceleration time is factored in, the average speed is more likely in the 5-10 mph range. While the gap between the west switch at Bailly and the east switch at Wilson is approximately two miles, a mile-long train would have to travel three total miles to “clear” the east switch at Wilson. Included in this time is the time required to line any hand-thrown switches that are not controlled by the dispatcher, such as the switches at Wilson. Before moving the train, the entire three-person crew would need to be safely located inside the locomotive cab to travel on the mainline.

³⁰ “South Shore Freight’s Fabulous Franchise,” op. cit.

4. Switch cars at Wilson – this includes all of the time needed to switch cars using only one yard track at Wilson. While switching, the train would need to utilize the mainline as a switching lead as well as an “alternative” sorting track to the “source” of the Wilson track.
5. Assemble and test the train to reposition from Wilson to Bailly – this is effectively the reverse of step 1.
6. Request mainline access and dispatcher provides access – this is effectively the reverse of step 2.
7. Reposition Wilson to Bailly – this is effectively the reverse of step 3.

Exhibit VI-2 provides a high and low time estimate for each step outlined above under Design Option 4 and compares the time impact of Option 4 to Option 2. Design Option 4 could cost CSS an additional 2.25 to 6 hours per day to support *one* switching round trip from Bailly to Wilson. Note that Option 2 adds none of this additional time burden. Thus the repositioning operation under Option 4 could impose significant operational strain on CSS and should not be underestimated.

An additional problematic issue with Design Option 4 that must be highlighted is that Wilson is located on the south side of the double-tracked NICTD mainline – that is, the opposite side from the proposed yard location. Consequently, Design Option 4 would not mitigate freight movements crossing the mainline, and to access the capacity of the Wilson siding, freight mainline consumption time would actually increase. Dispatcher intervention for freight repositioning movements– and to ensure no stopped passenger trains – would be required across both mainlines each time a freight train needed to cross to or from the Wilson track, consuming more dispatcher resources.

Finally, while the train crew is working at Wilson, they will need to request a long time window from the train dispatcher to access the south mainline, blocking it while conducting switching operations. For example, if there are 4,000 feet of parked cars at Wilson (on a 7,000 foot track) before a train arrives, and CSS wants to swap in a replacement group of 4,500 feet of (new) cars, the CSS crews will have 8,500 feet of cars to manage at Wilson, thus potentially requiring the use of up to 8,500 feet of the south mainline, as they will have no other track available to get out of the way of commuter trains until switching moves are completed and the crew is ready to depart back to Bailly. As stated above, the mainline will be the switch lead and the *only* sort track for the train crew working at Wilson, consuming significant time and capacity.

Wilson also would impact crew and locomotive resource productivity. The hours of service that a train crew would require would increase if CSS trains had to serve Wilson. Typically, train crews are on duty an average of 7-10 hours. Railroad train crews operate under strict hours of service rules; under federal law they can only work a maximum of 12 hours. Both the high and low time estimates for Option 4 would result in higher crew costs for CSS.

And where the crews go, so do the locomotives. A typical switch locomotive has significant asset ownership and maintenance costs tied to it; when extra fuel for repositioning and extra running time are added in, locomotive costs will increase accordingly. Additionally, the locomotive involved in excessive repositioning operations to and from Wilson would be unavailable for other uses.

Typically, railroads consider the sum of these operational costs to be approximately \$200 per hour, factoring in crew, locomotive, and car costs. The low and high estimates of 2.25 hours and 6 hours per repositioning move to Wilson thus would translate into additional costs of \$450 to \$1200 per move for CSS. This amounts to \$140,000 to \$375,000 on an annual basis if this

scenario plays out just once per day six days a week. Over the long term, these are unsustainable costs for such an operation.

Design Option 4 clearly will add to CSS's operational burden, while degrading the fluidity of the double-tracked mainline. Design Option 4 thus effectively retains the single-track problems that are present today at Bailly, but compounds them by moving them two miles west to Wilson.

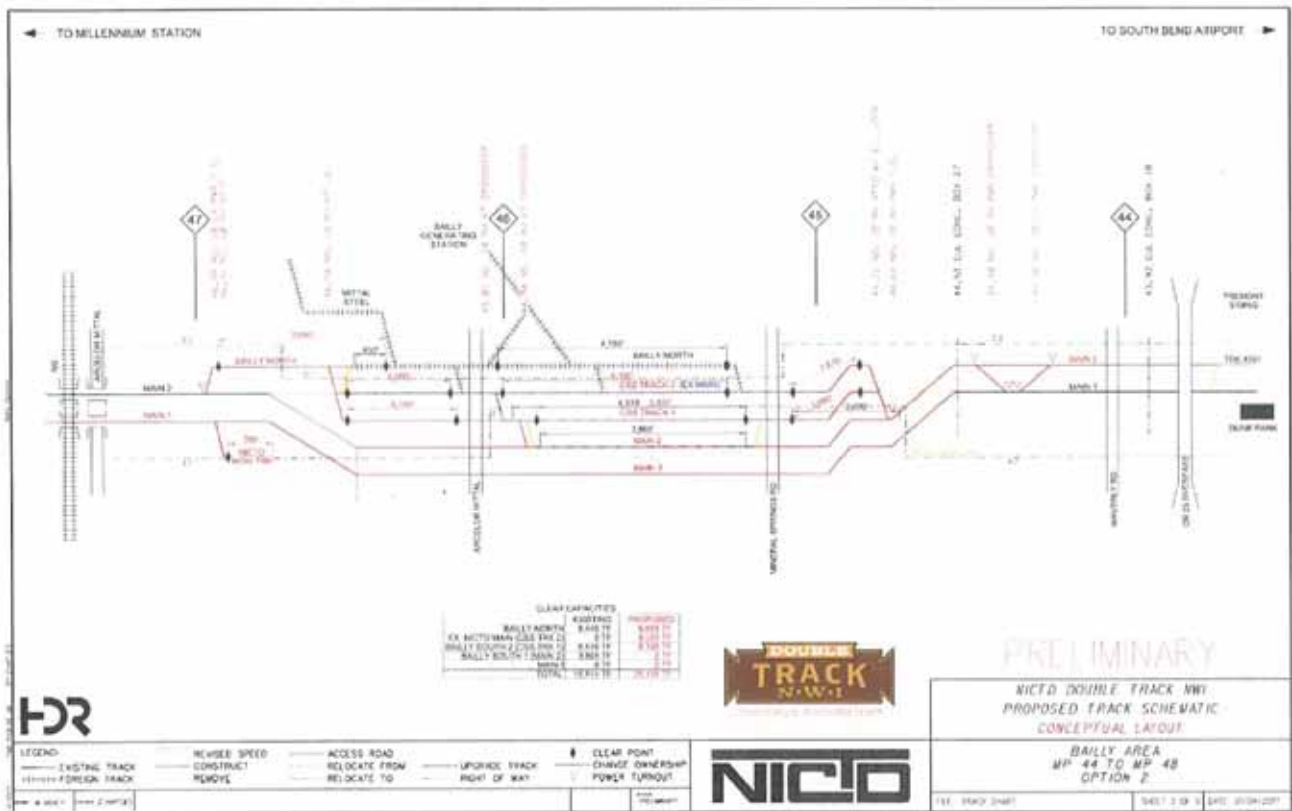
Design Option 2

In Design Option 2 (see Exhibit VI-3), the NICTD mainline also would be repositioned south of Bailly and would no longer bisect the yard. It would use the footprint of two current yard tracks: "Middle Track" and "South Track." Bailly would continue to be a location where freight cars are switched and stored, with three tracks located side by side. Based on detailed engineering plans that have been defined for this option, the "Bailly North" track could function as a lead track for some switching operations.³¹ This would reduce the amount of time that CSS freight movements would need to occupy one of the mainlines, as noted in the EA: "Locating all tracks in the same general vicinity would reduce the need for CSS to travel up or down the tracks to access storage tracks located farther away."³²

³¹ Preliminary NICTD Double Track NWI Proposed Track Schematic – Bailly Area Option 2.

³² Environmental Assessment, op. cit., p. 2-12.

Exhibit VI-3: Design Option 2³³



Of the choices presented, Design Option 2 (and 2A, described below) are the only feasible options that would meet the following needs:

- Enable CSS to both maintain its current level of freight service and allow for growth
- Maintain the current level of competitive options for freight shippers
- Not degrade safety
- Still meet NICTD's stated passenger service goals

³³ Preliminary NICTD Double Track NWI Proposed Track Schematic – Bailly Area Option 2.

Design Option 2 would provide a double-tracked mainline for the use of NICTD and CSS, sufficient track space for CSS, and a switch lead separate from the mainline for a majority of freight switching and steel mill movements. It would require 3.9 acres of permanent conversion of NPS Indiana Dunes National Lakeshore property.

Design Option 2A

The primary difference between Design Option 2 and Design Option 2A is that the latter would provide CSS with a fourth side-by-side switching track, which would result in more storage track capacity. Adding this fourth track however would impact up to 10 acres of NPS property (more than twice the amount of acreage required by Design Option 2), because it would require two new tracks to be located on NPS property through Bailly, as opposed to only one new track located on NPS property in Design Option 2. Design Option 2A was eliminated from further consideration in the EA due to the impact on parkland with no additional benefit to transit.³⁴

C. Operational Feasibility of Design Options

The EA expresses a preference for Design Option 4 over Design Options 2 and 2A as it “would provide the best balance between meeting NICTD’s need for a second mainline and operational flexibility; addressing CSS’s needs for operational flexibility, railcar storage, and expansion of service; and causing no impacts on NPS parkland in the Indiana Dunes National Lakeshore.”³⁵

In examining this statement relative to the various Design Options, however, it is unclear how the EA arrived at this preference. For example, Design Options 1 through 5 would all add a

³⁴ Environmental Assessment, op. cit., p. 2-14.

³⁵ Environmental Assessment, op. cit., p. 2-14.

second mainline through Bailly, and thus provide an equal footing in terms of “meeting NICTD’s need for a second mainline.” And in general Design Options 2 through 5 are stated in the EA as providing CSS with the same number of storage tracks and sufficient track footage. Only Design Option 2 and 2A provide the right configuration for CSS, however.

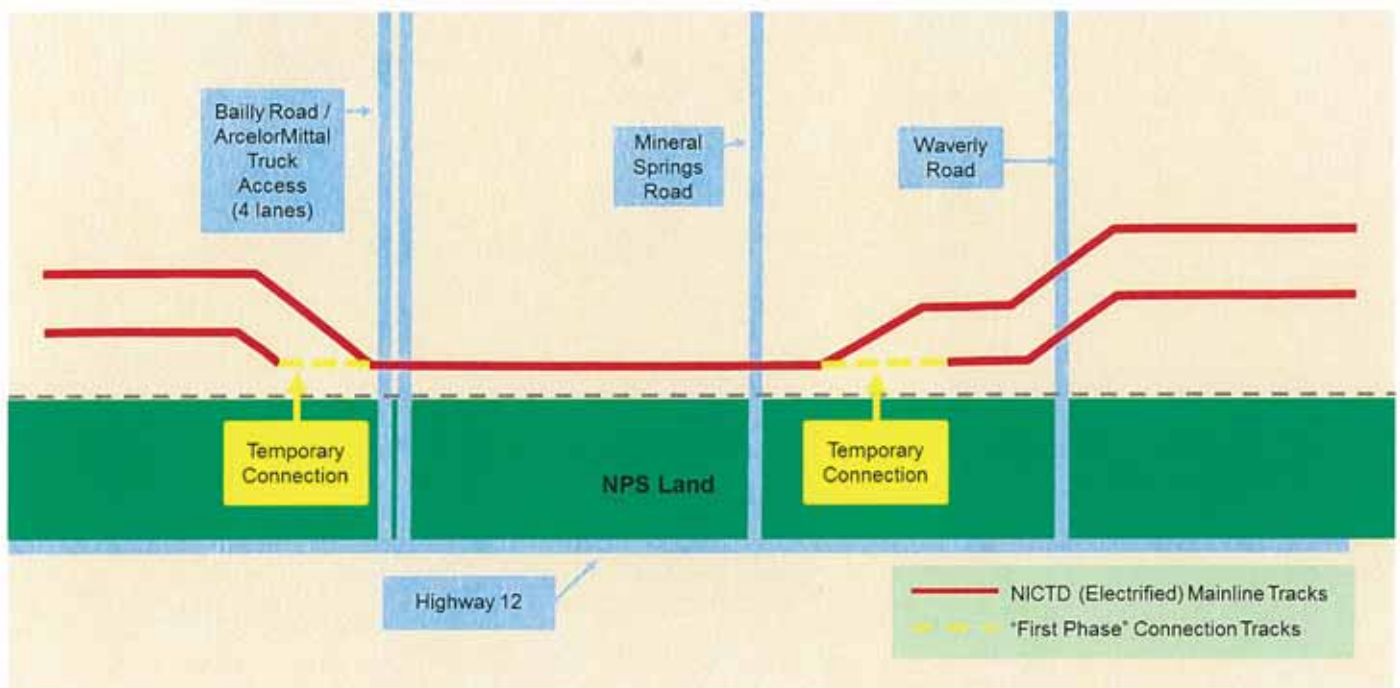
In fact, the combination of a physically separate location for the Wilson siding and Wilson’s location on the opposite side of the mainline (south side) from the rest of the Bailly storage tracks makes Design Option 4 the least desirable solution from an operational standpoint – either for commuter or freight. NICTD commuter trains would not only continue to be impacted by freight train crossings but these crossing events would increase, as would the need to use the mainline for switching/sorting activities at Wilson, while CSS would experience increased time and operational complexity due to a lack of two side-by-side sorting tracks and the use of a remote track.

By comparison, Design Options 2 and 2A would provide the most operational flexibility. Commuter and freight trains would be as separated as possible and freight trains would not need to cross on the mainline, maximizing mainline capacity and fluidity for commuter trains. CSS operational flexibility would be optimized by having all three needed yard tracks side by side at Bailly.

Design Options 2 and 2A also allow for a “phased” approach that may work well for construction, budgeting, and negotiation with NPS if a compromise version were to be constructed for the near-term that would serve the aims of NICTD and CSS. For the “first phase,” instead of the south mainline crossing onto NPS property, the mainline infrastructure through Bailly for approximately 1.75 miles could continue to be single track, with the “South Track” of the three yard tracks becoming the main track (Exhibit VI-4). This realignment of the

yard tracks would still help resolve the issue of freight train interference at Bailly, which is a key capacity concern for passenger trains. The train dispatcher would not need to provide CSS access to the mainline for switching moves, reducing the potential for passenger train delays. After double-tracking the mainline to Bailly from both the east and west, the remaining approximately 1.75 miles of single track would be a minimal operating hindrance to NICTD. A passenger train would take less than two minutes to traverse the 1.75 mile “bottleneck,” which would be minimal due to the many miles of new double track planned on either side of Bailly.

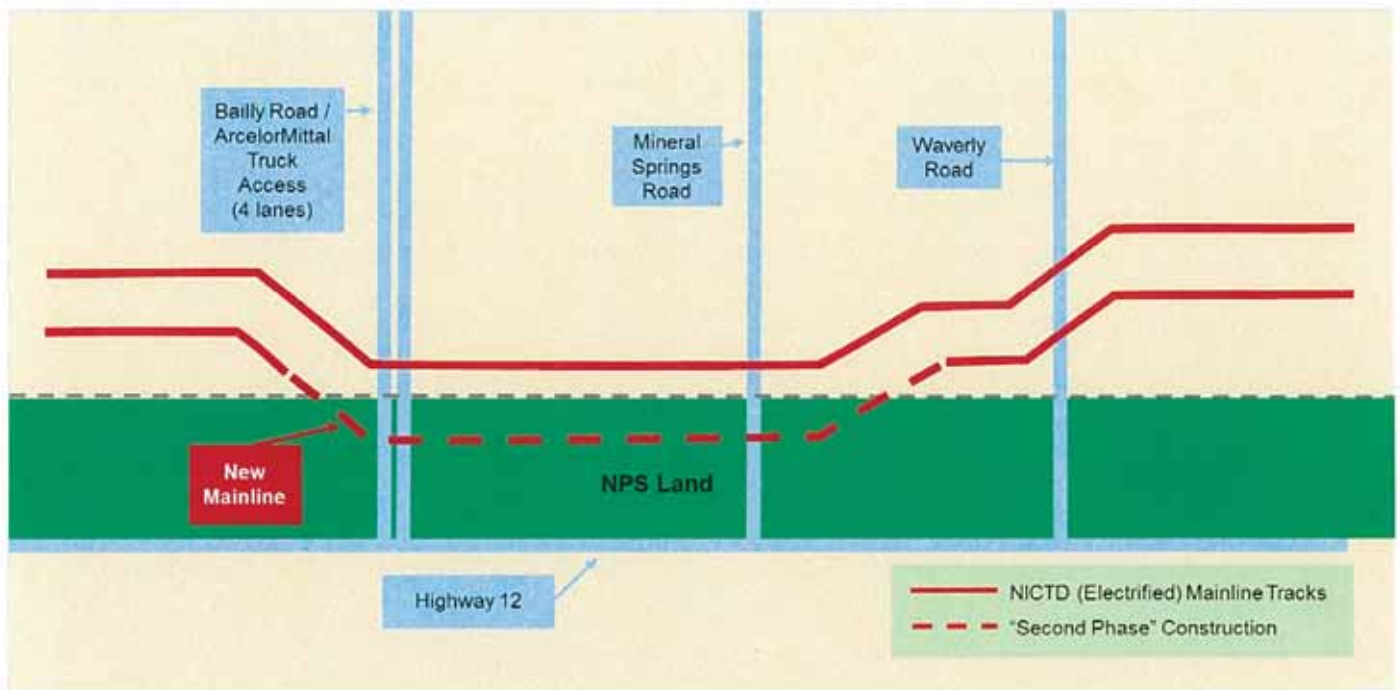
Exhibit VI-4: Design Option 2/2A Phased Approach: First Phase Mainline Configuration³⁶



The “second phase” would be the later addition of a second mainline to Bailly – to bridge the 1.75 mile gap – once land acquisition had been completed (Exhibit VI-5).

³⁶ Source: Oliver Wyman analysis.

Exhibit VI-5: Design Option 2/2A Phased Approach: Second Phase Mainline Configuration³⁷



The final benefit of Design Option 4 stated in the EA is that it would not impact NPS parkland. Although this is true, the other issues raised by Design Option 4 are severe enough in terms of their adverse long-term impacts on freight and commuter operations that it is unclear why the conversion of a small amount of parkland – which was previously railroad-owned land – is not being prioritized. Procuring a small amount of land for at least one track of right-of-way from NPS would provide the only feasible solution of the Design Options presented in the EA to support the current and future operations of both CSS and SSL.


D. Safety Impacts of Design Options

Finally, there is the issue of how the various design options will impact safety. Exhibit VI-6 provides a summary of the safety risk levels associated with each Design Option considered

³⁷ Source: Oliver Wyman analysis.

above. Our analysis of safety risks centered around the track layouts for each option and the corresponding amount of time Oliver Wyman predicts freight activity would utilize the NICTD mainline or mainlines during switching operations. Design Options 2 and 2A thus carry the least risk from a safety perspective.

Exhibit VI-6: Summary Safety Assessment of Bailly Double-Track Options³⁸

Design Option (report pages)	Synopsis	Safety Risk
No Build Alternative (2-1 to 2-2)	No change to layout	Same as today
Option 0 (2-11)	Layout static at Bailly, add second mainline track east and west of Bailly	Increased
Option 4 (2-14 to 2-16)	SSL operate 2 tracks to south, CSS 2 north, with new "Wilson" siding to west for railcar sorting/ storage	Increased
Option 2 (2-12 to 2-13)	Change layout, SSL operate 2 tracks to south, CSS 3 north; NPS land required for one track	Reduced
Option 2A (2-14)	Same as Option 2 but CSS has 4 tracks; NPS land required for one track	Reduced
		

The No Build Alternative would maintain the current level of risk. It is worth noting that the No Build Alternative has a baseline level of some risk that likely concerns rail managers both at CSS and NICTD. Every day, passenger train movements operate at a maximum authorized speed of 79 mph through Bailly, while decelerating to 60 mph at the Bailly Road grade crossing. These passenger trains navigate a "canyon" of standing freight cars and catenary poles at Bailly. Exhibit VI-7 shows this "canyon" as it would be seen by an engineer on a passenger train

³⁸ Source: Oliver Wyman analysis.

operating at 79 mph. With grade crossings at both ends of the “canyon,” locomotive engineers have little sight distance to react to any unforeseen dangers.

Exhibit VI-7: View of the Bailly Freight “Canyon” from a Passenger Train³⁹



Design Option 0 would create a bottleneck due to the proposed increase in passenger trains operating over a single-track mainline segment. This added passenger train volume without much capacity relief would lead to an increase in safety concerns, and these safety concerns are especially compounded by the continuation of separated north and south yard tracks, resulting in continued freight train usage of the mainline at Bailly. Due to the combination of higher passenger train counts and the unchanged separation of yard tracks that require continuing freight train mainline interference, Oliver Wyman believes that Design Option 0 is an untenable solution.

³⁹ Source: CSS.

The EA's preferred Design Option 4 also represents an increased safety risk when compared to Options 2 and 2A. While the "Bailly North" track could be used as a switch lead, the fact that trains would need to reposition approximately two miles to outlying siding tracks such as the enhanced "Wilson" siding increases the risk profile, since slow-speed freight switching operations will be occurring over lines on which passenger trains will be operating at 79 mph. Design Option 4 is also untenable because safety risks will be exacerbated by the need to cross over the two mainlines from the Bailly tracks on the north side to the Wilson track on the south side, as well as the four-mile roundtrip CSS trains would need to travel between Bailly and Wilson.

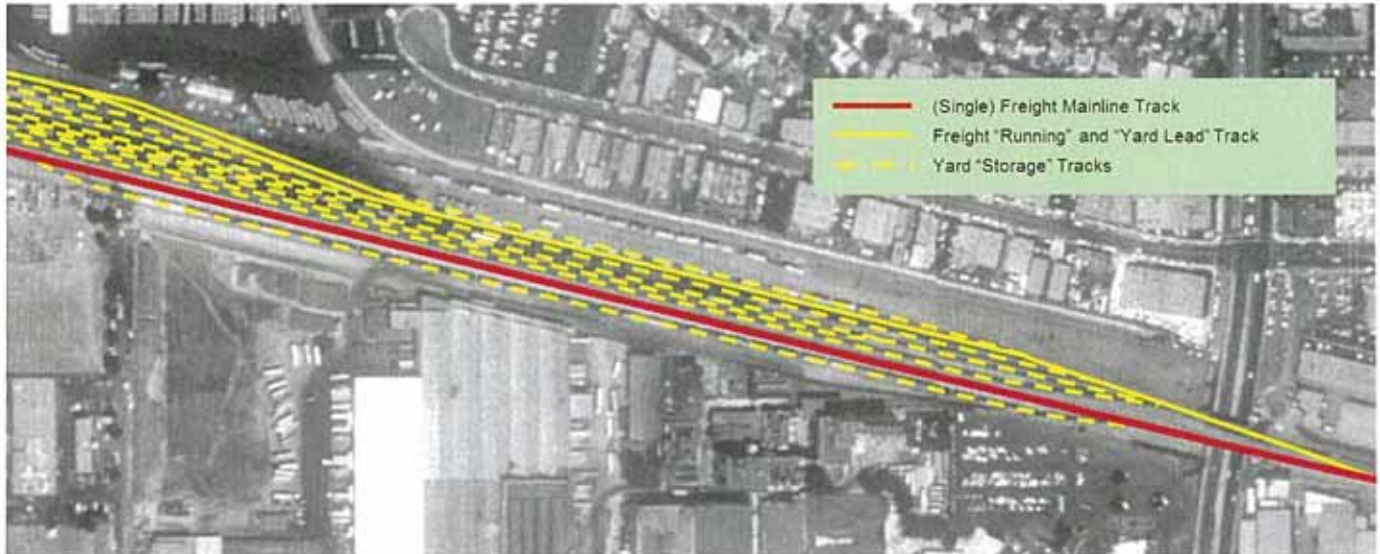
Design Options 2 and 2A represent less risk than the aforementioned options because switching operations will happen off the mainline and freight and passenger operations will be segregated from each other. In addition, if a railcar derails while it is traveling through a switch, it is less likely to foul an adjacent mainline track where a passenger train might be operating. Although positive train control (PTC) can help protect against train versus train collisions on a single line (e.g., the system knows if there is a train ahead and can stop a train violating a speed restriction) it cannot protect against what is happening on an adjacent track before or during the simultaneous passing of a passenger train on the mainline.

E. Example of Design Option 2/2A Implementation

Design Options 2 and 2A are clearly the best choices because they segregate freight and passenger operations to maximize safety, while providing side-by-side yard tracks. A real-world example of a similar implementation can be found at the former Southern Pacific (now Union Pacific) "GEMCO" yard at Van Nuys, CA.

GEMCO is a local yard, i.e., it is used to switch cars for local customers. Circa 1989, prior to a change in rail infrastructure, most yard tracks and switching activity occurred on the north side of the mainline, with an additional yard track south of the mainline. Thus, the mainline bisected the yard tracks – a physical layout nearly identical to Bailly today (Exhibit VI-8).

Exhibit VI-8: 1989: Southern Pacific Railroad GEMCO Yard in Van Nuys CA⁴⁰



In 1990, a group of California county governments purchased approximately 175 miles of former freight railroad track from Southern Pacific to create a commuter rail system called Metrolink. Freight service is permitted over Metrolink trackage, similar to how CSS operates over NICTD. Shortly after the sale and after closure of a large auto plant at GEMCO following Metrolink's creation, the yard track on the south part of the mainline was deemed surplus and was converted into a second mainline. The new double-track mainline was segregated from freight railroad operations (Exhibit VI-9).

⁴⁰ Source: Google Earth, Oliver Wyman.

Exhibit VI-9: 2016: Metrolink Mainline/Union Pacific GEMCO Yard in Van Nuys, CA⁴¹



The double-tracking of the mainline through an established freight yard area at GEMCO is similar to what is proposed in Design Options 2 and 2A for Bailly. At GEMCO, the passenger railroad gained a second mainline, while freight crossover moves across the mainline were eliminated and yard tracks remained side by side, as proposed in Design Options 2 and 2A. The changes at GEMCO provided strong operational benefits while not degrading safety, as is the case for Design Options 2 and 2A.

⁴¹ Source: Google Earth, Oliver Wyman.

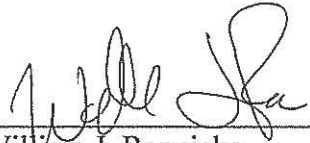
VII. Conclusion

In conclusion, the choice of a Design Option for Bailly will critically impact both passenger and freight operations in Northwest Indiana. NICTD states that it needs a double-tracked mainline if it is to increase passenger train frequencies and expand passenger services. CSS needs to ensure that it can continue to provide competitive common carrier freight service to Northwest Indiana shippers. In addition, all parties want to ensure that any changes which are made will maximize railroad safety.

Design Option 4 is preferred in the EA but would adversely affect the ability of CSS to maintain its current level of freight operations and service to its customers. Only Design Options 2 and 2A provide the operational flexibility and capacity to enable NICTD to meet its operational and capacity goals as stated in the EA; ensure CSS can maintain its current service levels, grow freight volumes in the future, and preserve competitive options for area freight shippers; and not degrade safety. In addition, only Design Options 2 and 2A fully separate freight and passenger activities, thereby also enhancing safety compared to all of the other options presented.

VERIFICATION

I, William J. Rennie, declare under penalty of perjury, that the foregoing Expert Report by Oliver Wyman is true and correct and that I am qualified and authorized to make this statement.



William J. Rennie

Executed on October 23, 2017.



ATTACHMENT B

CSS Retraction letter



Chicago South Shore & South Bend Railroad



505 North Carroll Avenue
Michigan City, IN 46360
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Fax: (219) 879-3754

Railway Exchange Building
224 South Michigan Ave. Suite 330
Chicago, IL 60604
Tel: (312) 341-1026
Fax: (312) 362-1402

August 10, 2018

BY FEDERAL EXPRESS

Kelley Brookins
Acting Regional Administrator
Federal Transit Administration, Region V
200 West Adams Street, Suite 320
Chicago, IL 60606

Re: Written Comments of Chicago South Shore & South Bend Railroad on the Environmental Assessment and Section 4(f) Evaluation for the Double Track NWI Project

Dear Ms. Brookins:

Chicago South Shore & South Bend Railroad (CSS) submits the following update pertaining to its Written Comments submitted on October 23, 2017 to the Federal Transit Administration (FTA) and Northern Indiana Commuter Transportation District (NICTD) on the Environmental Assessment and Section 4(f) Evaluation for the Double Track NWI Project Gary to Michigan City, Indiana (EA). The Double Track NWI Project (Project) involves proposed infrastructure improvements to the single track main line, including a segment of the line at Bailly where the single mainline runs between three CSS-owned freight switching and storage yard tracks.

The EA's proposed design (Design Option 4) for the Project at Bailly would take one of the three CSS-owned switching/storage tracks for the second (double track) main line, leave CSS with two reconfigured switching storage tracks at Bailly, and provide one separate switching/storage track approximately two miles from Bailly on the opposite side of the main lines from the two reconfigured storage/switching tracks.

In its Written Comments, CSS expressed serious operational, safety, and legal concerns over Design Option 4 and asked that the Project not proceed to the Engineering phase until the concerns raised by CSS were resolved.

CSS wishes to advise the FTA that CSS and NICTD have entered into a Double Track Agreement (DT Agreement) setting forth a proposed course of action, which, if implemented, is expected to satisfactorily address and resolve the issues raised by CSS in its Written Comments.



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In addition, CSS and NICTD each have entered into agreements with Northern Indiana Public Service Company LLC (NIPSCO) that are referenced in the DT Agreement. A copy of the DT Agreement is attached. Specifically, the new design would provide CSS with sufficient switching and storage yard tracks all at Bailly, all adjacent to each other, and all on the same side of the double track main line. (The new design is Attachment AA to the DT Agreement.)

As a result, CSS is withdrawing the request in its Written Comments that the Project not proceed to the Engineering phase of the FTA's evaluation for Project funding. An explanation of how each of CSS's concerns is expected to be resolved is set forth below.

Resolution of Concerns

DESIGN OPTION 4 ADVERSELY AFFECTS FREIGHT AND COMMUTER OPERATIONS

Concern:

In its Written Comments, CSS explained that, based in part on a Report from the consulting firm Oliver Wyman (OW), Design Option 4 would have a material adverse effect on CSS's freight operations, operational efficiency, and ability to offer competitive options to shippers.

Resolution:

This issue is expected to be resolved through implementation of the new track design contemplated in the DT Agreement. The newly designed CSS tracks would have the capacity and configuration to provide service to freight customers at levels comparable to the service CSS presently provides on its yard tracks at Bailly. Accordingly, freight service should not be adversely impacted.

DESIGN OPTION 4 DEGRADES SAFETY

Concern:

The Written Comments and the OW Report explained that the EA's safety assessment was incorrect for Design Option 4 because freight and passenger operations would not be fully separated, the new design would require an additional crossing of the mainline track not required today, and the new four-mile round trip that CSS would need to travel to access its third yard track.

Resolution:

This issue is expected to be resolved through implementation of the new track design contemplated in the DT Agreement. The safety concerns raised by CSS having to cross and operate over the main line when moving between yard tracks will no longer be an issue because all of the CSS tracks will be on the same side of the main line.



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DESIGN OPTION 4 IS INCONSISTENT WITH NICTD/CSS AGREEMENTS

Concern:

The Written Comments and the OW Report concluded that Design Option 4 is inconsistent with the terms of the Memorandum Agreement and Trackage Rights Agreement between NICTD and CSS because it would not allow CSS to provide the same level of service it currently provides, would have a material adverse effect on CSS's freight operations, would impose an additional burden on CSS and on interstate commerce, and would adversely affect CSS's performance of its common carrier obligations under federal regulations. The Written Comments further explained that the increase in passenger train frequency resulting from the Project will require renegotiation of dispatching protocols between CSS and NICTD in order for NICTD to meet its dispatching service obligations under the Memorandum Agreement and Trackage Rights Agreement.

Resolution:

This issue is expected to be resolved through implementation of the new track design contemplated in the DT Agreement. The new design, if implemented, will, in CSS's opinion, be consistent with the terms of the Memorandum Agreement and Trackage Right Agreement.

PROPERTY ACQUISITION FOR DESIGN OPTION 4 IS REQUIRED AND PROBLEMATIC

Concern:

CSS noted that Design Option 4 would require NICTD's acquisition of an interest in CSS property for the proposed two new main lines, and that could involve an eminent domain proceeding if CSS did not concur in the acquisition. CSS explained that if it did not concur because of the adverse effect on switching operations at Bailly, NICTD's acquisition of the CSS property would be problematic. Federal law gives the Surface Transportation Board exclusive jurisdiction over interstate freight railroad transportation.

Resolution:

This issue is expected to be resolved through implementation of the new track design contemplated in the DT Agreement. Since freight service would not be adversely affected if the new track design is implemented, there would be no legal issues giving rise to the need for Federal preemption.

DESIGN OPTIONS 2 and 2A ARE THE ONLY FEASIBLE OPTIONS IN THE EA

Concern:

CSS explained that only Design Options 2 and 2A meet the Project's stated operational and capacity goals for NICTD, meet CSS's current and projected operational and service needs, and do not degrade safety.



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Resolution:

This issue is expected to be resolved through implementation of the new track design contemplated in the DT Agreement. CSS believes the new design is the functional equivalent of the EA's Design Options 2 or 2A.


Updated CSS Position on the EA

The DT Agreement contemplates that the parties will enter into definitive agreements regarding their respective obligations. The DT Agreement further specifically states that the modified Design Option 4 (as shown on Attachment AA to the DT Agreement) will be implemented through the property transfer agreements that are in place between NICTD and NIPSCO, and between CSS and NIPSCO, which are appended to the DT Agreement. Moreover, the design is conditioned at the outset in the DT Agreement upon the approval and receipt of FTA funding for the Project.

Although all of the necessary agreements that may be required are not in place at this time, CSS believes that, with the execution of the DT Agreement and the NIPSCO agreements, the operational and safety concerns raised by CSS in its Written Comments have been identified and a process is underway for the timely completion of those agreements and the fulfillment of the undertakings and commitments in the agreements.

As stated above, in view of the above developments, CSS can now support the advancement of the Project to the Engineering phase. CSS withdraws the request in its Written Comments that the Project not proceed to the Engineering phase of the FTA's evaluation for funding. CSS supports the broad objectives of the Project; and CSS commits to continue working with NICTD to reach final agreement on all matters relating to the modified design so that the Project's goals can be achieved while protecting freight operations. However, in light of the fact that the transactions described in the DT Agreement must be consummated in order to address the operational and safety issues raised by CSS, CSS reserves its right to object to the Project if those transactions are not consummated or if NICTD seeks to implement a design option at Bailly other than modified Design Option 4 as shown on Attachment AA to the DT Agreement.

Respectfully submitted,


Todd Bjornstad
President

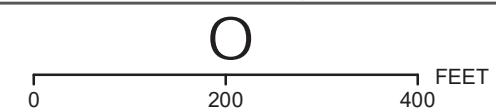


ATTACHMENT C

Revised Mapbook (Select Sheets)

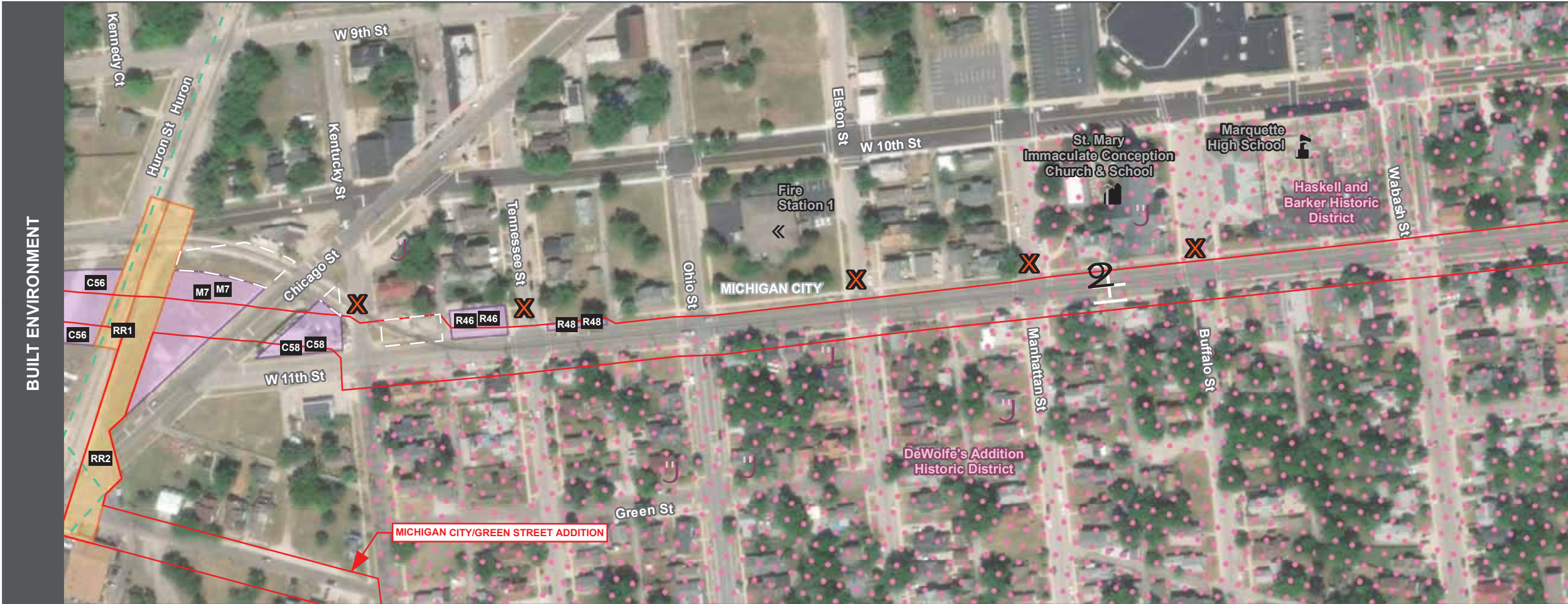
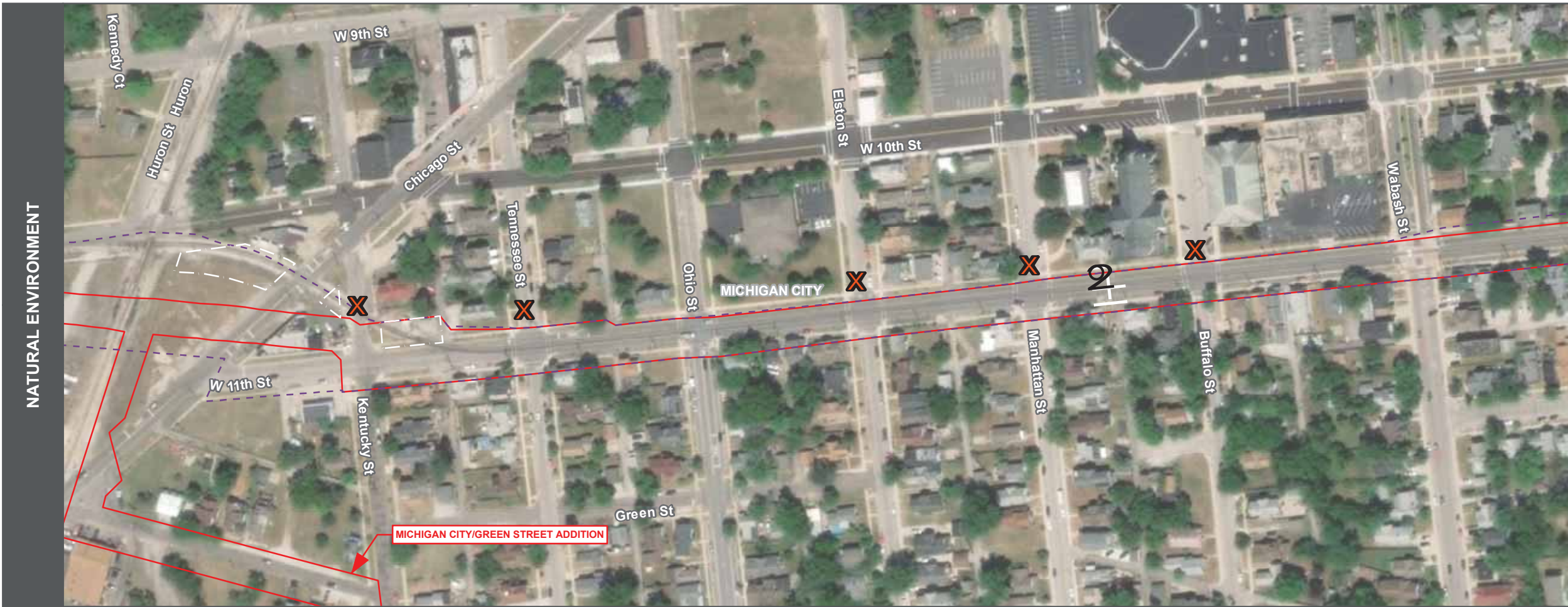
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*CSS8 eliminated, RR2 expanded, CSS Agreement transfer areas added



Data for reference only





Legend

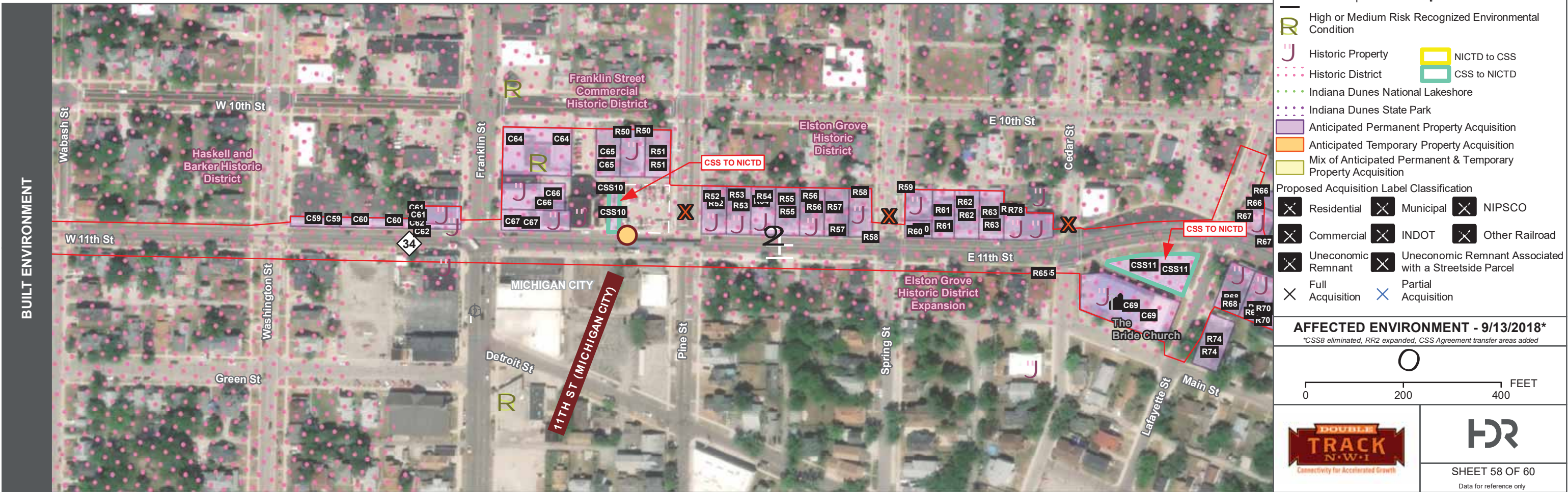
- Proposed Construction Footprint
- Railroad Right-of-Way
- Milepost
- Proposed New NICTD Bridge
- Proposed Station Parking
- Proposed Crossing Closure
- Environmental Survey Boundary
- Potential Threatened & Endangered Species Habitat
- Potential Bat Roost Habitat
- High-Quality Aquatic Resource
- Aquatic Resource
- NIPSCO Wetland
- NWI Wetland
- Stream
- Existing Trail
- School
- Place of Worship
- Police Department
- High or Medium Risk Recognized Environmental Condition
- Historic Property
- Historic District
- Indiana Dunes National Lakeshore
- Indiana Dunes State Park
- Anticipated Permanent Property Acquisition
- Anticipated Temporary Property Acquisition
- Mix of Anticipated Permanent & Temporary Property Acquisition
- Proposed Acquisition Label Classification
- Residential
- Commercial
- Uneconomic Remnant
- Full Acquisition
- Municipal
- INDOT
- Uneconomic Remnant Associated with a Streetside Parcel
- Partial Acquisition
- NIPSCO
- Other Railroad
- NICTD Station
- 100-Year Floodplain
- Impaired Stream
- Planned Trail
- Fire Station
- Marina
- Public Place
- NICTD to CSS
- CSS to NICTD

AFFECTED ENVIRONMENT - 9/13/2018*
*CSS8 eliminated, RR2 expanded, CSS Agreement transfer areas added

0 200 400 FEET

DOUBLE TRACK N.W.I.
Connectivity for Accelerated Growth

HR
SHEET 57 OF 60
Data for reference only



BACKGROUND SOURCE: ESRI, DIGITALGLOBE, GEOEYE, EARTHSTAR GEOGRAPHICS, CNES/AIRBUS DS, USDA, USGS, AEROGRIID, IGN, AND THE GIS USER COMMUNITY

DATA SOURCES: Environmental Systems Research Institute, Indiana Department of Environmental Management, Indiana Historic Sites and Structures Inventory, Northern Indiana Public Service Company, National Resource Commission, Northern Indiana Commuter Transportation District, U.S. National Park Service, U.S. Census Bureau, U.S. Geological Survey, U.S. Department of the Interior, U.S. Fish & Wildlife Service



ATTACHMENT D

Architectural History Evaluation of Green Street and SHPO Correspondence



Memo

Date:	Monday, August 13, 2018
Project:	Double Track Northwest Indiana Project
To:	Nicole Barker, NICTD
From:	Jeanne Barnes, HDR
Subject:	Green Street Design Changes, Michigan City, Section 106 Update

As the design of the Double Track Northwest Indiana Project (the Project) has progressed, and through on-going collaboration between the Northern Indiana Commuter Transportation District (NICTD) and Michigan City, it has been determined that Green Street between Kentucky and Chicago Streets must be improved in order to better accommodate City services and emergency vehicles after the Project is constructed. This change results in an expansion of the Project's construction footprint. As a result, the Area of Potential Effects (APE) under Section 106 of the National Historic Preservation Act must also be expanded to take into account the Project changes. There are no previously identified archaeological resources within the expanded APE along Green Street. Ground disturbance for the Project is expected to be limited to within 10 to 15 feet of Green Street, which would be within the limits of previous disturbance due to existing sidewalks and prior installation of public utilities. Therefore, no archaeological survey was conducted within the expanded APE and no further archaeological investigations are recommended. Properties that are more than 50 years old within the expanded APE have been surveyed by Secretary of the Interior-qualified architectural historians at HDR. Surveyed properties were evaluated for listing in the National Register of Historic Places (NRHP); none are recommended eligible either individually or as part of a historic district. Therefore, the proposed changes along Green Street will have no effect on historic properties as none are located within the expanded APE.

Existing Conditions

Green Street is an east-west, 20' wide, rural local, street without curbs, drainage or shoulders, and connects Kentucky Street and Chicago Street (Figure 1). The right-of-way is 66' wide and Michigan City owns and maintains it. There are residential properties on both sides, as well as some vacant land and one commercial business.

Kentucky Street is a north-south local street that intersects 11th Street to the north. It is owned and maintained by Michigan City. The Michigan City Public Works Department and emergency vehicles currently use Kentucky Street and 10th Street as a primary route to access and serve the west side of the City. This route requires that the vehicles cross 11th Street and the existing South Shore Line tracks at Kentucky Street. There are residences on both sides of the street, and the previously identified DeWolfe's Addition historic district is located north and east of the intersection with Green Street.



Chicago Street is also a north-south local street that intersects 11th Street to the north. It is adjacent to the Amtrak line on the west and there are residences and vacant land on the east. According to LaPorte County Assessor Data, Seaboard System Railroad Inc/CSXT owns that portion of the right-of-way that intersects with Green Street, likely due to its proximity to the adjacent rail line (LaPorte County Assessor 2017).

Environmental Assessment Preferred Alternative

The Preferred Alternative identified in the Double Track Northwest Indiana Environmental Assessment (EA) includes constructing two tracks within the 11th Street right-of-way, and converting this two-way road to one-way eastbound. The new alignment will close several intersecting roadways, including Kentucky Street.

Changes to the Preferred Alternative

During discussions with Michigan City that were concluded after publication of the EA, Michigan City informed NICTD that closing the Kentucky/11th Street intersection would eliminate the direct route that the City's Public Works vehicles and emergency vehicles use to access the west side of the City. The City requested that NICTD identify an alternate route for these vehicles to use.

The closest and most reasonable east-west road to address this issue is Green Street, between Kentucky Street and Chicago Street, just to the south of the Kentucky/11th Street intersection. Given the condition of Green Street as described above, NICTD modified the Project and construction footprint to include the upgrade of Green Street with one 16' travel lane in each direction, curb and gutter, and a five foot sidewalk on both sides. As shown in the Typical Section in Figure 2, this work will occur within the 66' right-of-way that is owned by Michigan City. The Green Street/Chicago Street intersection will also be improved to define the travel ways of the large angled intersection near the Amtrak railroad crossing. Figure 2 shows a conceptual plan for the improvements.

Figure 1. Area of Potential Effects, showing Expanded APE south of Green Street (in purple)

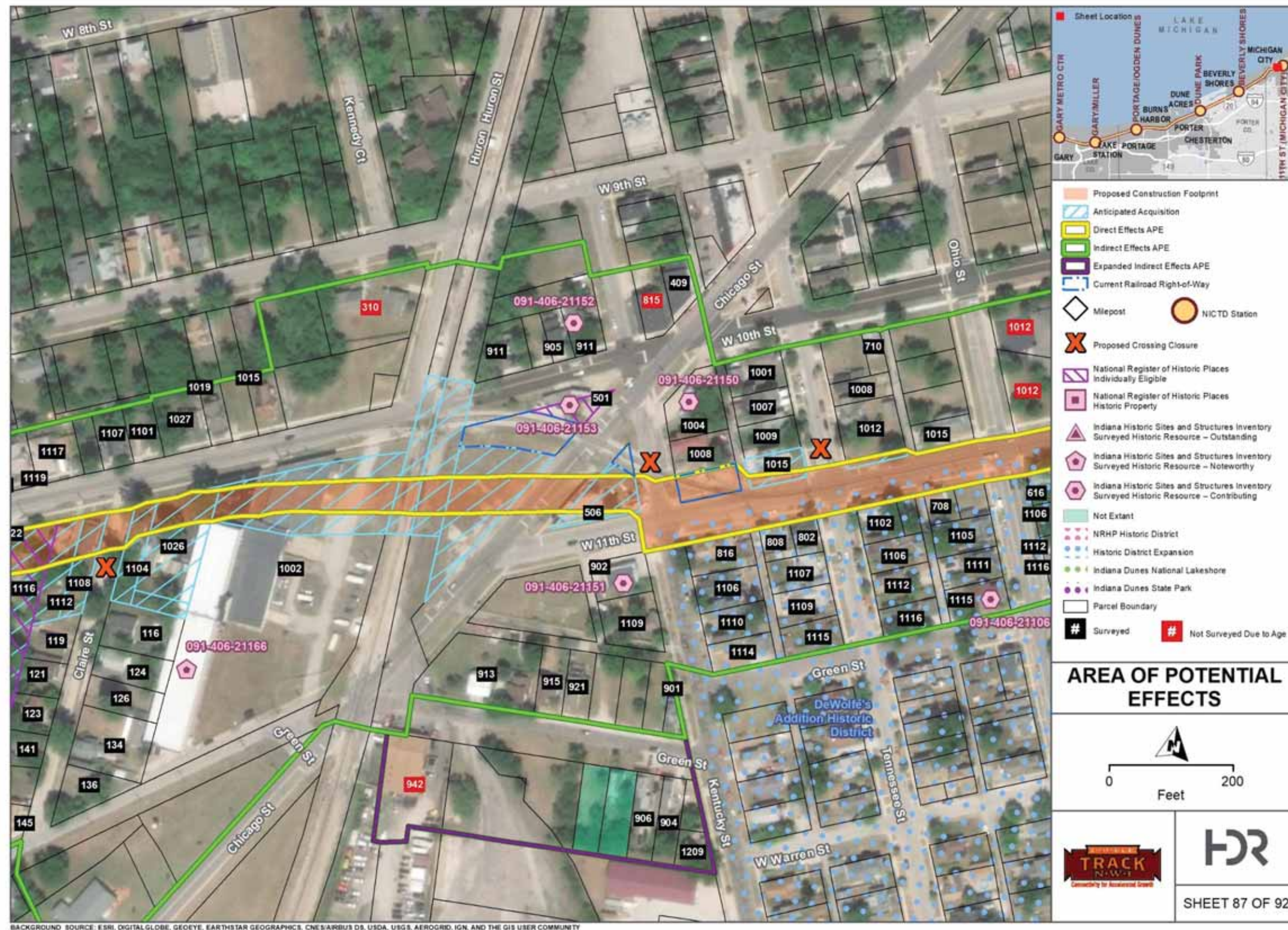
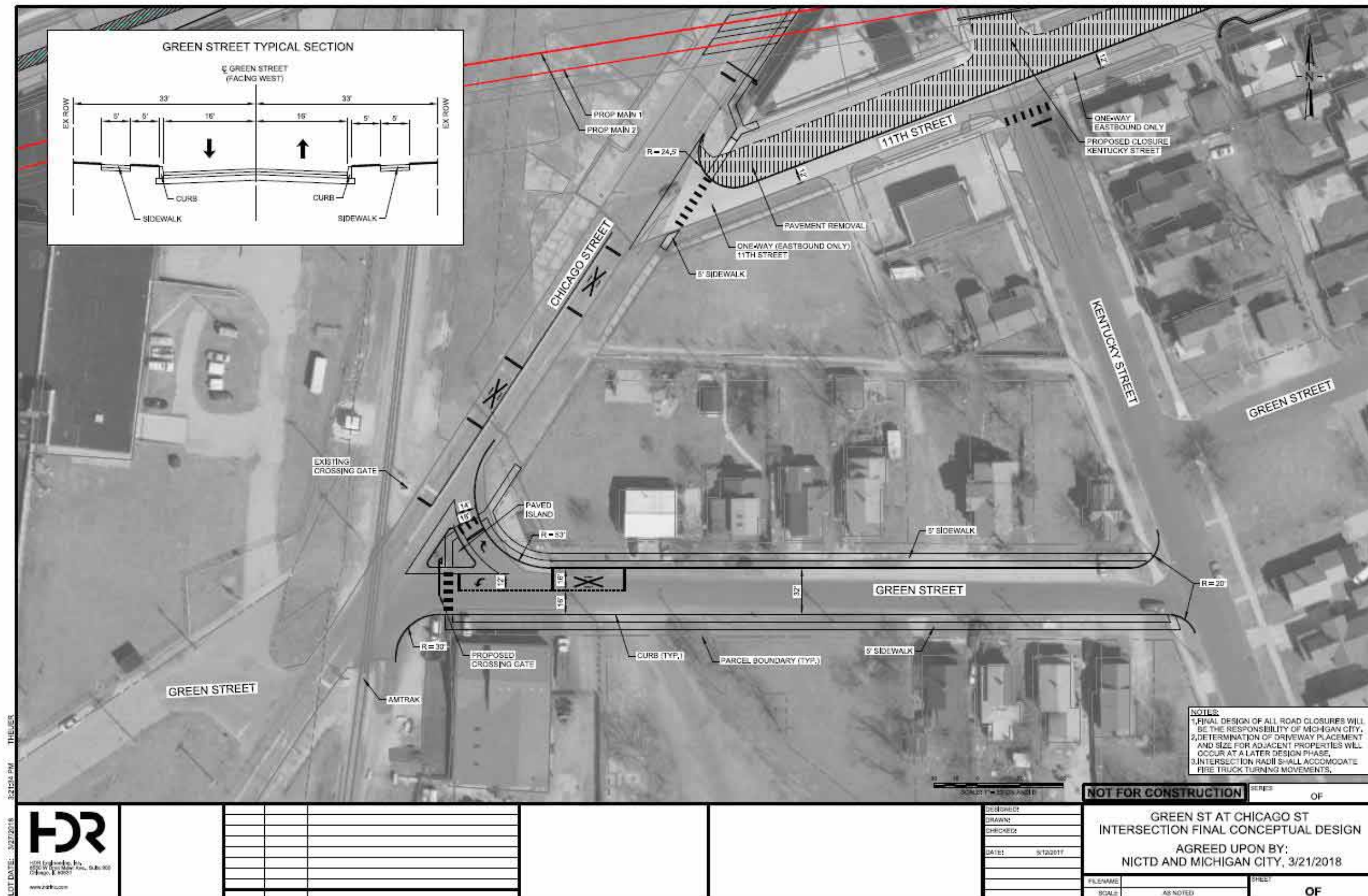


Figure 2. Green Street Conceptual Plan





Expanded Area of Potential Effects

The APE has been adjusted to accommodate the proposed design changes on Green Street and takes into account both potential direct and indirect effects (see Figure 1). The north side of Green Street between Chicago Street and Kentucky Street was previously included in the indirect effects APE for the Project. The expansion of the APE includes the properties on the south side of Green Street between Chicago Street and Kentucky Street, which includes four parcels with standing structures.

Identification of Historic Properties

Of the four parcels with standing structures within the expanded APE, only three are more than 50 years of age: 906 Green Street, 904 Green Street, and 1209 Green Street. The remaining property at 942 Green Street (Moore's Auto Repair) was constructed in 1986 (LaPorte County Assessor) and was not evaluated for NRHP eligibility.

The residential block bound by Green Street, Kentucky Street, William Street, and the Michigan Central Railroad was historically platted as Robert's Patch. The area, located then at the southwest reaches of Michigan City, closely neighbored some of the city's major industrial properties on its south and west: by the 1890s, Alaska Refrigeration Company stood at 10th, Green, and Chicago Streets; a chair factory (owned by several companies successively) stood immediately southwest of the refrigeration company; Haskell & Barker Car Company comprised multiple parcels immediately southwest of the Green and Kentucky Street intersection; a lumber yard and saw mill was located southeast of Green Street and the railroad; and the Northern Indiana State Prison stood just west of the tracks (Figure 3-Figure 4). East of the 900 block of Green Street stood the residentially-developed DeWolfe's Addition, which was occupied primarily by laborers employed at Haskell and Barker Car Company, the chair factory, and the prison (Figure 5). As part of the EA and the previous Section 106 consultation for the Project, DeWolfe's Addition was determined eligible for listing in the NRHP in 2017 under Criterion A as an example of community development at the peak of Michigan City's industrial and residential growth, as well as under Criterion C as an example of a cohesive, intact collection of turn-of-the-century middle class architecture. A more in-depth discussion of DeWolfe's Addition Historic District and the historical development of Michigan City is provided in the Segment 1 Historic Property Report for the NICTD Double Track NWI Project, Michigan City to Gary, Indiana (HDR August 2017).

Figure 3. The surveyed properties in context, showing proximity to the railroad, Haskell & Barker, lumber and coal yards

(Sanborn Fire Insurance Map of Michigan City, 1905, courtesy of Indiana University Bloomington).



Figure 4. Detail of the three surveyed residences; properties with red circles are no longer extant

(Sanborn Fire Insurance Map of Michigan City, 1905, courtesy of Indiana University Bloomington).

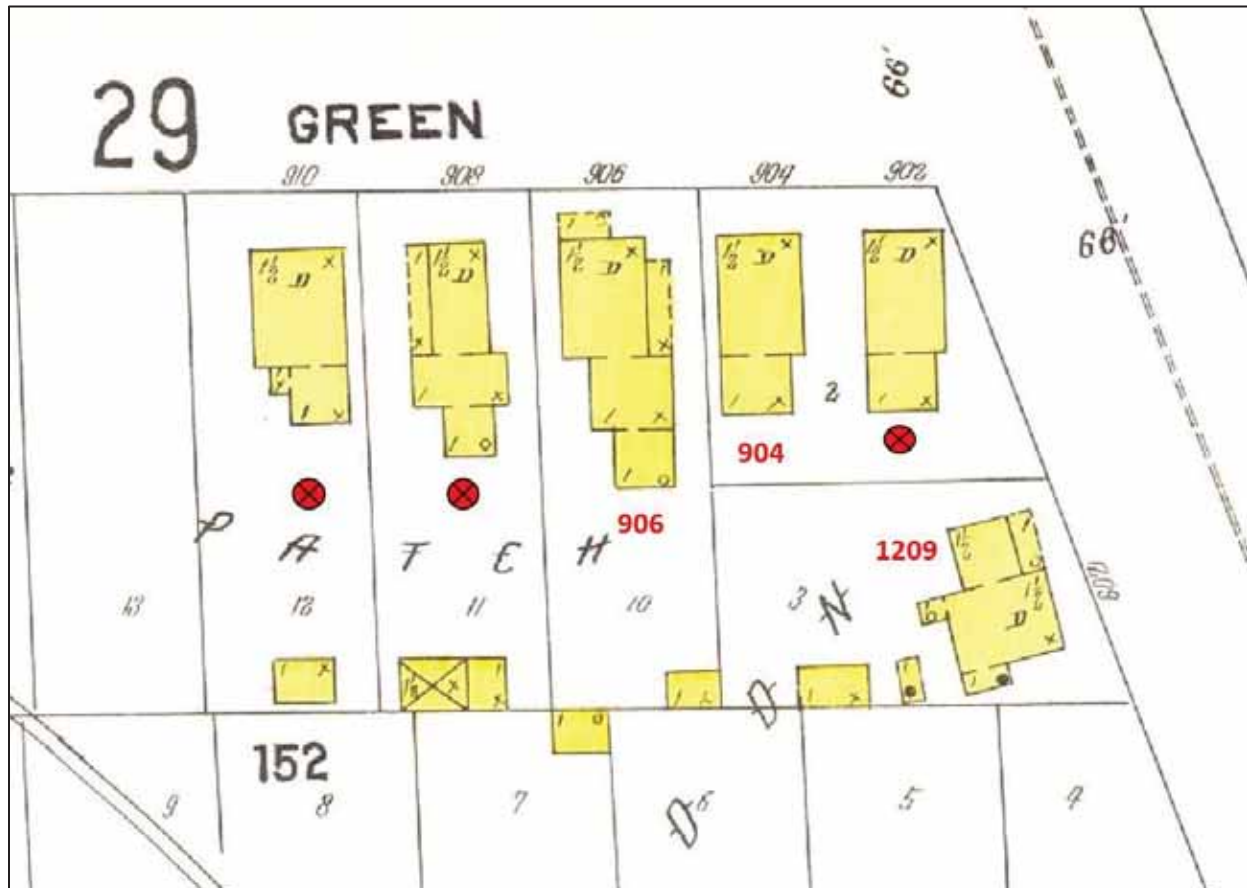
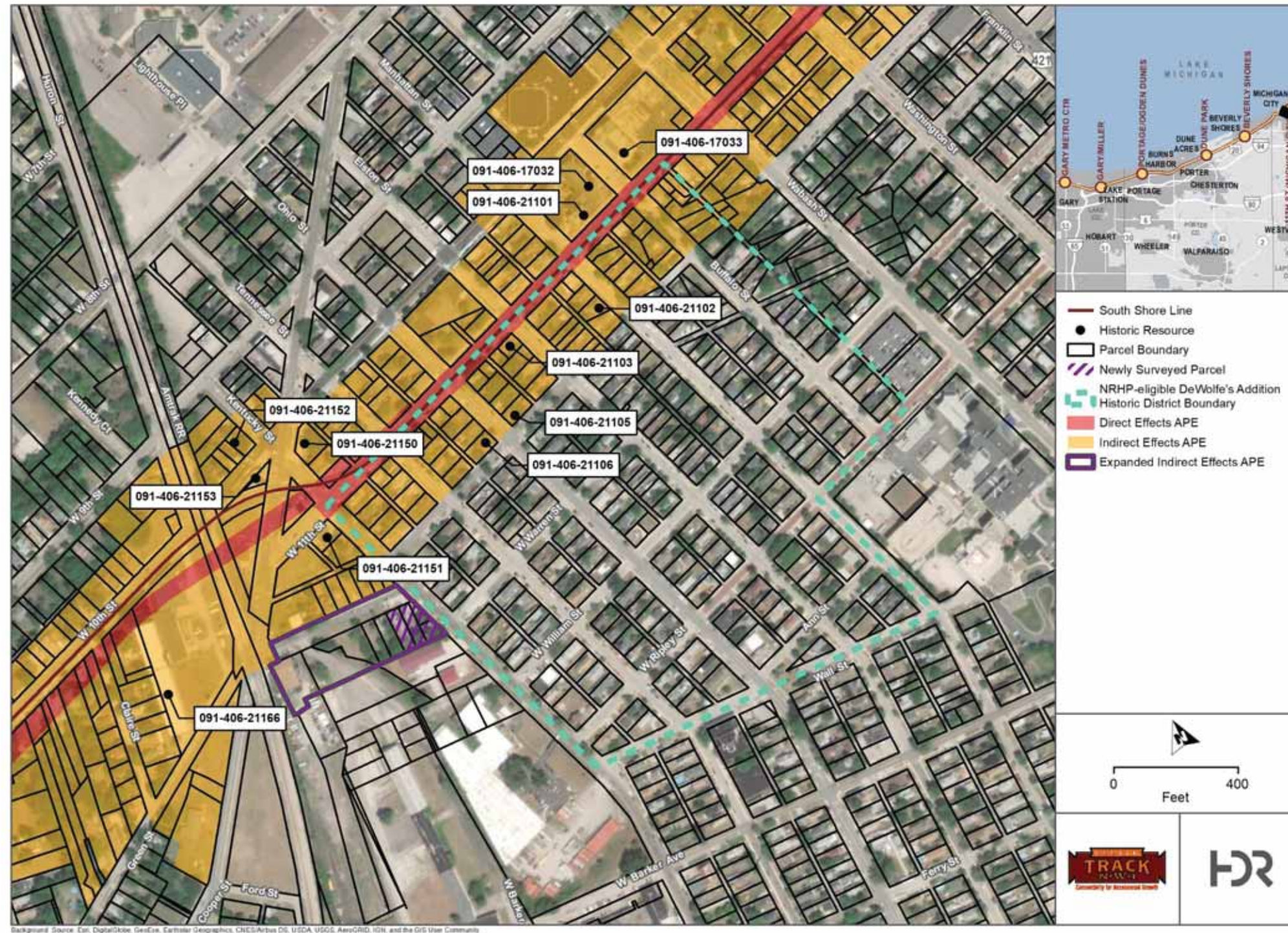


Figure 5. Location of newly surveyed properties in relation to the NRHP-eligible DeWolfe's Addition Historic District.

(Newly surveyed properties shown in purple hashing. Parcels west of these are no longer extant)



906 GREEN STREET

According to LaPorte County Assessor data, the dwelling at 906 Green Street was built in 1890. The 1.5-story building is two bays wide and has a rectangular form. It is capped by a front-gable roof and sits on a raised concrete block foundation, facing north onto Green Street (Figure 6 - Figure 7). The wood frame building is clad in horizontal composite siding. The roof has narrow, closed overhanging eaves and is covered with asphalt shingles. A full-width front (north) porch, enclosed c. 1955, has a hipped roof with closed overhanging eaves, and is clad in horizontal composite siding.

The primary building entrance is located on the east (side) wall of the enclosed porch, and contains a modern replacement door, opening onto concrete steps with a wood balustrade. Located on the first story façade (north wall of the enclosed porch) are two sets of three 1/1 sash windows covered by metal storms. The front gable contains one pair of 1/1 replacement sash windows covered with metal storms.

Side elevation (east and west) windows include single and paired 1/1 sash windows, likely set in original openings. Two 1-story rear additions, one gabled and the southernmost hipped, are located at the southeast corner of the building. A secondary entrance is located at the southeast juncture of the additions and the main block. The additions have been present since as early as 1905. A central brick chimney protrudes from the ridgeline.

Figure 6. 906 Green Street, view southeast.



Figure 7. 906 Green Street, view southeast.



The dwelling at 906 Green Street first appears on historic maps and in available city directories in 1890. Directories from the late nineteenth and early twentieth century indicate that the earliest and perhaps original occupant of the residence may have been William Harris, a switchman for the Monon Central Railroad. In 1893, two men identified as laborers, Edward Walters and Gottlieb Menke, lived in the residence, probably alongside Harris; by 1905, four additional Harrises were resident at 906 Green Street. These individuals included at various times between 1905 and 1913 William Harris and his wife Emma, and Maude, Linda, Hazel (a student), and Walter Harris (machinist). The two rear additions of the house were likely built after original construction of the house to accommodate the large family.

Research does not reveal the dwelling at 906 Green Street to be associated with significant historic patterns, events, themes, or people (Criteria A and B). An extensive and more intact collection of working class dwellings stands just east of the property at 906, in the NRHP-eligible DeWolfe's Addition Historic District. The building at 906 Green Street exhibits a form and architectural features common to late nineteenth century residential construction, represented by better and more intact examples in Michigan City and throughout the region (Criterion C). The property is unlikely to yield information important to historical research (Criterion D). Though constructed adjacent to and contemporaneously with the NRHP-eligible DeWolfe's Addition Historic District, the 900 block of Green Street was platted and developed separately, and additionally retains low integrity. The majority of the residential building stock on the north and south sides of this block has been demolished, and remaining properties, including the house at 906, display considerable loss of historic materials. The house at 906 Green Street has been altered over the years, including replacement siding, windows, and doors, as well as the enclosure

of the original front porch, the reinforcement of the foundation with non-historic material, and new stoops/stairs added at entries to the building. The property at 906 Green Street does not convey significance individually or in association with a historic district, and is recommended Not Eligible for listing in the NRHP.

904 GREEN STREET

According to LaPorte County Assessor data, the dwelling at 904 Green Street was built in 1898. The building stands on the southwest corner of Green and Kentucky Streets, and faces north onto Green Street (Figure 8). The 1.5-story building is two bays wide and has a rectangular form. The wood-frame building is clad with vinyl siding and is capped by a front-gable roof of asphalt shingles with overhanging boxed eaves. The building sits on a raised foundation, which appears to be parged. A full-width, replacement porch on the façade (north elevation) consists of a wood deck with a wood railing and square wood posts supporting a hipped roof covered by asphalt shingles. The porch foundation is enclosed by horizontal wood board (**Error! Reference source not found.**). The primary building entrance in the east bay of the façade and contains a modern replacement door. All windows on the building are replacement vinyl sash. First story façade windows include two single 1/1 windows with simulated muntins. Second story façade windows include two centrally arranged single 1/1 windows with simulated muntins. A rectangular vent is located in the upper gable on the facade. Side elevation (east and west) windows on the original block of the house include single 1/1 windows. A shed roof dormer addition is present on the east roof slope and contains two single windows. A 2-story, gabled, non-historic addition clad in vinyl is located at the rear of the dwelling. An uncovered wood deck wraps around the rear addition.

Figure 8. 904 Green Street, view south.



Figure 9. 904 Green Street, view east.



The dwelling at 904 Green Street first appears on historic maps and in available city directories in 1905. Directories from the early twentieth century indicate that the earliest and perhaps original occupants of the residence were the Thode family, including Mary, George, and William. The two men were identified as laborers. By 1910, the William and Anna Binder resided at 904 Green Street. William Binder was an upholsterer and was likely employed at the nearby Ford & Johnson Chair Factory. By 1913, the dwelling was evidently operating as a boarding house. Boarders at this time included four members of the Oshinski family, one employed at Zorn Brewing Company and three women who worked as machinists at FH Burnham Glove Company, and Peter J. Novak, a fitter for the Haskell & Barker Car Company, and his wife Theodora. The 1.5-story house had at this time a single 1-story rear addition, and living areas were therefore likely full to capacity or more. This block of Green Street was filled with boarding houses, many located on the north side of the street as well, and occupied almost exclusively by the working class.

Research does not reveal the dwelling at 904 Green Street to be associated with significant historic patterns, events, themes, or people (Criteria A and B). An extensive and more intact collection of working class dwellings stands just east of the property at 904, in the NRHP-eligible DeWolfe's Addition Historic District. The building at 904 Green Street exhibits a form and architectural features common to late nineteenth century residential construction, represented by better and more intact examples in Michigan City and throughout the region (Criterion C). The property is unlikely to yield information important to historical research (Criterion D). Though constructed adjacent to and contemporaneously with the DeWolfe's Addition Historic District, the 900 block of Green Street was platted and developed separately, and additionally possesses low integrity. The majority of the residential building stock on the north and south sides of this block

has been demolished, and remaining properties, including the house at 904 Green Street, display considerable loss of historic materials. Siding, windows, doors, and the front porch have been replaced, and a large non-historic (date unknown) addition built onto the rear of the house nearly doubles its original footprint. The property at 904 Green Street does not convey significance individually or in association with a historic district, and is recommended Not Eligible for listing in the NRHP.

1209 KENTUCKY STREET

According to LaPorte County Assessor data, the dwelling at 1209 Kentucky Street was built in 1879. The 1.5-story front gable-and-wing building has a cross gable roof and sits on a raised concrete foundation. The building stands on the west side of Kentucky Street and faces east (Figure 10- Figure 11). The wood frame building is clad in asbestos shingles. The roof has narrow, closed overhanging eaves and is covered with asphalt shingles. An original front (east) porch covering the side gable wing has been removed, with just a raised, uncovered wood deck remaining, accessed by a low set of concrete steps.

The façade (east elevation) contains two adjacent front entrances, one entering the front gable wing and one on the side gable wing. The front gable entrance rests in a wood frame and contains a panel door with upper lights covered by a glazed wood-frame storm door. The side gable entrance rests in a wood frame with a pedimented hood, and contains a glazed door covered (and obscured) by a wood storm door with a missing upper light. Three single sash windows with wood frames and pedimented hoods flank the two entrances. A pair of 1/1 sash windows in a pedimented wood frame is located in the upper front gable. All windows were likely originally 2/2 in configuration, but only the north window on the first story of the façade is intact; all others contain replacement sash in original openings. All windows are covered with storms. South (side) elevation fenestration includes single replacement sash windows on the first story, as well as rectangular basement windows. North (side) elevation windows include a 2/2 sash window in a pedimented wood surround in the gable, likely original, and two single 1/1 sash windows on the first story. A central brick chimney protrudes from the ridgeline of the front-gabled wing. No substantial additions are visible, and the building retains the same footprint visible on the 1905 Sanborn fire insurance map (Figure 4).

The dwelling at 1209 Kentucky Street first appears on historic maps in 1905 when the area around the expanded APE was first mapped, however the LaPorte County tax assessor indicates the building was constructed ca. 1879. The building's style, form, and materials confirm the ca. 1879 date. City directories for the surrounding blocks prior to 1905 indicate that nearby residents listed at addresses near 1209 Kentucky Street included painters, woodworkers (for the chair factory), and general laborers. In 1905, Gustave Jegottke, a laborer, and his wife Mary were listed as residents of 1209. The next resident listed at 1209 Kentucky is Ervan H. Nicholas, a cutter at FH Burnham Glove Company. Nicholas was identified in the 1913 city directory as a boarder, however, the Jegottke family is no longer noted in the Michigan City directory.

Figure 10. 1209 Kentucky Street, view west.



Figure 11. 1209 Kentucky Street, view southwest.





Research does not reveal the dwelling at 1209 Kentucky Street to be associated with significant historical patterns, events, themes, or people (Criteria A and B). Research does not reveal the dwelling at 1209 Green Street to be associated with significant historic patterns, events, themes, or people (Criteria A and B). An extensive and more intact collection of working class dwellings stands just east of the property at 1209, in the NRHP-eligible DeWolfe's Addition Historic District. The building exhibits a form and architectural features common to late nineteenth century residential construction, represented by better and more intact examples in Michigan City and throughout the region (Criterion C). The property is unlikely to yield information important to historical research (Criterion D). Though constructed adjacent to and contemporaneously with the DeWolfe's Addition Historic District, the 900 block of Green Street and 1200 block of Kentucky Street were platted and developed separately, and additionally retain low integrity. The majority of the residential building stock on the north and south sides of Green Street, as well as Kentucky Street just south of the Green Street intersection, has been demolished, and remaining properties, including the house at 1209 Kentucky, display considerable loss of historic materials. Siding, windows, and the front porch have been removed or replaced. The property at 1209 Kentucky Street does not convey significance individually or in association with a historic district, and is recommended Not Eligible for listing in the NRHP.

Assessment of Effects

The three surveyed properties in the expanded APE are recommended Not Eligible for listing in the NRHP. As a result, there are no historic properties in the expanded APE and the proposed design changes along Green Street will have no effect on historic properties.



References

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August 15, 2018

Chad Slider
Assistant Director for Environmental Review
Indiana Department of Natural Resources
Historic Preservation & Archaeology
402 West Washington Street, Room W274
Indianapolis, IN 46204

Re: Expanded APE, Identification of Historic Properties, and Assessment of Effects for Proposed
Design Changes on Green Street, Michigan City, LaPorte County, Double Track NWI Project
(DHPA No. 19318)

Dear Mr. Slider,

As part of its responsibilities under 36 C.F.R. Part 800 – Protection of Historic Properties and the National Historic Preservation Act (NHPA), the Federal Transit Administration (FTA) is writing to continue Section 106 consultation for the Double Track NWI Project (the Project) as design changes have been identified. As a result of on-going collaboration between the Northern Indiana Commuter Transportation District (NICTD) (the Grantee) and Michigan City, it has been determined that Green Street between Kentucky and Chicago Streets in Michigan City must be improved in order to better accommodate City services and emergency vehicles after the Project is constructed. Improvements include upgrading Green Street with one 16' travel lane in each direction, adding curbs and gutters, and the installation of five foot sidewalks on both sides. The Green Street/Chicago Street intersection will also be improved to define the travel ways of the large angled intersection near the Amtrak railroad crossing.

In compliance with Section 106 of the NHPA, and in accordance with the procedures related to the identification of historic properties described in the implementing regulations at 36 C.F.R. § 800, FTA has determined the following for the Project based on the enclosed memo:

1. The expanded APE for properties potentially impacted by the project follows the geographic, visual, and land use barriers around the design change described above. The APE was developed based upon the scope of the design change and considered potential visual effects, auditory effects, and any changes in the way historic properties are used. The north side of Green Street between Chicago Street and Kentucky Street was previously included in the Project APE. The expansion of the APE includes the properties on the south side of Green Street between Chicago Street and Kentucky Street, which includes four parcels with standing structures.

2. There are no previously identified archaeological resources within the expanded APE along the south side of Green Street. Ground disturbance for the Project is expected to be limited to 10 to 15 feet of Green Street, which would be within the limits of previous disturbance due to existing sidewalks and prior installation of public utilities. Therefore, no archaeological survey was conducted within the expanded APE and no further archaeological investigations are recommended.
3. Of the four parcels with standing structures within the expanded APE, only three structures are more than 50 years of age: 906 Green Street, 904 Green Street, and 1209 Green Street. The remaining property at 942 Green Street (Moore's Auto Repair) was constructed in 1986 and was not evaluated for NRHP eligibility. Field survey and research was conducted by Secretary of Interior-qualified architectural historians who found that none of the three resources meet the NRHP eligibility criteria. Therefore, there are no historic properties within the expanded APE.
4. The design changes will result in **no historic properties affected**.

Thank you in advance for your continued assistance on this Project. We look forward to receiving your concurrence with FTA's Section 106 determinations within 30 days of receipt of this letter. Should you have any questions regarding this submittal, please feel free to contact Susan Weber of the FTA Region 5 Office at (312) 353-3888 or susan.weber@dot.gov.

Sincerely,

Jay Ciavarella
Director, Office of Planning and Program Development

Enclosures: Green Street Design Changes, Michigan City, Section 106 Update

ecc: John Carr, DHPA – Structures
Wade Tharp, DHPA – Archeology
Susan Weber, FTA
Elizabeth Breiseth, FTA
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September 14, 2018

Jay Ciavarella
Director, Office of Planning and Program Development
Federal Transit Administration, Region V
200 West Adams Street, Suite 320
Chicago, Illinois 60606

Federal Agency: Federal Transit Administration, Region V ("FTA")

State Agency: Northern Indiana Commuter Transportation District ("NICTD")

Re: FTA's August 15, 2018, letter, with August 13, 2018, memorandum, from HDR to NICTD enclosed, regarding the Double Track Northwest Indiana Project, as it pertains to Design Changes on Green Street in Michigan City, LaPorte County, Indiana (DHPA No. 19318)

Dear Mr. Ciavarella:

Pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. § 306108), and 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO staff" or "INDNR-DHPA") has reviewed your August 15 letter and enclosure, which we received on August 15.

Your August 15 letter explains that its purpose is "to continue consultation for the Double Track NWI Project," because NICTD and the City of Michigan City have determined "that Green Street between Kentucky and Chicago Streets in Michigan City must be improved in order to better accommodate City Services and emergency vehicles after the Project is constructed." Thank you for notifying us of the change in the project planning and for the need to expand the area of potential effects ("APE").

We accept the proposed expansion of the APE for the Double Track Northwest Indiana Project, although the boundaries of the expansion area are somewhat tightly drawn. It appears to us that some of the proposed improvements to Green Street could be visible from the west side of Chicago Street, beyond the western project terminus, and, especially, from a few houses within the National Register of Historic Places-eligible DeWolfe's Addition on the east side of Kentucky Street, beyond the eastern project terminus.

We agree with FTA's conclusion, based on the HDR memorandum, that the houses at 906 and 904 Green Street and the house at 1209 Kentucky Street exceed 50 years in age but do not hold sufficient significance to be eligible for inclusion in the National Register of Historic Places ("NRHP"). We also agree that the auto repair shop at 942 Green Street appears not to be old enough to be NRHP-eligible.

Additionally, based on the submitted information and documentation available to the staff of the Indiana SHPO, we have not identified any currently known archaeological resources listed in or eligible for inclusion in the NRHP within the additional portions of the proposed project area; and it is our opinion that no further archaeological investigations appear necessary at this proposed project area. However, this identification is subject to the project activities remaining within areas disturbed by previous construction of a recent and non-historical nature. If archaeological deposits are encountered from the post-contact period, they will be evaluated regarding their eligibility for the NRHP in consultation with the staff of the Indiana SHPO. Please contact our office if such deposits are encountered. The archaeological recording must be done in accordance with the Secretary of the Interior's "Standards and Guidelines for Archaeology and Historic Preservation" (48 F.R. 44716) and a report of the archaeological documentation must be submitted to our office for review and comment.


If any prehistoric or historic archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and -29) requires that the discovery be reported to the Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology ("IDNR-DHPA") within two (2) business days. In that event, please call (317) 232-1646. Be advised that adherence to Indiana Code 14-21-1-27 and -29 does not obviate the need to adhere to applicable federal statutes and regulations, including but not limited to 36 C.F.R. Part 800.

Accordingly, we agree that there are no historic properties within the Green Street expansion of the APE for the Double Track Northwest Indiana Project.

If you have questions about above-ground properties related to this project, please contact John Carr at (317) 233-1949 or jcarr@dnr.in.gov. Questions about archaeological matters should be directed to Wade T. Tharp at (317) 232-1650 or wtharp1@dnr.in.gov.

In all future correspondence about the Double Track Northwest Indiana Project (also known as NICTD Double Track NWI), please continue to refer to DHPA No. 19318.

Very truly yours,



Christopher A. Smith
Deputy Director
Indiana Department of Natural Resources

CAS:JLC:WTT:wt

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