

CONSIDERATIONS OF AIRPORT AND  
SECONDARY ROAD ABANDONMENT

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## ABSTRACT

### CONSIDERATIONS OF AIRPORT AND SECONDARY ROAD ABANDONMENT

This paper results from a larger study which has as a goal the development of an operational plan which coordinates considerations of re-use potential with transportation property abandonments. Its ultimate motive is to facilitate efficient resource allocation and environmental quality in the abandonment context. The study embraces prospective abandonments of rail branch lines, secondary roads, and general aviation airports and major emphasis is given to public recreational re-use.

Within this report the discussion first focuses on secondary road abandonments. The material presented shows that this phenomenon is a significant public issue, not yet having received adequate consideration in a resource allocation framework. However, this is a road maintenance and improvement issue and not one of re-use. In particular, abandoned road links, typically one quarter to one mile in length, are not connected and have very low recreational potential.

Airports, which would have a potentially varied set of recreational uses, are not being abandoned to any appreciable extent. Abandonment of small (sod) private fields occasionally occurs at the landowners initiative but in these cases public participation in the process is restricted.

In the context of the parent study neither airports nor highways warrant extensive consideration even though the latter is a problem of public importance. Emphasis on recreational re-use effectively narrows the focus of the study to rail branch-line abandonments.



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Table of Contents

I.	Introduction	1
II.	Highways	2
	A. Secondary Roads and the Abandonment Issue	2
	B. Scope of the Problem	2
	C. Criteria for Secondary Road Abandonment and the Statutory Abandonment Process in Iowa	6
	D. Examples of Legal Problems in Secondary Road Abandonment: Damages in Iowa	7
	E. Secondary Roads and the Re-Use Paradigm	15
III.	Airports	19
	A. Military	20
	B. Municipal	21
	C. Private	22
	D. Abandonment of Airports by State	23
IV.	Summary	26
V.	Appendix	30

## CONSIDERATIONS OF AIRPORT AND SECONDARY ROAD ABANDONMENT

### I. Introduction

This report focuses on the problems associated with the abandonment of secondary roads and airports in the United States. The former is somewhat unique and primarily a problem of rural America. The elimination of these facilities is a phenomenon which can be associated with an early national policy intended to "bring rural America out of the mud." An oversaturation of secondary roads has developed as farming units have increased in size. It is quite common for many of these facilities to carry less than 25 vehicles per day. In the following section secondary roads have been addressed with particular focus placed on Iowa abandonment cases within a legal frame of reference.

In airport abandonments, again national policy is directly related to a majority of abandonments of airport facilities. In this case, World War II construction for defense and training facilities resulted in unused supply in the immediate post-war period. Military facilities therefore, form the predominate class of airport abandonments although economic forces and urban growth have been factors in municipal airport abandonments. In some cases urban growth has limited the ability of the municipal airport to expand to meet increasing demand. In other cases low patronage has resulted in uneconomical service to small towns and cities and in some cases these facilities have been abandoned. Several private air facilities have been converted to other uses, most generally these were grass strips when in use as a runway. In the second section of this report the results of a national survey of airport abandonments are presented. The response to the questionnaire included references to military, municipal, and private airports.



## II. Highways

### A. Secondary Roads and the Abandonment Issue

Because the issue of secondary road abandonment is of considerable concern to someone almost every time an abandonment is attempted, there exists a long history of litigation on the issue. This study focuses on Iowa cases and the findings are presented in the following four sections. The nature and scope of the problem is discussed next and then the text deals with the criteria and process of abandonment. The major portion of this section contains examples of legal issues and the question of damages. This is followed by a final comment on the issue of secondary road vacations within the context of a re-use paradigm for abandonment decisions.

### B. Scope of the Problem

State legislation controls the disposition of abandoned highways. These states' statutes generally comprehend two direct causes of highway abandonment, and, the recent adoption of laws limiting the traditional governmental immunity for injurious conduct has created a third cause. The direct causes are petition and consent to abandon by abutting owners and relocation of the highway. The third cause arises when the state statute, as is typical amongst the jurisdictions, creates a duty for the Highway Department to inspect and maintain bridges specifically and roads in general. Because many states lack the resources to adequately inspect and maintain all the roads and bridges within their jurisdiction, they face the risk of liability under Tort Claims Acts for negligently failing to meet their statutory duty. Such a risk creates pressure to abandon low density roads.

State laws generally contain procedures whereby landowners abutting the highway may petition for vacation of the road. For example, in Delaware, the Superior Court has jurisdiction to vacate roads and bridges. The Highway Department may apply to the Court for an abandonment



upon application of five or more "freeholders" of the county in which the road or bridge desired to be vacated is located. The Court, in either case, appoints "five judicious and impartial freeholders" to evaluate the vacation request and make a determination of the necessity of the highway. They are also to assess the benefit or injury which may accrue to all parties of interest, and recommend what costs the owners ought to pay, or what compensation they ought to receive. The recommendation by the commission of freeholders is subject to review and reversal by the Court.

Most states' codes, Delaware's included, contain provisions for vacation of public roads by administrative action of the Highway Department. Relocation of the highway and the inability to adequately maintain the roads are the primary causes of administrative action to seek vacation of the highway. The notice provisions typically include publication of the hearing date in local papers along with written notice mailed to abutting owners.

The pattern of these statutes is as follows:

1. statement of purpose and delegation of power to a highway regulatory agency
2. notice provisions
3. hearing provisions, and
4. a section granting power to make decisions, issue orders, and enforce the orders.

All states have statutes with provisions for disposition of the old highway upon its relocation. Generally the road reverts back to the owner if the state or county had acquired only a right-of-way easement, but if the state had purchased fee simple title, the land is disposed of according to laws regulating the use of abandoned highway property, if a specific statute exists, or according to laws regulating the sale of state surplus property. In Oregon, for example, one of the powers and duties of the State Highway Commission is the treatment of sections eliminated when a highway is relocated. Their first responsibility is to the persons served by the old highway. If continuation of services is necessary for these



people, the state is required to maintain the road at state expense. If there is no necessity of continuation, the property reverts to abutting owners or is sold by the state according to provisions for the sale of state real property. However, when, in the judgment of the Commission, the right-of-way is valuable or needed for public use, the Commission may declare that purpose by resolution entered in its records, and retain the right-of-way for public use. This "needed for public use" provision is exceptional; very few other states have statutes with the flexibility to authorize alternative public uses of abandoned rights-of-way.

Vacation of highways because of the inability to adequately maintain them occurs when the volume of traffic, limited access, and the type of traffic do not justify the maintenance costs. Most states delegate authority to county agencies to supervise secondary roads, and the county therefore has the duty to decide if vacation is appropriate, and if so, in what manner to dispose of the road. They also face the issue of compensating owners damaged by the vacation.

Oregon, however, has provisions for disposition of a county highway vacated by the county other than by reversion or sale. If persons residing on the road and depending upon it for access protest the vacation, the supervisors may by order declare the road a public easement and no longer a county road. Thereby the road is kept open to the "public" (primarily the dependent resident) but the county's duties to maintain the road are relieved. Thus the private user of the road is required to rely on his own rather than public funds to maintain a road primarily benefiting that private party. This procedure eliminates many of the issues of compensatory damages claimed by abutting owners or residents which arise when vacation of a road cuts off their access to the highway system, or to other property.

California has the most comprehensive abandoned highway right-of-way reuse legislation and it could be used as a model by other states.



The California legislature, by statute, declared a policy to "foster and encourage the use of bicycles by the citizens" of that state. The premises of the policy are the popularity of bicycles for transportation and recreation purposes, the fact that bicycles do not cause air pollution, and the availability of bicycles to people of all age and income categories. Implementation of this policy is to be achieved partly by imposing a duty on cities, counties, local agencies, and the state, to grant preferential consideration to establishing bicycle paths on all rights-of-way established for a public purpose and subject to abandonment. If an affirmative determination is made, the local agencies shall either retain the right-of-way for bicycle paths or assume the right-of-way made available by the state.

Thus, California law expressly imposes a reservation of re-use of a highway right-of-way for bicycle paths. The Department of Transportation consults the Department of Parks and Recreation to determine if the right-of-way could be developed as bicycle paths. Utility companies with facilities present in the area included in the proposed abandonment are advised of the proposal and afforded an opportunity to reserve use of the right-of-way to lay underground lines, pipes, etc. Thus there may be multiple re-use of the abandoned right-of-way.

It has been estimated that over 3,000 miles of roads in Iowa with low traffic volume should be considered for vacation.<sup>1</sup> Johnson County would like to vacate one hundred miles of low traffic secondary roads or nearly ten percent of the county's total secondary road mileage. In varying degree the other ninety-eight counties of Iowa have a similar desire.

In recent years several forces have been converging to provide impact to the question of vacating such roads. The population density of rural areas has decreased sharply while little change has occurred in the number of secondary roads. In 1920 Iowa had a rural population of 1,528,000 and 97,440 miles of secondary roads. By 1960 the rural



population had dropped fifty-six percent to 662,000 but there were still 91,000 miles of secondary roads -- only a seven percent decrease.<sup>2</sup> At the same time, the average farm size has increased, changing access needs. Many roads that once were needed for access to homes, schools, or markets are now used primarily to move animals and machinery to fields. The easy access provided by the roads helps keep farming costs down. Yet the high cost of maintenance and replacement of road surface, shoulders, culverts, and bridges must be met through public funds provided mostly by nonusers of these segments.<sup>3</sup> In addition, if the county fails to maintain roads adequately it can be held liable for property damage and personal injuries.<sup>4</sup> Counties have limited resources and to adequately maintain many of these route segments would require a substantial portion of yearly resources just to eliminate existing hazards. The total needs exceed yearly resources many times. In sum, vacating secondary roads in Iowa presents the problem of finding a satisfactory mechanism of adapting the road network to the changing patterns of population distribution, land use, and technology.

Iowa's problem is probably shared by other farm states whose road systems were laid out in the grid pattern. An exact estimate of the scope of the problem is difficult, since few states have developed criteria for evaluating low traffic secondary roads. In a survey of 47 state highway departments, to which 32 states responded, 12 had common practices regarding the vacation of low traffic secondary roads,<sup>5</sup> 11 had special methods of identifying secondary road use patterns,<sup>6</sup> 12 had established criteria for determining the value of secondary roads,<sup>7</sup> and 12 had developed factors to determine maintenance costs or the cost of bringing the roads up to safety standards.<sup>8</sup> Relatively few states, then, have a mechanism to estimate the mileage of secondary roads which should be vacated.

C. Criteria for Secondary Road Abandonment and the Statutory Abandonment Process In Iowa

The Iowa Code does not specify criteria which must be used in



determining the viability of low traffic secondary roads. However, a survey of 89 county engineers in Iowa, to which 79 responded, indicated that the engineers consider several common criteria. These criteria include, in the order of their importance: number of residence, average daily traffic count, abutting land ownership pattern, condition of structures, number and type of structures, field access to adjacent farms, school bus route, mail route, road use by others not owning abutting property, surface type, road length, dead end road, condition of surface, and utility lines.<sup>9</sup>

After selecting a likely candidate for abandonment, the engineer recommends to the county board of supervisors that the road be vacated. Under the Iowa Code, the board has the power to vacate any highway in its jurisdiction. Iowa Code § 306.10 (1973). The board must fix a date for a hearing on the vacation in the county where the road is to be vacated. Ibid. § 306.11. All adjoining property owners, utility companies whose facilities adjoin the road right-of-way, and commissions or boards in control of affected State lands must be notified of the time and place of the hearing.

Notice of the hearing must be published in a newspaper in the county where the road is located at least twenty days before the hearing Ibid. § 306.12. Any interested person may appear at the hearing, object, and be heard. Ibid. § 306.14. Any abutting owner has the right to file a claim for damage at any time on or before the date fixed for hearing. Ibid. The amount of the damage award can be appealed to the district court of the county where the land is located. Ibid. § 306.17.

D. Examples of Legal Problems in Secondary Road Abandonment:  
Damages in Iowa

Two limitations have been imposed on the right to recover damages on the vacation of a road in Iowa. First, the Iowa Code provides that "Any person owning land abutting on a road which it is proposed to vacate and close shall have the right to file ... a claim for damages ..." Iowa



Code § 306.14 (1973). Under this provision, a nonabutting owner could not recover damages where closing a portion of the road results in traveling a circuitous route between two tracts of a single unit. Warren v. Iowa State Highway Commission, 250 Iowa 473, 93 N.W. 2d 60 (1958).\*

Several reasons underlie this limitation on recovery. The property abutment criterion in the vacated road is an objective test that the courts can apply easily. In addition, this limitation minimizes the administrative costs of finding injured parties and distributing damages. If everyone who was damaged could recover -- including people traveling through the area who were diverted by the vacation -- administrative costs might well exceed the damage suffered.

A second limitation on recovery applied in early cases is that the vacation must interfere with or cut off the abutting owner's access to the general system of highways. In this case the owner suffers a special injury, different in kind from that suffered by the general public. For example, in Long v. Wilson, 119 Iowa 267, 93 N.W. 282 (1903), the plaintiff stated that the defendant had obstructed all but a thirteen foot strip of the street abutting the plaintiff's property. This street was the only convenient access to his property. In upholding the plaintiff's pleading, the court reasoned that:

It is important to the individual owner of abutting property that he shall be able to get to and from his residence or business and that the public shall have the means of getting there for social or business purposes. In such a case access to thoroughfares connecting his property with other parts of the city has a peculiar value to him.  
Ibid.

When the property owner's access to the general system of highways has not been affected, he cannot recover. In Livingston v. Cunningham, 188 Iowa 254, 175 N.W. 980 (1920), a nonabutting property owner could not enjoin the vacation of a road or recover damages, even though he had

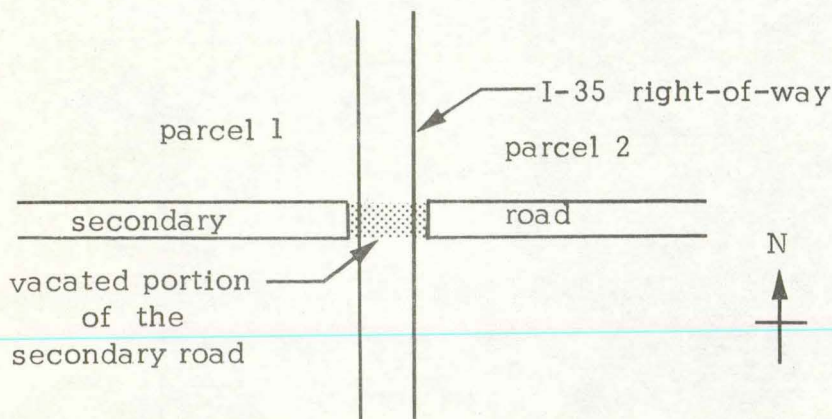
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\* See the appendix for a note on legal citations.



to travel four miles instead of forty rods to get ice from the river. He did not show that the vacation would affect the access to his property.

The access limitation becomes crucial in a case where the road vacation destroys convenient access to a farmer's fields but does not cut off access to the highway system. This may occur when the farmer uses the vacated road to reach fields within a single tract or to go between two tracts farmed as a single unit. Since this is a common situation and vacation could have an important impact on agriculture, it merits particular attention. The Iowa Supreme Court discussed this problem extensively in Warren v. Iowa State Highway Commission, 250 Iowa 473, 93 N.W. 2d 60 (1958). The plaintiff in Warren owned two tracts of land that were farmed as a single unit. She used a secondary road to go between the tracts. When Interstate 35 was built, the secondary road was closed on both sides of the right-of-way, leaving one tract of land on either side. Closing the road required the plaintiff to travel a circuitous three mile route from one tract to the other.

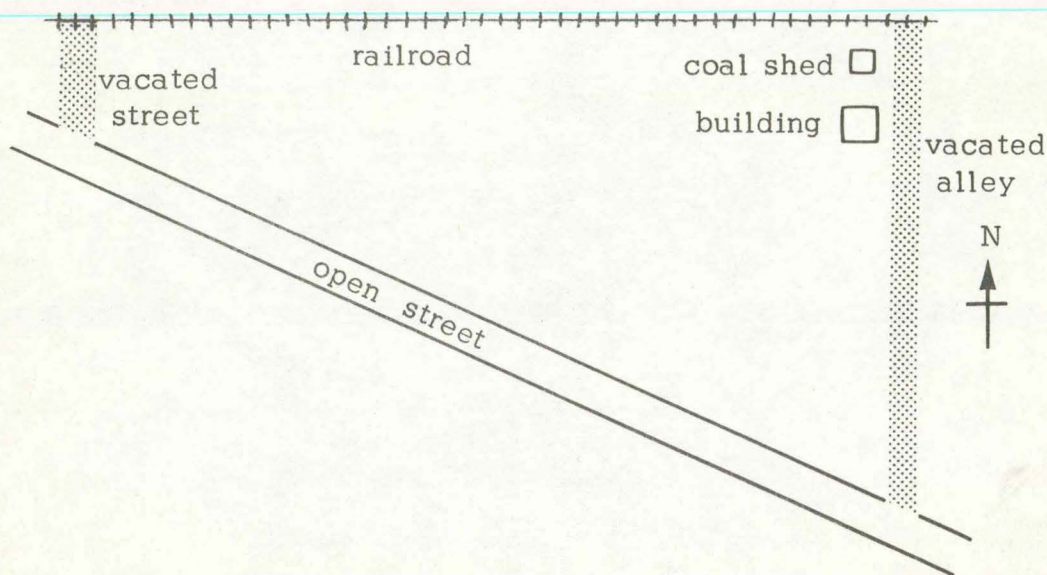


The Warren court rejected the landowner's contention that she should recover damages because the vacation interfered with her access to the two tracts. Since her access to the secondary road was not affected, she had the same access to the general highway system as before and her injury was not compensable. Warren, 250 Iowa at 485, 93 N.W. 2d at 67.



In reaching this conclusion, the court was especially concerned with the large number of recoveries possible if diversion of travel were compensable: "Some persons living along the roadway, or those who may wish to visit their lands lying along it, would be compelled to travel additional miles. Some would be shut off from their formerly direct route to the nearest city or town." Ibid. Compensating such people would increase the cost of public projects enormously. The court subsequently affirmed this view in Christiansen v. Bd. of Supervisors of Woodbury County, 253 Iowa 978, 114 N.W. 2d 897 (1962) (nonabutting owners farming two tracts of land, one on each side of secondary road, a 300 foot portion of which was vacated, could not recover damages where access to the road was not affected).

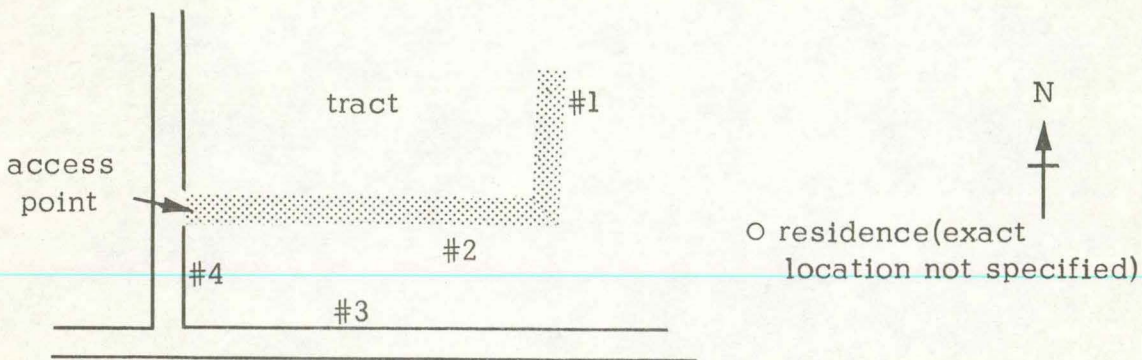
Several cases prior to Warren suggest a different view of damages. In the earliest one, Ridgeway v. Osceola, 139 Iowa 590, 117 N.W. 974 (1908), the city vacated an alley abutting the plaintiff's property on one side and a street abutting on the other. The vacation left some buildings facing the vacated roads and cut off all access from the north and west, but left the street abutting on the south intact. The court held that this plaintiff's petition showed special damage to her property, "due to interference with free and convenient use thereof and the shutting off of egress and ingress thereto." It did not appear that the plaintiff had other sufficient





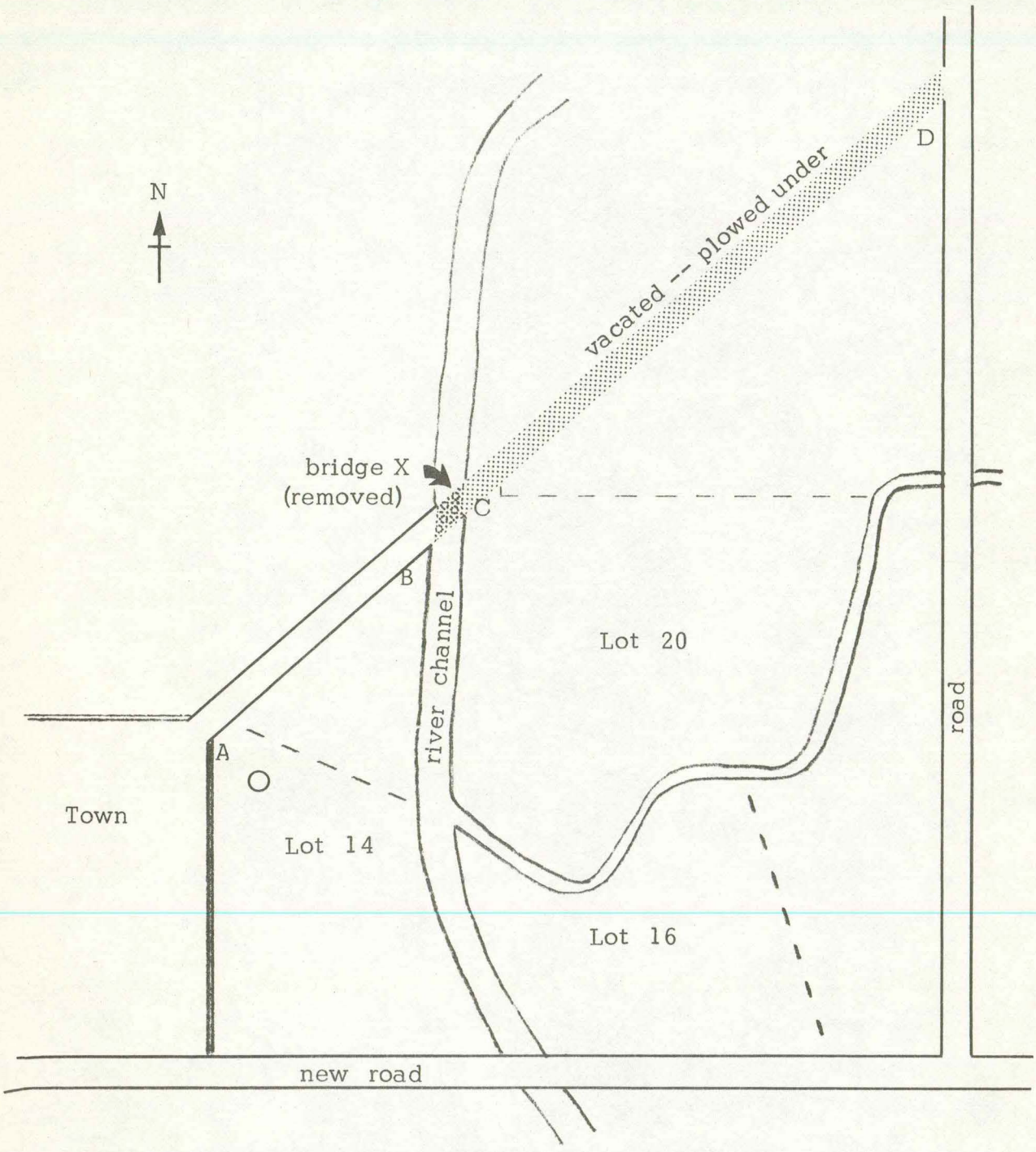
access to her property, and if she did, "such fact would . . . simply go in mitigation of damages or rather would be a fact to be taken into account in arriving at the amount of damages sustained." Ibid, 139 Iowa at 596, 117 N.W. at 976. This suggests that having another means of access would not bar all recovery. The court's real concern here was interference with access to the buildings at the back of the lot, not with access to the general street system.

McCann v. Clarke Co., 149 Iowa 13, 127 N.W. 1011 (1910) also can be read as awarding damages in a factual situation like Warren. The plaintiff in McCann lived  $1\frac{1}{4}$  miles from his tract. After the two highways abutting the tracts were vacated (#1 and #2 in the diagram), he still apparently had access to the southwest corner of his land through roads #3 and #4. The court awarded damages, even though the owner's only apparent injury was inconvenient access to his property. However, McCann is weak authority, since the facts are unclear on whether roads #1 and #2 provided the only access.



A stronger early case against the Warren view is presented in Furgason v. Woodbury County, 212 Iowa 814 237 N.W. 214 (1931). There the plaintiff owned a tract of land divided into several lots, the largest of which was used for farming. To get from his buildings on #14 to his field on #20, he went down road AB and over bridge X. After vacation,





bridge X  
(removed)

vacated -- plowed under

river channel

road

Town

Lot 14

Lot 20

Lot 16

new road



the bridge was removed and C-D plowed up, cutting off access to #20. Although the plaintiff could have reached the field by building a bridge over the creek dividing #16 and #20, the court explicitly rejects this alternative as unjust. In dictum the court also suggests that it may be unreasonable to force a landowner to travel a long, circuitous route to his land:

Even if it were possible for the plaintiff to use the diagonal road by going around south of lot 16 and then north to the extreme northeast part of the old diagonal road and the little strip leading therefrom to the northwest corner of lot 20, the testimony shows plaintiff would be compelled to go approximately a mile to get to lot 20, while . . . the distance originally travelled in going from his home to the northwest corner of lot 20 was approximately five or six hundred feet . . . Furgason, 212 Iowa at 823, 237 N.W. at 218.

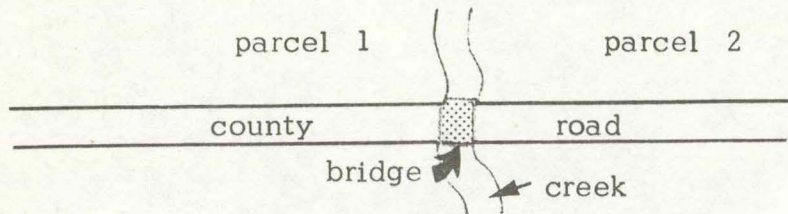
The plaintiff recovered damages. Here, as in Ridgeway and McCann, his injury was having access to a particular portion of his property cut off.

Magdefrau v. Washington County, 228 Iowa 853, 293 N.W. 574, represents the strongest early case which is incompatible with Warren. In Magdefrau plaintiffs who owned land abutting the road to be vacated could reach land on the other side of a creek only by the road or by a "long distance and heavy expense." The court held that their claim stated special damages and the board of supervisors had jurisdiction to allow damages.

Although this liberal view of damages was implicit in their conclusions, Ridgeway, McCann, Furgason, and Magdefrau do not fully articulate it. The authority of the first two cases is further undercut by the ambiguity of the record on several crucial facts relating to access. So the Warren position on damages stood relatively unchallenged until Braden v. Bd. of Supervisors of Pottawattamie County, 261 Iowa 973, 157 N.W. 2d 123 (1968). There the court awarded damages on facts



very close to Warren. The plaintiff owned a single unit farm cut by a creek and used the abutting county road and bridge to get from one part of the farm to the other. When the bridge was vacated, this access was cut off, though access to the general highway system was unaffected.



Two interpretations are possible in Braden, and the impact of this case depends on which one is selected. The court sets out a narrow ruling where two portions of a tract employed as a single unit are operatively accessible to each other only by an adjacent road, and an abutting part of that road is vacated so as to substantially interfere with or cut off existing access from one portion to the other, there is severance for which damage may be recovered. Braden, 261 Iowa at 980, 157 N.W. at 127. But Braden may also be interpreted broadly as awarding damages where convenient access to any part of an owner's single unit tract is impaired by the vacation of an abutting secondary road. This broad interpretation would open the way for more recoveries than the narrow version articulated by the court.

The majority of the court in Braden distinguishes Warren by the fact that neither of the Warren tracts abutted on the vacated portion of the road, while in Braden the plaintiff owned part of the creek bed beneath the vacated bridge. Thus the court continues to require strict compliance to the "abutting owner" language of the statute. However, Braden reflects a departure from the judicially created requirement that an owner's access to the general highway system must be affected for him to recover damages. In Braden, as in several of the earlier cases examined, damages were recovered even though only the access to a part of the owner's land was diminished. Braden, then, suggests that abutment plus injury to some



access -- whether to the general highway system or the landowner's fields -- are sufficient to recover damages.

E. Secondary Roads and the Re-Use Paradigm

Given certain assumptions about public expenditure efficiency there is little question that many segments of Iowa's secondary road system should be abandoned. This is most likely true of systems in many other states as well, although this has not been considered for reasons that will be made clear below.

Taking Johnson County (Iowa) as an example it was found that during the period 1969 to 1972 most vacated roads were one-fourth to one mile in length. Furthermore, they were scattered throughout the county. Because the segments are short and not connected they are not appropriate for trails or bikeways; in short, the recreational re-use potential is minimal.

Road abandonments, often referred to as road vacations, are not easily accomplished as noted in the preceding section. They generally result in damage claims. Since 1969 there have been twelve hearings in Johnson County, Iowa associated with the proposed vacation of over 40 roadway sections. Links are generally greater than one-quarter but less than one and one half miles in length. Almost all of these vacation hearings were held at the request of an adjacent landowner. As indicated in Table 1, 29 links have been successfully vacated. The remaining links generally have damage claims which are beyond the resources of the county. The action has been to table for further consideration or simply accept the burden of the roadway. A good example is the Hotz Road hearing held on May 8, 1974. There were five separate damage claims filed for a total of \$36,500 on this 0.3 mile link. This link, like most of the other roads being considered, carries less than ten vehicles per day. In this case, the vacation motion was tabled for further consideration;



Table 1. Summary of Road Vacation Proceedings in  
Johnson County, Iowa, 1969-1973+

	<u>Hearing</u>	<u>No. of Roads Considered</u>	<u>Road No.</u>	<u>Length</u>	<u>Action</u>
1.	9-29-69	4	1	0.6	vacated 1-4-71
			2	0.3	vacated 10-6-69
			3	0.2	vacated 10-6-69
			96	0.2	vacated 10-6-69
-----					
2.	8-17-70	8	26	1.1	vacated 9-14-70
			47	0.5	vacated 9-14-70
			59	0.75	vacated 9-14-70
			74	0.75	vacated 9-14-70
			102	0.5	vacated 9-14-70
			9	1.0	tabled
			32	0.75	tabled
101	1.00	tabled			
-----					
3.	11-16-70	11	88	0.2	dropped
			66	0.7	tabled
			12	1.0	tabled
			10	0.75	no vacation
			106	0.4	tabled
			40	0.75	vacated 1-4-71
			50	0.75	vacated 1-4-71
			90	1.1	vacated 1-4-71
			107	0.1	vacated 1-4-71
			34	0.1	vacated 1-25-71 <sup>a</sup>
100	1.1	vacated 6-19-72 <sup>b</sup>			
-----					
a. claims of \$1,618 paid					
b. claims of \$3,200 paid plus ditching					
-----					
4.	8-5-71	4	70	0.3	vacated 8-5-71
			88	0.2	vacated 10-12-71
			P.1	0.2	vacated 8-11-71
			P.2	0.1	vacated 9-13-71
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	<u>Hearing</u>	<u>No. of Roads Considered</u>	<u>Road No.</u>	<u>Length</u>	<u>Action</u>
5.	11-9-71	1	108	0.5	vacated 11-9-71
-----					
6.	5-23-72 a. claims of \$3,600 paid	1	E.1	1.0	vacated 7-11-72 <sup>a</sup>
-----					
7.	3-14&28-73 a. claims of \$9,000 paid plus some materials	1	97	.5	vacated 3-28-73 <sup>a</sup>
-----					
8.	6-26-73  a. claims of \$1,200 paid b. claims of \$6,705 paid		86	0.3	vacated 6-26-73
			48	0.6	no vacation
			41	0.75	vacated 12-26-73 <sup>a</sup>
				0.75	vacated 12-30-73
			6	0.3	vacated 12-26-73 <sup>b</sup>
-----					
9.	7-24-73 & 8-7-73 a. Johnson and Iowa counties each paid \$500 to cover a \$1,000 claim.	1	83	0.25	vacated 8-7-73 <sup>a</sup>
-----					
10.	9-18-73 & 9-26-73	1	" O "	2.2	no vacation
-----					
11.	11-6-73  a. claims of \$2,500 paid	4	HC	0.5	no vacation
			95	0.4	no vacation
			MR	1.0	no vacation
			17	1.25	vacated 11-6-73 <sup>a</sup>
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	<u>Hearing</u>	<u>No. of Roads Considered</u>	<u>Road No.</u>	<u>Length</u>	<u>Action</u>
12.	5-8-74	2	956	0.4	vacated 5-15-74
			H.R.	0.3	tabled <sup>a</sup>
			a. five damage claims amounted to \$36,500.		

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Source: compiled from materials provided by the Johnson County Engineer's Office.



however, this action has generally indicated that it will not be considered again for vacation.

Public vacation of a road has usually resulted in one of three situations occurring: (a) the road may become an internal farm road for access to fields, but receives little or no maintenance, and none from the public sector; (b) the road is removed and the land recovered for agricultural purposes, or (c) the right-of-way remains as is, unused so to speak, and becomes wildlife habitat (from the conservation viewpoint) or a breeding ground for weeks (from the farmers' viewpoint).

As discussed above, the recreational potential of vacated secondary roads seems severely limited. This lack of re-use potential suggests little is to be gained from further analysis of the problem in the context of the overall research design. The project seeks to provide a decision process for abandonment which includes recreational re-use considerations. Such a paradigm will not have direct applicability to secondary roads nor will continued study of them contribute much to the paradigm. However, in other sections on legal aspects, and in sections on public decision-making processes, comparisons will be made as necessary. In current practice all these factors are similar-- it is in the re-use paradigm that the circumstances limits the usefulness of considering secondary roads.

### III. Airports

The Aviation Advisory Commission has recommended that existing airports be carefully evaluated before any further abandonments take place.<sup>15</sup> Airport abandonments are not frequent but the future space needs of the aviation/transportation industry have been only poorly charted. Some municipal airports use land obtained under a reversionary clause, so that if the land is not used for aviation purposes the local government must give it up. In such instances the vacation decision



would be permanent and if needs were later determined, re-establishing air facilities could be extremely costly. The possibility of using abandoned airports for recreational purposes, where the land remains in the public domain, is interesting because of the level terrain. Large fields could be used to set up soccer, rugby, football, or polo fields, and the paved strip might be used for public tennis courts or as a controlled drag strip. Such uses would not alter the basic structure of the original facility and thus flights could be resumed if the need developed.

Rather than examine such re-uses in detail at the outset, it was decided to determine the frequency of airport abandonments and the process. The reasoning behind this decision is that unless airports are being regularly abandoned and unless the public interest is involved there will be little need for procedures of re-use planning.

To assess the extent of airport abandonment state and regional aeronautics officials were surveyed. The primary focus of the questionnaire was to ascertain the extent of the problem, the reasons for its occurrence, and the criteria or methods used to determine what should be done with the abandoned sites. Airport abandonments are considered by class in the following sections. These classifications are military airports, public or municipal airports, and private airports.

#### A. Military Airport Abandonments

The problem of military airport abandonments was of some significance for a period of years following World War II. There were some 350 airports built by the federal government in the early 1940's for purposes of training and defense. After the war ended, many of these military airfields ceased to fulfill any purpose and were taken over by local municipalities, either for aeronautical purposes or for industrial or community operations.

Very few military airports are being converted to other uses today. The latest have been in Nebraska and Wyoming. In Nebraska two military



airports are now being used for farming and grain storage.

The unit of government which has jurisdiction over military airfields is the Department of Defense. This body decides when an airport can be classified as a surplus facility and what restrictions there are on possible re-use configurations. The procedure used by the Department of Defense in turning over these airfields is just that the airport must be offered for use for airport purposes. Secondly, if not used for this purpose, these facilities may be transferred to any state, political subdivision, municipality or tax-supported institution. These transfers may be subject to certain conditions and restrictions but there is no monetary consideration made in the transfer.<sup>16</sup>

#### B. Municipal Airport Abandonments

The abandonment of municipal airports has occurred infrequently in the United States. Very few states have experienced more than one or two abandonments, and a substantial number of states have had no experience at all with municipal airport abandonments.

There are several reasons why abandonments occur infrequently. There are only about 650 airports in which reliable scheduled air transportation takes place in the United States. Of these, the top 27 account for 70% of all enplanements. Saturation of 23 of these airports has been projected to occur by the year 2000 if growth is not constrained.<sup>17</sup>

Airport congestion problems may result in abandonments if there is limited room for expansion. Most likely, however, as a major airport is relocated to relieve congestion, the old airport will continue to serve air travel. National Airport in Washington, D.C., Midway in Chicago, and Love Field in Dallas/Ft. Worth are good examples.

Air service to the small cities, towns, and county seats of rural America faces a different plight. Their inability to generate sufficient demand has resulted in increasing numbers of these areas being cut off from certified carriers. Over the past 25 years, almost 200 of these



areas have been dropped from certificated scheduled service.<sup>18</sup> In most cases, however, the airports have not been abandoned. Service is predominantly by business aircraft and air taxis.

Because municipal airport abandonment is rare, no formal criteria have been established by states to evaluate alternate re-use configurations. Depending on the needs of the community, the facility is either converted to some sort of municipal operation, or the land is converted to the area's predominant use. In some case, the criteria consists of the economic best use of the land.

### C. Private Airport Abandonments

The abandonment and conversion to other uses of private airports (which are usually sod runways) has occurred more frequently in recent years than either the abandonment of municipal or military airports. Many of these airport abandonments have occurred near urban areas.

These private airports have often been consumed by an urban area, making it physically difficult or economically unfeasible to continue operation. In the city of Detroit and the surrounding metropolitan area this has happened to several airports.

The re-use form of these sites varies from industrial parks to commercial or even residential use. Because of the lack of any real control over the conversion of privately owned airports, municipal governments have failed to establish any set of criteria to evaluate the alternate forms of re-use potential of these facilities. If an owner feels he can derive a greater return on his investment by converting his land to another use, he does so.

In all three cases the airport abandonment problem appears to be minor from the standpoint of frequency of occurrence. However, even though the quantity of abandonments is low, it is still obvious that a set criteria is needed to help determine the type of re-use configuration best suited for each type of abandonment.



Especially in urban areas, the type of land used by airports -- flat and well-drained -- is very valuable and scarce. Such land could be put to good use by municipalities either in recreational or municipal activities. Land for athletic facilities and other active recreational pastimes is increasingly needed. Such land could also be used by public works and engineering departments.

Each type of airport previously discussed could be converted to one of the aforementioned activities. The difference between the three lies in the amount and type of control that can be exerted by public agencies.

In the case of the private airport, control is confined to zoning and the control that can be exerted through the economic system. If a municipality decides a public operation, be it recreational or otherwise, would be the optimal use of the land, they can bid for the property.

In the case of military airports, a municipality can maximize the utility that can be derived from a facility taking under consideration the constraints imposed by the Department of Defense.

Finally, a municipal airport can be converted to either another public use or a private use, depending on the needs of the community.

D. Abandonment of Airports by State

<u>State</u>	<u>Extent of Abandonment Problem</u>	<u>Comments</u>
Alabama	No Problem	One municipal airport abandoned in recent years because of construction of a larger airport in another area.
Alaska	No Problem	Because of the state's almost total dependence on air transportation, most airports see continual use.
Arizona	No Problem	No experience except with military airports after World War II.



<u>State</u>	<u>Extent of Abandonment Problem</u>	<u>Comments</u>
Arkansas	No Problem	No experience with airports being abandoned.
Connecticut	No Problem	One private airport converted to an industrial park.
Iowa	No Problem	Private airports revert to agricultural use. Two municipal airports have been abandoned. One reverted to sewer lagoon, the other to agricultural use.
Georgia	No Problem	There is a growing demand for airports in Georgia. No abandonments have been encountered.
Kentucky	No Problem	No abandonments.
Louisiana	No Problem	Only one rural military airport is devoid of aeronautical activity. No other abandonments encountered.
Maine	No Problem	No airports have been abandoned in the state.
Massachusetts	No Problem	There is no case of a publicly owned civil airport being abandoned in Massachusetts.
Michigan	No Problem	Abandonment has been for reasons of other economic need. No criteria have been established. Economic determination decides by default the use of the land. Reason for abandonment is usually urban encroachment.
Minnesota	No Problem	One abandoned municipal airport. County took over the facility.
Mississippi	No Problem	
Nebraska	No Problem	Two military airbases have recently been abandoned and are now used for revenue producing purposes for the state.



<u>State</u>	<u>Extent of Abandonment Problem</u>	<u>Comments</u>
North Dakota	No Problem	No abandonments in five years.
New Hampshire	Problem is minor	One municipal airport has been displaced by a military airfield. Over the years, fourteen privately owned grass strips have been abandoned. Seven reverted to industrial use, four to farmland, one to a highway, and the rest to other uses.
New York	No Problem	Their only problem is to keep the airports from being closed so that they can be converted to a more profitable land use by the owners.
Oklahoma	No Problem	Over the years there have been some military airfields converted to industrial and community uses. Also there have been one or two municipal airports converted to other uses. Criteria used to evaluate alternate reuses has been primarily economic.
Tennessee	No Problem	Very little abandonment of public airports. Infrequently happens when new facilities become available.
Texas	Problem is minor	Usually results from urban encroachment.
Utah	No Problem	No abandonments among public airports in last ten years.
Vermont	No Problem	One public airport has been abandoned in the past twenty years. Reason was because of the building of a new airport near the abandoned site.
Virginia	No Problem	No abandonments.
Washington	No Problem	No abandonments.
West Virginia	No Problem	No municipal airports have been abandoned.



<u>State</u>	<u>Extent of Abandonment Problem</u>	<u>Comments</u>
Wisconsin	Problem is small; $\frac{1}{2}$ dozen public airports in 30 years.	Reasons for abandonment was because other nearby facilities fulfilled needs of community. Site reverted to use predominant in surrounding area.
Wyoming	No Problem	One military airport recently abandoned in Casper, Wyoming.
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FAA CENTRAL REGION, KANSAS CITY	No Problem	Abandonments the agency gets involved with are mostly surplus military airports. The Department of Defense usually plays the main role in military airport abandonments.
FAA GREAT LAKES REGION, DES PLAINES, ILLINOIS	No Problem	Most airports that are converted from military to civilian use are kept as airports. FAA has very little control over private airports.

#### IV. Summary

The abandonment of secondary roads and airports is a phenomenon of little concern in the context of the current study - namely that of the re-use of abandoned properties for public (principally recreation) activities. In the case of secondary roads, there is indeed, a problem of major public concern. But the question of how to reduce the road burden will be little affected by potential re-uses to which these short links could be put. In the case of airports, abandonments are infrequent and those that do occur are most often in the private sphere of influence. Such resources are beyond the jurisdiction of public agencies except through purchase, and this characteristic drops them from further consideration by this study. The findings reported on herein narrow the investigation primarily to a consideration of rail rights-of-way. Legal aspects, procedures, and related



public decision making apparatus from the highway and airport realms, as they are transferable to the rail issue, will be further considered as the study progresses. However, there seems little need to continue to study highway and airport facilities in the entire re-use context.



## Footnotes

1. Midwest Research Institute, "Criteria for the Evaluation and Disposition of Low-Traffic-Count Secondary Roads," for Iowa State Highway Commission (February 7, 1969), pp. 5-6. The Institute estimated that over 3000 miles of roads in Iowa have a Road Value Index equal to or less than 50. Roads at or below 50 are characterized by an average length of .53 miles, average number of occupied residences of .31, average daily traffic count of 11.7, dirt surface 41%, gravel surface 59%.
2. Ibid., p. 1.
3. Actual maintenance cost for specific road segments are not available. But the Midwest Research Institute deduced maintenance and capital improvements costs from present surface type, average daily traffic, roadway length, and number of bridges. Table G-1 shows the average costs per mile required to improve indicated types of roads throughout the next 20 years, assuming that roads were brought to accept standards and maintained at that level; we avoid part of the costs by non-maintenance. Institute, p. 97.
4. Annual liability costs in dollars per mile for 0-10 ADT, \$7; 11-20 ADT, \$12; 21-30 ADT, \$15. Ibid, p. 94.
5. Ibid., p. 45.
6. Ibid.
7. Ibid., p. 48.
8. Ibid., p. 47.
9. Ibid., p. 67.
10. Diagram is constructed from written text.
11. Diagram is constructed from written text.
12. At one point the court says: "Suppose that a farmer owns 40 acres of land that abutts on a highway which furnishes him his only means of getting to his land, that the land on all sides of him is owned by others and that such highway is vacated." McCann, 149 Iowa 127 N.W. at 1012. It is unclear whether the court is describing the actual case or a hypothetical one.



13. Diagram is constructed from written text.
14. Diagram is court's, simplified.
15. Aviation Advisory Commission, "The Long Range Needs of Aviation," January, 1973, p. 78.
16. GSA Handbook, Excess and Surplus Real Property, PMD P 4000.1, 1961, p. 21-33.
17. "Forecast of Air Traffic Demand and Activity Levels to the Year 2000, 1972 by Simat, Helliesen, and Eichner, p. 84, #49.
18. Op.cit., Aviation Advisory Commission, p. 66.



## Appendix

### NOTES ON LEGAL CITATIONS

1. In "Warren v. Iowa State Highway Commission, 250 Iowa 473, 93 N.W. 2d 60 (1958)," "Warren v. Iowa State Highway Commission" is the name of the case. "250 Iowa 473" indicates that the case is found in volume 250 of the Iowa Reports on page 473. "93 N.W. 2d 60" refers to the location of the case in the second set of Northwestern Reports, at volume 93 on page 60. The date of publication is 1958.
2. Dictum: An observation or remark made by a judge in pronouncing an opinion upon a cause of action (basis of suits), concerning some principle suggested by the case before him but not necessarily essential to the determination of that case.
3. Defendant: the person against whom recovery or relief is sought in a suit.
4. Plaintiff: the person seeking relief or recovery in a suit.



