

Before the
Surface Transportation Board

JR - 1

308932

STB DOCKET NO. AB-290 (Sub-No. 412X)

ENTERED

NORFOLK SOUTHERN RAILWAY COMPANY –
ABANDONMENT EXEMPTION --
IN THE CITY OF BALTIMORE, MARYLAND

Office of Proceedings
November 25, 2024
Part of
Public Record

JAMES RIFFIN'S NOTICE OF INTENT TO PARTICIPATE –
WITH VERIFIED COMMENTS

1. James Riffin ("Riffin") herewith gives notice of his intent to participate as a party of record in the above entitled proceeding. Service of Filings and Decisions should be served on:

James Riffin
P. O. Box 4044
Timonium, MD 21094
(443) 414-6210

VERIFIED COMMENTS

2. Notices of Exemption are subject to the following admonition:

"If the verified notice contains false or misleading information, the exemption is void ab initio."

NSR'S 10-31-2024 FILED NOE CONTAINS AT LEAST THREE
FALSE OR MISLEADING STATEMENTS

3. Riffin argues that Norfolk Southern Railway Company's ("NSR") "Notice of Exempt Abandonment," ("NOE"), as originally filed on 10-31-2024, contained THREE "false or misleading statements," to wit:

A. “The sale of this corridor by **NSR** to MTA” Pp. 2, 25, 34, NOE. Bold added.

B. “The MTA owns **the entire Line** over which NSR will abandon its freight rail easement.” P. 2, NOE. Bold added.

C. “MTA currently **operates passenger** rail transit service **over the Line**. MTA’s light rail transit system now carries over 24,000 passengers per day **over the Line**.” P. 2, NOE
Bold added.

4. On November 5, 2024, Riffin called Ms. Zorbaugh, Counsel for NSR. During the conversation, Riffin argued NSR’s NOE contained the above noted three false statements.

5. On November 18, 2024, Ms. Zorbaugh said to Riffin:

A. On November 15, 2024, she had filed an Errata, **correcting the first false statement**.

B. Her client, NSR, did not agree that the second and third statements were false. NSR did not grant Ms. Zorbaugh authority to correct the second and third false statements.

THE MTA DOES NOT OWN ‘THE ENTIRE LINE’

6. NSR defined the ‘Line’ as “the Cockeysville Industrial Track (“**CIT**”),” (bold added), foot note (“**FN**”) 1, “extending from Milepost +/- UU 0.00 to Milepost +/- UU 1.00 in the City of Baltimore, Maryland (the “Line”)².” NOE at 1.

7. Footnote 2, on pp. 1, 2 of the NOE, explains why the UU mileposts differ (**by 1.18 miles**), from the original Northern Central Railroad Mileposts (the original owner of the Line).

8. On p. 38 of the NOE, NSR appended its “Appendix A Map.” (“**Map**”)

9. The Map depicts the relative locations of:

- A. The **beginning** of the Line, at UU 0.00, which beginning point is a bit south east of the North Howard Street bridge.
- B. The West North Avenue bridge, which is north west from the beginning point, which is at UU **0.12**.¹ See Page C-1 of Williams' V.S., appended hereto as **Riffin's Exhibit One**.
- C. The former B & O RR bridge, now CSX RR bridge, immediately north of the North Avenue bridge.
- D. The W 28th Street Bridge, which is at UU **0.74**.²
- E. The **end** of the Line, at UU 1.0, a bit north of the Wyman Park Drive (formerly Cedar Avenue) bridge.

10. On p. 2 of the NOE, NSR correctly notes that in 2007, the Maryland Transit Administration ("MTA"), filed a Petition for Declaratory Order, FD 34975, wherein the MTA sought, and received, a Declaratory Order, holding that the MTA did NOT "acquire a common carrier obligation by virtue of its acquisition of the CIT"

11. Riffin participated in the FD 34975 Proceeding.

12. In the FD 34975 Proceeding, the Surface Transportation Board ("**Board**"), ordered the MTA to explain why the Northern Central's Mileposts did NOT coincide with the UU Mileposts being used by the MTA.

1. Williams' Exhibit C, (a track chart), "reflects conditions existing as of 1965. The mile post markers on **Exhibits B** and **C** correspond to those shown on the valuation maps used to establish the mileage of the CIT when MTA acquired the line in 1990." ¶3, Williams V.S. Page C-1: North Avenue is at original Milepost 1.30. Minus 1.18 = UU **0.12**.

2. Page C-1: 28th St. Bridge is at original Milepost 1.92. Minus 1.18 = UU **0.74**.

13. In response to that Order, on **April 20, 2007**, **Charles Spitulnik**,³ counsel for the MTA, filed the MTA's "Response of the Maryland Transit Administration." ("**Response**"). Appended to the Response, as Exhibit 1, was the Verified Statement of Robert L. Williams, [**"Williams"**], [**"Williams' V.S."**] Transportation Engineer IV, Light Rail Operations, Maryland Transit Administration."

14. Williams' Exhibit D, a track chart, "reflects conditions existing as of 1988. This is the last track chart prepared prior to MTA's acquisition of the line." ¶ 4, Williams' V.S.

15. Pages D-4 and D-5 of Williams Exhibit D. is appended as **Riffin's Exhibit Two**,

16. Riffin draws the Board's attention to the circled-in-Red "Amtrax $\Rightarrow | \Leftarrow$ Conrail" notation, which depicts the approximate location of the real property line that separates Amtrax's real property, and what was Conrail's real property (which now is the MTA's real property).

17. Page D-4: It should be noted, that the Amtrax / Conrail real property boundary line is to the right of (north of) the North Avenue Bridge, to the right of the "CSX RR Trks O.H. Br." [North of those two bridges.]

18. Page D-5: It should be noted that the Amtrax / Conrail real property boundary line is to the left of (south of), the 28th Street and 29th Street bridges.

19. Based on the above, the boundary line between the Amtrax real property underlying the CIT, and the MTA's real property underlying the CIT, is somewhere between the North Avenue Bridge, at Milepost UU 0.12, and the 28th Street bridge, at Milepost UU 0.74.

3. On November 20, 2024, Mr. Spitulnik entered his appearance in this proceeding on behalf of the MTA, and filed the MTA's Notice of Intent to Participate as a Party of Record, without comment.

20. The evidence in the FD 34975 Proceeding clearly indicates that the MTA **does NOT** “own the entire Line.”

**THE ‘OWNS THE LINE’ FALSE STATEMENT IS NOT MATERIAL
TO THE ISSUES PRESENTED BY THE ABANDONMENT NOE**

21. Riffin argues that a ‘false or misleading statement’ which does NOT impact the issues presented by an abandonment exemption, should NOT cause an abandonment exemption to be void ab initio.

22. Voiding NSR’s NOE, would unnecessarily delay resolution of the underlying issues:

- A. Does the line meet the criteria for abandonment?
- B. Should abandonment be foreclosed by an Offer of Financial Assistance?

WHO OWNS THE UNDERLYING REAL PROPERTY IS NOT MATERIAL

23. If abandonment authority is granted, title to the underlying real property will vest with the record title owner (if held in fee simple) / with the adjacent property owners [If NSR’s title is just an easement (as it is), and the use by Amtrax / MTA, no longer is a use for which the easement was granted].

24. If the Board permits the Line to be acquired via an Offer of Financial Assistance (“OFA”), the new freight rail carrier for the line will continue having the right to use the surface of the real property, for freight rail purposes.

25. Since title to real property underlying the Line is an easement,⁴ as opposed to fee simple, there is no ‘Constitutionally recognized value’ for the real property underlying the Line.

4. Some years ago, Riffin obtained a copy of the deeds for the entirety of the CIT. ALL of the deeds were ‘Easement’ deeds.

[Abandonment of a rail easement causes title to the real property to revert back to the original owners / the present day adjacent real property owners. Therefore, it has no ‘Constitutionally recognized value.’ An OFA Offeror is NOT required to pay the abandoning rail carrier for the underlying real property, when title is an easement title.]

26. End result: Who owns the underlying real property in an abandonment proceeding involving a line that only has easement title to the real property underlying the line, is totally immaterial.

27. Which is why Riffin advocates that NSR’s NOE should NOT be voided, due to THIS false statement.

28. Riffin further argues that it WOULD be appropriate to order NSR to file a Corrected NOE, with this false statement deleted. Doing so would ‘re-set’ the effective date, for the NOE. Which would delay the proceeding by a few weeks. A tolerable delay.

THE MTA DOES NOT

“OPERATE PASSENGER RAIL TRANSIT SERVICE OVER THE LINE”

29. Exhibit 2 of the MTA’s Response, depicted “MTA Light Rail Line North Avenue to Hunt Valley Current Configuration.”

30. Page 2.1 of the MTA’s Response Exhibit 2, see **Riffin’s Exhibit 3**, depicts:

A. ‘Station Numbers’ for the ‘Light Rail Line’ between Baltimore Street, Station 0 + 00, and the bridge that carries the ‘Jones Falls Expressway’ (I-83) over the Light Rail Line, at Station (N) 164 + 50. The ‘Symbols’ notes indicate that a **continuous line** [———] depicts “Existing [Light Rail] Tracks.”

B. The 'Symbols' notes indicate that a **dashed line** [- - - -] depicts "Existing Frt. [freight] Tracks."

31. Riffin directs the Board's attention to the portion of Page 2.1, that says: "NORTH AVE,," which is located at Milepost 2 of the Light Rail Line (Station (N) 105 + 60). (Bottom half of the graphic.)

32. The graphic has **continuous** lines, denoted as "TRK #1 (S.B.)," and "TRK #2 (N.B.)."

33. The "Symbols" Notes indicate that these **continuous** lines are the Light Rail Lines that are used for passenger transit services.

34. Immediately below the TRK #1 and TRK #2 lines, are TWO 'dashed' lines, separated by a vertical line.

35. The dashed line to the LEFT of the vertical line, is 3/32 inch long, while the dashed line to the RIGHT of the vertical line is 5/32 inch long. Verbiage below the 3/32 line says: "AMTRAX (To Penn Sta.)". Verbiage below the 5/32 line says: "MTA."

36. Riffin next draws the Board's attention to the MTA dashed line that is to the right of the 29th Street bridge (at Station (N) 118 + 40).

37. It will be noted there is a **dashed** "N.S. Run Around TRK" depicted between the 28th St and 29th street bridges.

38. Immediately north of the 29th Street bridge, (to the right of the 29th Street bridge), there is a LH turnout, depicted with a **dashed** line, which **dashed** line crosses the Light Rail Line at Station (N) 122 + 82.

39. After the **dashed** line crosses to the West side of the Light Rail Tracks, it connects, via a LH turnout, to the "Norfolk Southern Tail Track."

40. The "Norfolk Southern Tail Track" leads, moving South, to the "N.S. Flexi-Flo-Yard." It should be noted that ALL of the Flexi-Flo-Yard tracks are **dashed** lines, signifying those tracks are FREIGHT tracks (a part of the Line).

41. Riffin re-directs the Board's attention back to the turnout at Station 122 + 82.

42. Circa February, 2023, the MTA removed the turnout to the crossing track. MDOT Letter, p. 50, NOE. The parts of the turnout removed, were replaced with tangent track. Riffin verified, see ¶15, Riffin's 11-24-2024 Affidavit, **Riffin's Exhibit Four**, that the crossing turnout is no longer there, that tangent track is where the crossing turnout used to be.

43. A bit north of where the crossing turnout used to be, a bit south of where the turnout that connects the CIT to Light Rail Track # 2 N.B is located, at Light Rail Station North (N) 126 + 52, there is a derail on the CIT.

44. The derail is at Milepost UU 0.90 +/-, is about 500 feet south of Milepost UU 1.0, is about 100 feet south of the south side of the Wyman Park Bridge, which bridge is at Light Rail North Station (N) 127 + 10. See Riffin's Affidavit at ¶17.

45. Riffin certifies, from personal knowledge, and asks the Board to take Official Notice of, the fact that ALL of the MTA's "passenger transit cars" are:

A. Powered solely by electricity;

B. Which is conveyed to the 'passenger transit cars' via catenary wires directly above the Light Rail Tracks.

46. An electricity-powered passenger transit car CANNOT OPERATE on tracks that have NO catenary wires above the tracks.

47. Riffin certifies, from personal knowledge, see ¶ 18 of his appended Affidavit, **Riffin's Exhibit 4**, that NONE of the Freight Tracks depicted on the MTA's Light Rail graphic / Riffin's **Exhibit 3**, have catenary wires above the Freight Tracks.

48. Consequently, it is NOT physically possible for the MTA to "operate **passenger** transit services," (bold added), on ANY of the Freight Tracks depicted on the MTA's Light Rail graphic.

**THE 'DIAMONDS' THAT WERE USED TO CARRY THE FREIGHT TRACKS
ACROSS THE LIGHT RAIL TRACKS
WERE REMOVED CIRCA FEBRUARY, 2023, BY THE MTA**

49. On p. 49 -50, of NSR's NOE, is a copy of a **February 8, 2023** letter from the Maryland Department of Transportation ("**MDOT**") to Norfolk Southern Corporation.

50. The first paragraph of that letter says:

"The Maryland Transit Administration ("MTA") **is implementing** (present tense, not future tense), a track reconfiguration project over a segment of the above referenced property"

51. In the fourth paragraph on p. 2 of the MDOT letter, the letter says:

"It is MTA's understanding that NSR sold its property interest in what was previously the NS Baltimore, MD Thoroughbred Bulk Transfer Terminal ("**Terminal**") in 2019." Bold added.

52. In the fifth paragraph, on p. 2 of the MDOT letter, the letter says:

"As mentioned above MTA **is currently undertaking** (present tense), improvements along the CIT to improve its light rail service, which include **the removal of crossings formerly used by NSR to access the Terminal.**" Bold added.

53. On November 12, 2024, Riffin verified that the LH turnout on the CIT on the East side of the Light Rail Tracks, at Light Rail North Station 122 + 82, had been removed, the removed turnout parts had been replaced by tangent track, the CIT crossing track and two crossing diamonds, had been removed. Riffin's Affidavit ¶15.

54. Since the ‘Diamonds’ that carried the Line across the Light Rail Tracks were removed in 2023, the MTA’s ‘passenger transit cars,’ as of February, 2023, no longer ‘operated’ on ANY portion of the CIT tracks.

55. Based on the above, Riffin argues that NSR’s statement that the “MTA currently operates **passenger** rail transit service over the Line,” (bold added), is a material false statement, particularly since the Board has historically exempted from the OFA process, any line that is used for passenger rail transit.

**THE MTA’S REMOVAL OF THE DIAMONDS VIOLATED
THE PROVISIONS IN ‘RAILROAD VENTURES’
INTERFERES WITH THE OFA PROCESS
AND RESULTED IN UNAUTHORIZED ABANDONMENT OF A LINE OF RAILROAD**

56. *Railroad Ventures Inc. v. Surface Transp. Bd.*, 299 F. 3d 523, 552 (6th Cir. 2002), held that neither a rail carrier, nor a third party, can dispose of line assets prior to abandonment authority.

57. In AB 103 (Sub. No. 21X), a local government entity removed a trestle railroad bridge after an OFA had been filed, but before the OFA process had concluded, without the knowledge, or consent of the rail carrier. The Board ordered the rail carrier to stop the local government entity from further destruction of the railroad bridge, and further ordered the rail carrier to deduct from the Net Liquidation Value of the line, the estimated cost to restore the railroad bridge, even though no value had been ascribed to the bridge. See Decision Served February 22, 2008.

58. NSR, in its Environmental Report, at p. 25 of its NOE, represented:

“... neither NSR nor MTA will be [future tense] conducting salvage operations. Accordingly, NSR believes that no storm water mitigation measures including, but not limited to, a National Pollutant Discharge Elimination System permit will be required.”

59. While NSR's 'no salvage operations will be conducted in the **future**' representation, is technically correct, Riffin argues it is '**misleading**,' since 'salvage operations' / 'ground disturbance,' occurred **before** NSR filed its abandonment exemption. [It is the 'ground disturbance' that creates the requirement for a NPDES permit. (National Pollutant Discharge Elimination System permit.)]

60. Riffin argues that the MTA's removal of the diamonds **before** abandonment authority was granted, **before** the OFA process could be started, seriously, materially adversely affected the right of an OFA offeror to determine how much of what the rail carrier desires to abandon, the OFA offeror desires to acquire.

61. The removal of the diamonds was similar to the *Railroad Venture's* sale of land and track material before abandonment authority was sought, or obtained, before the OFA process concluded.

62. Riffin argues that the removal of the CIT crossings track turnout, [at the CIT crossings turnout at Light Rail North Station (N) 122 + 82], crossings diamonds, and the crossings' CIT freight track leading to the LH turnout in the Norfolk Southern Tail Track, which provided **Line** access to the Flexi-Flow Terminal, resulted in an unauthorized abandonment of that portion of the **Line** that went from approximate Milepost UU 0.85, [at the CIT crossings turnout at Light Rail North Station (N) 122 + 82], to Milepost UU 1.0, which would be at the northern end of the "Norfolk Southern Tail Track," and that portion of the **Line** that went from the LH Tail Track turnout, south to the Flexi-Flow Terminal, as depicted on **Riffin's Exhibit 3**.

63. In addition, if stub end yards must have at least one Line track that terminates at the stub end of a stub end yard, then the removal of ALL of the Flexi-flow Terminal tracks resulted in the unauthorized abandonment of the portion of the CIT Line that provided line access to all of the Flexi-flow yard tracks. (Yard tracks, not being Line, may be removed without Board authority. But must at least one track in a stub end yard, be Line? Riffin would argue, a track that provides access to a yard track, is, by the definition of line, a line track. Therefore, a line track must connect to each arterial yard track. Once a line track is connected to an arterial yard track, that arterial yard track then could diverge into additional yard tracks.)

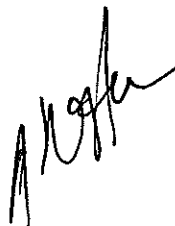
REMEDIES

64. If the Board were to exempt the Line from the OFA process, due to NSR's statement that the MTA "operated passenger rail service on the Line," that would seriously prejudice Riffin's OFA rights, which would justify voiding NSR's NOE ab initio. Particularly in light of the fact that NSR was made aware of this false statement BEFORE the Board issued its 11-20-2024 Decision [which also reiterated the false statement that the MTA "currently operates passenger rail transit service over it (the Line)]." Decision at 1.

65. While voiding NSR's NOE is an appropriate remedy, Riffin would suggest, in the interest of judicial economy, that the Board permit NSR an opportunity to file an amended NOE, which amended NOE does NOT contain any false statements.

66. Riffin further argues that an appropriate remedy for the MTA's unauthorized removal of the diamonds and freight tracks leading to the Flexi-Flow Terminal, would be to permit an OFA offeror to acquire whatever **rail** (NOT the Line) still remains on the West side of the MTA's Light Rail tracks, which rail the OFA offeror would be given the right to relocate to the East side of the Light Rail tracks, where it could be used to create additional interchange or yard track.

67. Riffin certifies under the penalties of perjury, that the above is true and correct to the best of Riffin's personal knowledge.



Respectfully,

/s/ James Riffin

James Riffin
P. O. Box 4044
Timonium, MD 21094
(443) 414-6210

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of November, 2024, a copy of the foregoing Notice of Intent to Participate, with Comments, was served on the parties noted below, by E-mail.

 /s/ James Riffin
James Riffin

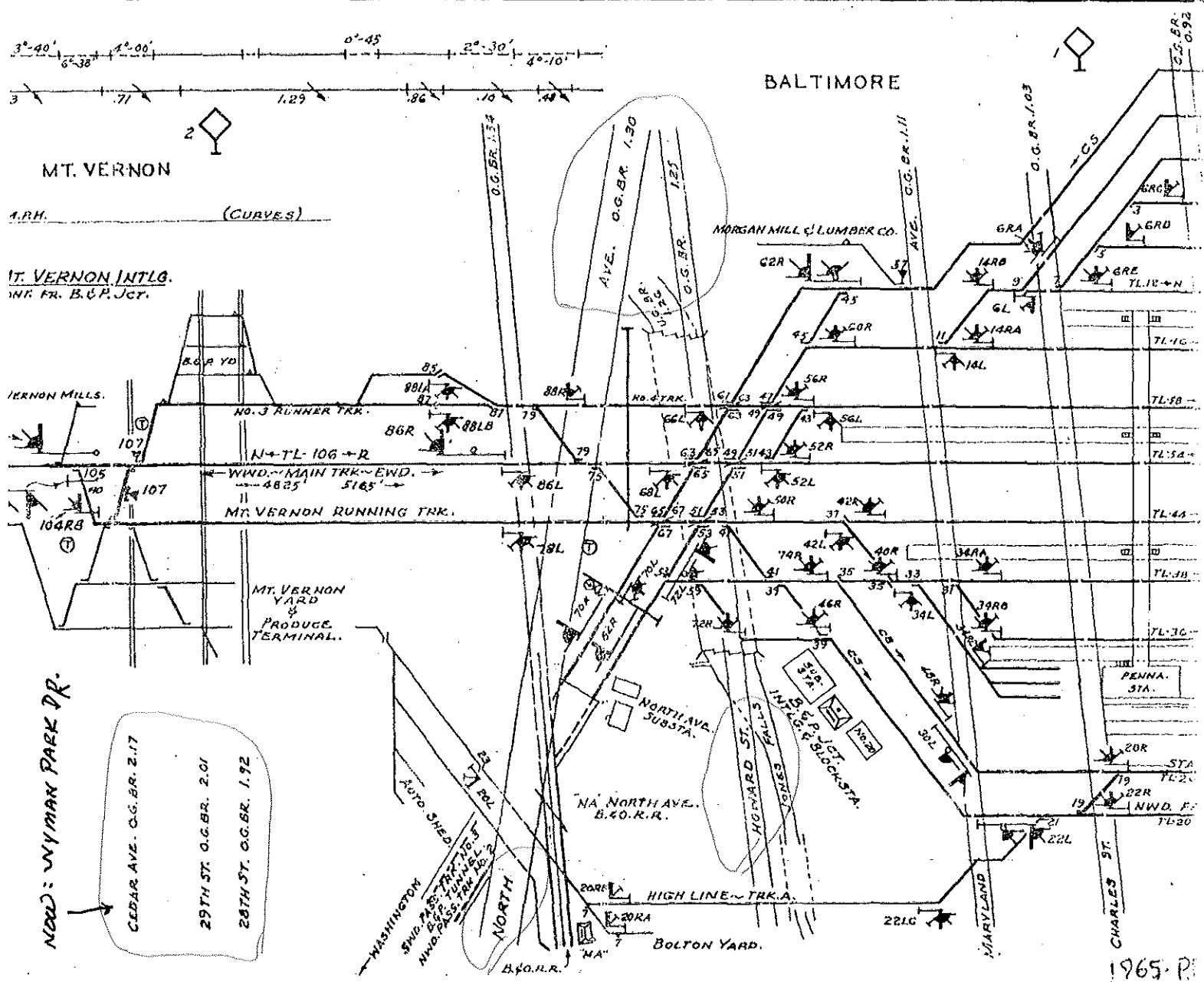
E-mail:

NSR:	Crystal M. Zorbaugh	czorbaugh@mullinslawgroup.net
MTA	Charles Spitulnik	cspitulnik@kaplankirsch.com

RIFFIN'S EXHIBIT ONE

P. C-1

V. S. WILLIAMS

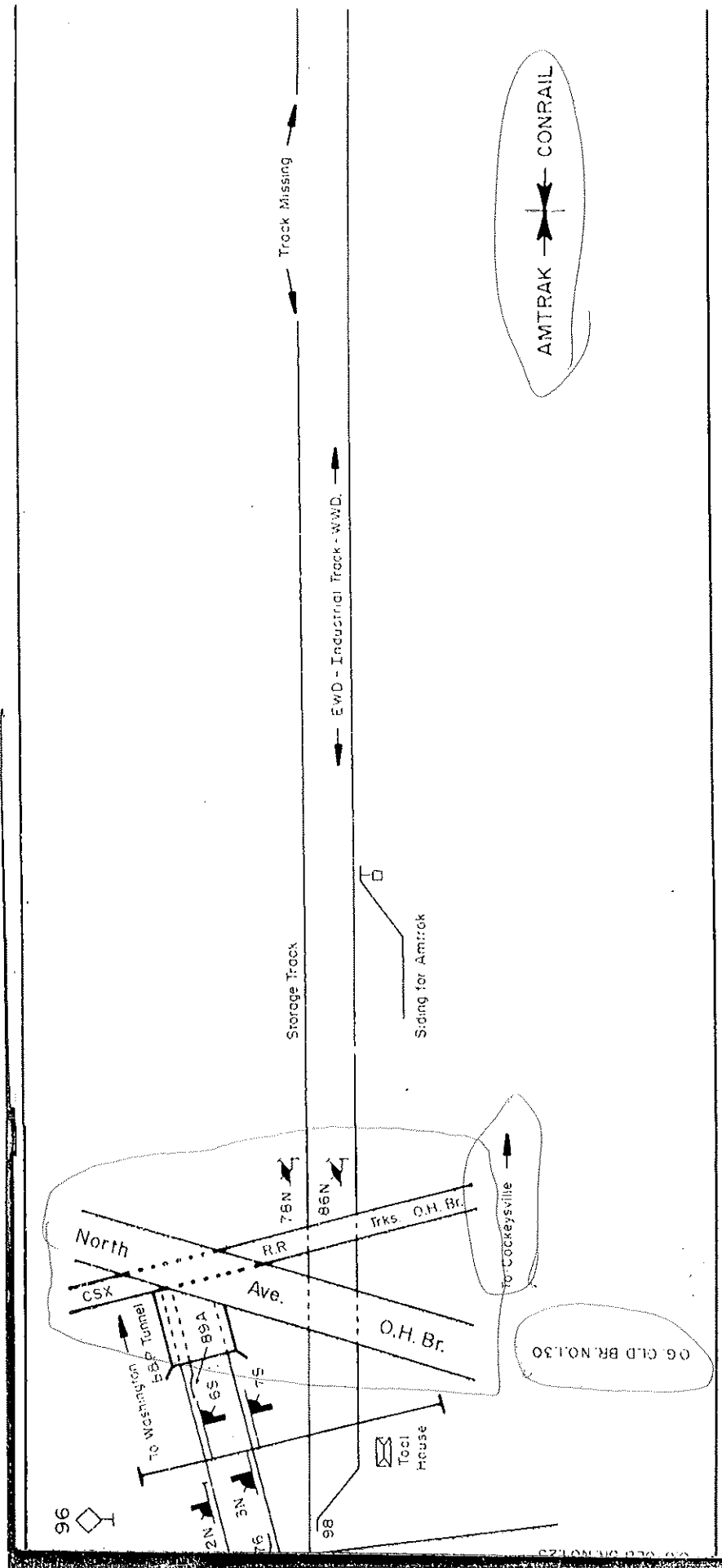


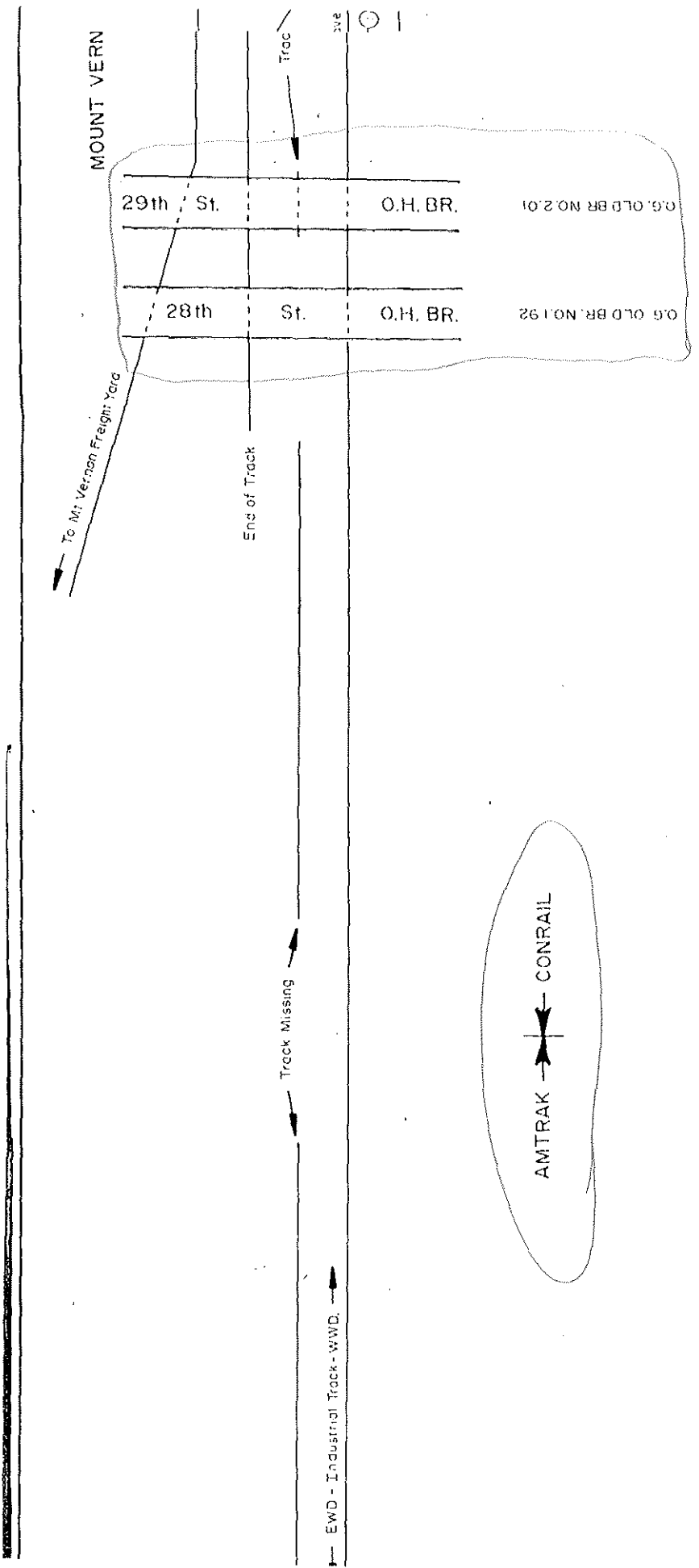
Verified Statement of Robert L. Williams
Exhibit C

RIFFIN'S EXHIBIT 2

PAGES D-4 & D-5

V. S. WILLIAMS





RIFFIN'S EXHIBIT 3

LIGHT RAIL TRACK CHART

MARYLAND TRANSIT
ADMINISTRATION

LIGHT
RAIL
LINE

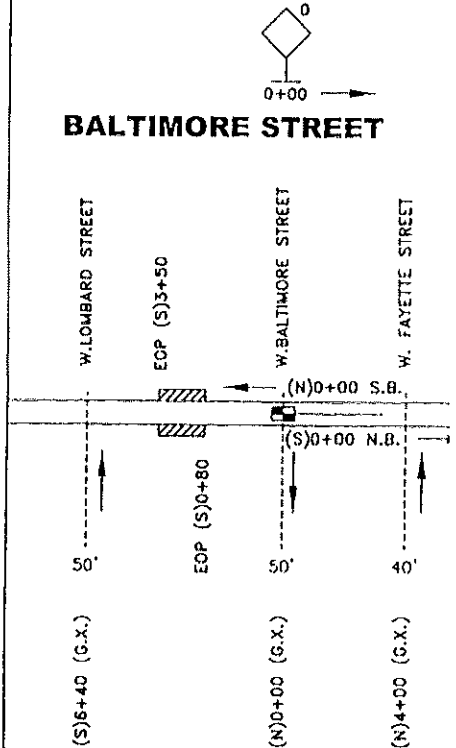
NORTH AVENUE TO
HUNT VALLEY
STATION 0+0 TO STATION 906+77



SYMBOLS

- EXISTING FRT. TRACKS
- EXISTING TRACKS
- EXISTING CENTRAL INSTRUMENT HOUSE
- EXISTING TRACTION POWER SUBSTATION
- C.I.H. CENTRAL INSTRUMENT HOUSE
- TPS TRACTION POWER SUBSTATION
- EOP END OF PLATFORM (Including High Block)
- O.H. OVERHEAD BRIDGE
- P.S. POINT OF SWITCH
- G/X GRADE CROSSING
- STN. STATION
- U.G. UNDERGRADE BRIDGE
- EXISTING STATION PLATFORM
- GRADE CROSSING AND DIRECTION OF VEHICULAR TRAFFIC
- WIDTH OF GRADE CROSSING
- OVERHEAD BRIDGE
- EXISTING STORM DRAIN + CULVERTS
- MILE POST
- STATION NUMBER
- ELECTRIC LOCKS-SWITCHES

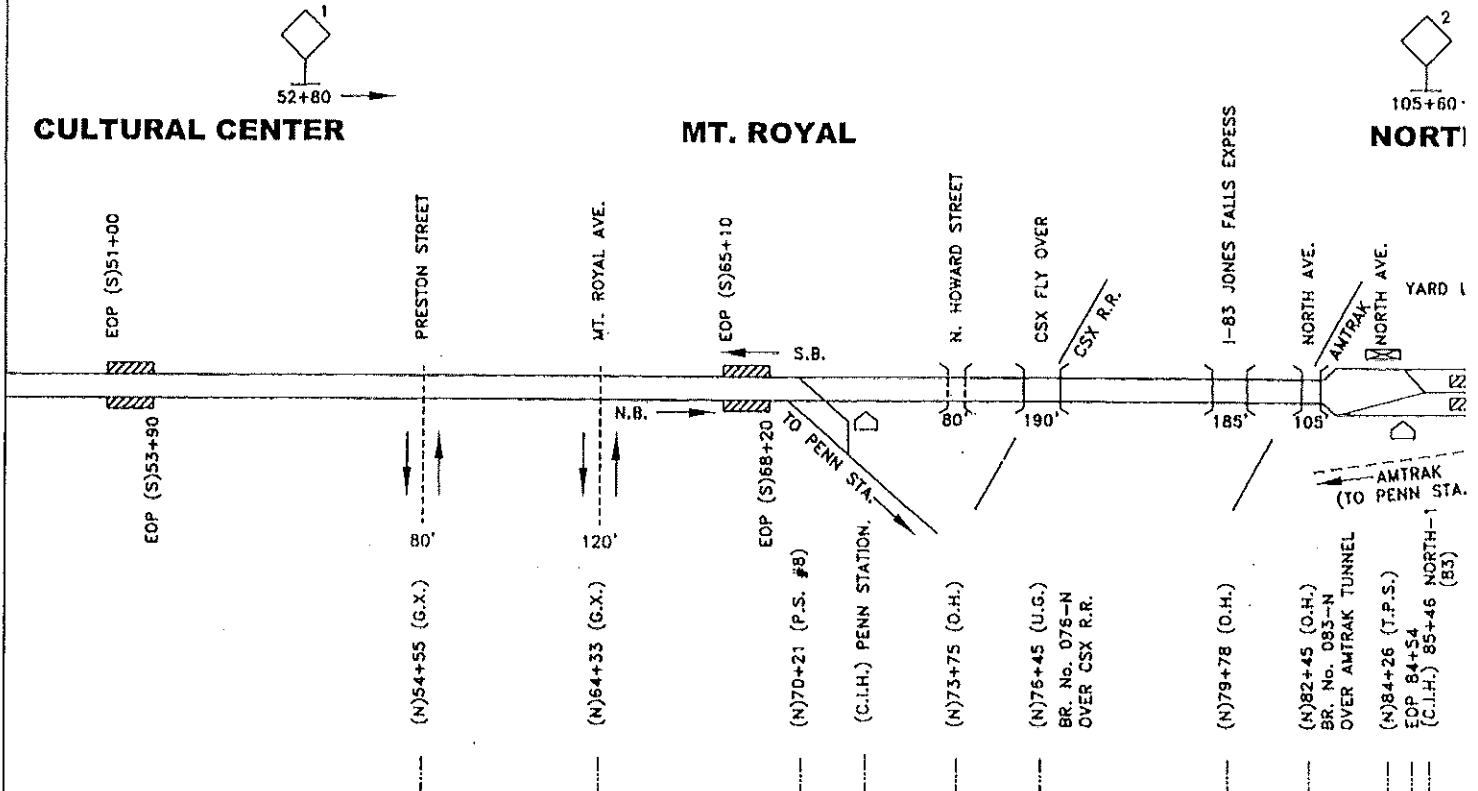
BALTIMORE STREET



CULTURAL CENTER

MT. ROYAL

NORTH



(N)76+45 (U.G.)
BR. No. 076-N
OVER CSX R.R.

(N)79+78 (O.H.)

(N)82+45 (O.H.)
BR. No. 083-N
OVER AMTRAK TUNNEL

(N)84+26 (T.P.S.)
EOP 84+54
(C.I.H.) 85+46 NORTH-1
(83)

EOP 88+32 (STN.)
(C.I.H.) 89+50 NORTH-2
91+89 (P.S.) (88)
91+97 (P.S.)

N.S. 92+50 (MTA) DERAIL

N.S. 101+86 (P.S. #8)

N.S. 101+86 (P.S. #8)

N.S. RUN AROUND TRK

N.S. XING 110+50

(N)113+60 (O.H.)

(N)114+40

(N)118+40 (O.H.)

(N)119+30

N.S. 110+30 (P.S. #8)

122+82 (P.S. #8)

(C.I.H.) 124+60

126+52 (P.S. #8)

(N)127+10 (O.H.)

(N)127+60

(N)145+45 (O.H.)

(N)146+55

ABANDONED
(N)160+00 (PED. UNDERPASS)
(STONE)

(N)164+50

(O.H.)

(N)167+00

CSX FLY OVER

CSX R.R.

I-83 JONES FALLS EXPRESS

NORTH AVE.

NORTH AVE.

YARD LEADS

MTA-NORTH AVE YARD + SHOP

TRK #2

TRK #1

SHOP

S.B.

28TH ST.

29TH ST.

N.S. FLEXI-FLO-YARD

CONRAIL (124)

WYMAN PARK DR.

FALLS RD. RAMPS

NORFOLK SOUTHERN TAIL TRACK

JONES FALL EXP.

NORTH AVE.

158+40

(S)6+40 (G.X.)

(N)0+00 (G.X.)

(N)4+00 (G.X.)

(N)8+03 (G.X.)
CROSSWALK

(N)13+00 (G.X.)

(N)17+00 (G.X.)

(N)20+50 (G.X.)

(N)25+00 (G.X.)

(N)29+30 (G.X.)

(N)30+00 (T.P.S.)

(N)33+20 (G.X.)

(N)42+75 (G.X.)

(N)43+00 (G.X.)

(N)45+47 (G.X.)

50'

50'

50'

40'

50'

40'

50'

40'

35'

41'

39'

5'

10'

40'

40'

W.L.O

EOP

W.B.

W. I

W. I

EOP

W. I

W. I

W. I

P.S.17

W.

W.

N.

W.

PEI

W.

M.L

RIFFIN'S EXHIBIT 4

RIFFIN'S 11 - 24 - 2024 AFFIDAVIT

RIFFIN'S EXHIBIT FOUR

NOVEMBER 24, 2024 AFFIDAVIT OF JAMES RIFFIN

1. My name is James Riffin. I am over 21. I am authorized and competent to make this Affidavit.

2. On November 2, 2024, I read the October 31, 2024 filed Notice of Exempt Abandonment, ("NOE") in AB 290 (Sub. No. 412X).

3. I read the February 8, 2023 MDOT letter, which appears at pp. 49-50 in the NOE.

4. The MDOT letter states that the Maryland Transit Administration ("MTA"), began removing the "crossings" (diamonds), that carried the Cockeysville Industrial Tracks ("CIT") across the Light Rail tracks. [From Mile post UU 0.00 to about Milepost UU 0.90, the CIT are physically on the ground on the East side of the Light Rail Tracks. At about Milepost UU 0.90, there was a Left Hand ("LH") turnout in the CIT. The turnout track went in a north west direction, toward two diamonds, by which the turnout track crossed the Light Rail tracks at grade. Forty or so feet west of the west Light Rail Track, referred to as Track No. 1, S.B. on the Light Rail's Track Chart, the turnout track entered a LH turnout in a track referred to as the Norfolk Southern Tail Track on the Light Rail Track Chart. The Tail Track was a north-south track, parallel to the Light Rail Tracks, which extended north of the LH Tail Track turnout, about 500 feet, to its stub end. It extended south of the LH Tail Track turnout about 500 feet, where it branched into 12 yard tracks, which constituted the Flexi-Flow facility.]

5. The MDOT letter further states, on p. 2, that in 2019, Norfolk Southern sold the Flexi-Flow facility.

6. I studied Google Satellite images of the Line that is the subject of AB 290 (Sub. No. 412X)

7. The satellite images depict heavy construction equipment (excavators, etc.), which appear to have removed the diamonds, CIT crossing track, and LH turnout that was in the CIT on the East side of the Light Rail tracks.

8. I re-read, and studied, my copy of the Response that was filed by the Maryland Transit Administration ("MTA") in FD 34975, (I participated in that proceeding. I still have my copy of all of the pleadings filed in that proceeding.) The Response contains Track Charts of the Line for the years 1917, 1965 and 1988. It also contains a copy of the Light Rail Track Charts for the Northern portion of the Light Rail line.

9. I am intimately familiar with the portion of the CIT that lies between Milepost UU 0.00 and 1.0, including Conrail's Flexi-Flow Terminal, which is on the North side of the Light Rail's Shops at North Avenue, in Baltimore City, on the West side of the Light Rail main line tracks, having walked, and studied the CIT during the FD 34975 proceeding.

10. On November 12, 2024, I decided to re-visit the portion of the CIT that is the subject of AB 290 (Sub. No. 412X). I presented myself at the entrance gate to the Light Rail Shops. I stated that I desired to go to the Flexi-Flow facility. I was given permission to enter the premises. I inspected the portion of the Cockeysville Industrial Tract, that is the subject of AB 290 (Sub. No. 412X), including the (former) Flexi-flow facility. I say 'former,' because it is no longer there.

11. On my November 12, 2024 visit, I observed the following:

12. All of the yard tracks that were in the Flexi-flow facility, had been removed.

13. The former Flexi-flow facility was being used as a Contractor's Storage Yard. I observed heavy construction equipment (excavators, etc.), and substantial quantities of old water mains, and other scrap steel, being stored on the property.

14. A portion of the Tail Track, including the LH turnout in the Tail Track, was still on the ground, north of the gate through which the Tail Track entered the former Flexi-flow facility.

15. The diamonds, the CIT crossing track, and the LH turnout that had been in the CIT track on the East side of the Light Rail tracks, were no longer there. Where the LH turnout had been, tangent track had been inserted.

16. A bit north of where the turnout had been, there was a de-rail on the CIT. Past the de-rail, the CIT entered a LH turnout in Light Rail Track # 2, N.B.

17. The derail is at or near Milepost UU 0.90. The derail is about 500 feet south of Milepost UU 1.0. The derail is about 100 feet south of the south side of the Wyman Park Bridge.

18. I noted there was NO catenary wires above ANY of the CIT FREIGHT tracks. Not even above the CIT from the de-rail to the 'frog' in the LH turnout that connects the CIT to Light Rail's Track # 2. ALL catenary wires were above the center-line of Light Rail's Track No. 1 and Track No. 2.

19. The CIT track south of Milepost UU 0.9 appeared to be in usable condition.

20. The CIT track south of Milepost UU 0.9, is 50 or so feet East of Light Rail's eastern-most Track No. 2.

21. I certify, under the penalties of perjury, that the above is true and correct to the best of my personal knowledge, information and belief.

Executed on: November 24, 2024

 /s/ James Riffin

James Riffin
Affiant

RIFFIN'S EXHIBIT 5

SCRAP METAL QUOTE

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15

STEEL RAIL PRICE

Yahoo Mail/Inbox ☆

george georgegeorge

From: george@owlmetals.com

To: jimriffin@yahoo.com

Fri, Nov 15 at 8:22 AM

Hello Jim

Owl Metals is offering 9 cents per pound (\$201/gross ton) for steel rails
FOB our yard in Dundalk.We can move the material from the site to our yard in rolloff cans. The
cost for trucking is \$150 per trip. We would not load the material into
the container. I have a guy that would cut the rail for you.

The cost is \$30.00 per gross ton plus gas and air.

Thanks George



Reply, Reply All or Forward