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December 9, 2008

Ms. Victoria J. Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
Room 1106
395 E Street, SW
Washington, DC 20423-0001

Re: Finance Docket No. 35131, Vaughan Railroad Company -
Construction and Operation of a Line of Railroad - in Monongalia
County, West Virginia

Dear Ms. Rutson:

On June 3, 2008, Petitioner Vaughan Railroad Company (hereinafter "Vaughan") filed a petition with the Surface Transportation Board ("Board"), seeking an exemption from the prior approval requirements of 49 U.S.C. § 10901 for the construction and operation of a rail line, approximately five (5) miles in length, between a new coal mine currently under development in Monongalia County, West Virginia, and a connection with the Norfolk Southern Railway Company ("NS").

As you know, the Section of Environmental Analysis ("SEA") has approved Vaughan's nomination of Dawkins Environmental Consultants ("Dawkins") to serve as an Independent Third Party Consultant to assist SEA in conducting an environmental review of Vaughan's proposed rail line construction project, and that environmental review is currently under way.

In its Petition for Exemption, Vaughan indicated that it had analyzed two possible routes for its new rail line – the "Southern Route," located entirely within Monongalia County, West Virginia, and an alternative "Northern Route," which would run through portions of Greene County, Pennsylvania as well as Monongalia County. Both routes were depicted on the map attached as "Exhibit A" to the Petition. Vaughan

understands that SEA presently contemplates conducting a thorough review of the possible environmental effects of each route as part of its environmental analysis.

Vaughan completely agrees that SEA's in-depth environmental analysis should encompass both routes. We are writing at this time simply to indicate, on the record, why Vaughan anticipates that when SEA's environmental analysis of both routes is complete, SEA will likely conclude that the Southern Route is environmentally preferable to the Northern Route. (These observations are of course based upon the preliminary environmental analyses that Vaughan and its corporate parent, Consol Energy Inc., have conducted, and as such will have to be confirmed or corrected as SEA's in-depth analysis progresses.)

1. Endangered Species – Vaughan understands that there is a known hibernacula of Indiana Bats to the north of the project. The Northern Route is closer to that hibernacula, and therefore has a higher probability of being within Indiana Bat territory.
2. Land Use/Socioeconomic Impact –
 - a. There are three named communities along the Northern Route (Jollytown, Hero and Maple) while there is only one on the Southern Route (Wana).
 - b. The Northern Route has more public road crossings (4) than the Southern Route (3). (We note however that Vaughan's proposed construction plans call for grade separations at public road crossings, lessening the significance of this difference.)
 - c. The Northern Route follows roads that are relatively undeveloped, and residents near that route are accordingly not accustomed to high traffic volumes or other incidents of mining and/or railroad operations. By contrast, the Southern Route follows State Route 7, which is heavily traveled, for much of its length. Moreover, residents along much of the Southern Route are already accustomed to nearby rail and coal mining activities.
 - d. The number of properties - and presumably, property owners -

directly impacted by the Northern Route (29) is nearly double that of the Southern Route (16).

- e. There are more cemeteries (5 v. 4) and more churches (2 v. 1) near the Northern Route.
 - f. Due to the topology of the two rail loop sites, the rail loop on the Northern Route will create a significantly greater disturbance, and moreover must be located where it could have an adverse visual impact on a potentially historic structure in Maple.
3. Historic/Cultural: There are two Historic Markers located along the Northern Route, none on the Southern Route.
 4. Air Quality: The loop track for the Northern Route must be situated further from the actual mining operations than the loop track for the Southern Route would be, necessitating construction and operation of a 2-mile conveyor belt which would not be needed for the Southern Route. This in turn could cause a slightly greater impact on nearby air quality (coal dust) than a strictly rail operation.
 5. Energy Conservation: The Northern Route has a slightly steeper ruling grade than the Southern Route (0.87% v. 0.7%), which could necessitate use of an additional railroad locomotive to handle 150-car unit coal trains efficiently and reliably. If that proves to be the case, the result would be increased diesel fuel consumption for operations on the Northern Route.
 6. Construction Cost: Finally, while not strictly speaking an environmental impact, Vaughan notes that the cost of completing the proposed rail line using the Northern Route would be significantly greater than the cost of building it over the Southern Route – especially when the cost of the required 2-mile conveyor required for the Northern Route is factored in. Inasmuch as the costs of the construction and operation of the proposed rail line must ultimately be borne by purchasers of the coal that will be transported over it, this could ultimately have a small but discernable effect on the cost of coal, and of the electricity that will be produced from that coal.

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Vaughan appreciates this opportunity to express its views regarding the environmental advantages of each route being considered for its proposed new rail line, and looks forward to continuing to provide such information and assistance as SEA and Dawkins may request in connection with their environmental review in this case.

If you have any questions regarding this request or need further information, please do not hesitate to call me at (202) 536-8353.

With best regards,

Sincerely,



Donald G. Avery
An attorney for the Vaughan Railroad Company

Cc: Ken Blodgett, STB/SEA
Ms. JoCarole Dawkins



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<dga@sloverandloftus.com>
12/10/2008 10:02 AM

To "Victoria Rutson (Vicki.Rutson@stb.dot.gov)"
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Subject Finance Docket No. 35131 (Vaughan Railroad)

Dear Ms. Rutson, Mr. Blodgett, and Ms. Dawkins:

Attached please find a letter we are submitting to the SEA on behalf of the Vaughan Railroad Company in the subject proceeding, setting forth Vaughan's reasons for believing that the "Southern Route" will ultimately be found to be environmentally preferable to the "Northern Route" when SEA's environmental analysis is complete. Please note that Vaughan is NOT asking for any changes in the manner in which SEA is conducting its environmental review, and in particular, Vaughan is NOT asking that your in-depth review be confined to the Southern Route.

Sincerely,

Donald G. Avery
An attorney for the Vaughan Railroad Company

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