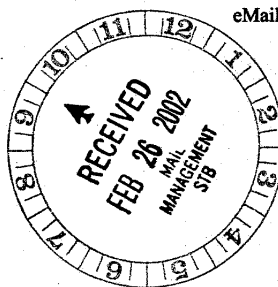




Taro Kusunose

eMail: tkusunose@bpmlaw.com

February 21, 2002



VIA FEDERAL EXPRESS

Surface Transportation Board
1925 K. Street N.W.
Washington, D.C. 20423-0001

204834

Re: **STB Docket No. AB-573X**, *Trinidad Railway, Inc. – Abandonment Exemption – in Las Animas County, CO*

204835

STB Finance Docket No. 34087, *Trinidad Railway, Inc. – Lease and Operation Exemption – Kern Valley Railroad Company*

STB Finance Docket No. 33956, *Kern Valley Railroad Company – Lease and Operation Exemption – Trinidad Railway, Inc.*

204836

Dear Sir or Madam:

Please find enclosed three (3) courtesy copies of a letter submitted to the STB. Please distribute the copies to Hon. Linda J. Morgan, Hon. Wayne O. Burkes, and Ms. Ellen Hanson, Esq. Please call us with any questions or concerns ((206) 292-9988).

Respectfully submitted,

Taro Kusunose

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145514/022102 1722/66720001

A Professional Service Corporation

One Convention Place
Suite 1400 • 701 Pike Street
Seattle WA • 98101-3927

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Patterson
Mines**

ATTORNEYS

ENTERED
Office of the Secretary

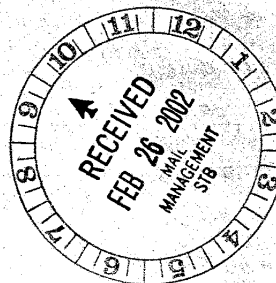
FEB 26 2002

Part of
Public Record

Taro Kusunose

eMail: tkusunose@bpmlaw.com

February 21, 2002



VIA FEDERAL EXPRESS

David M. Konschnik
Director
Office of Proceedings
Surface Transportation Board
1925 K. Street N.W.
Washington, D.C. 20423-0001

204834

Re: **STB Docket No. AB-573X, Trinidad Railway, Inc. – Abandonment Exemption – in Las Animas County, CO**

204835

STB Finance Docket No. 34087, Trinidad Railway, Inc. – Lease and Operation Exemption – Kern Valley Railroad Company

204836

STB Finance Docket No. 33956, Kern Valley Railroad Company – Lease and Operation Exemption – Trinidad Railway, Inc.

Hon. Konschnik:

We hereby request the clarification of the Surface Transportation Board (the "Board") regarding the timing of certain events soon to transpire in the OFA proceeding referenced above.

We, as counsel for Rail Ventures, Inc. ("Rail Ventures") have been unable to agree with our colleague representing Kern Valley Railroad Company ("Kern Valley") regarding the applicable deadline for Rail Ventures to file its request that the Board set the terms and conditions for the purchase of Kern Valley's line by Rail Ventures (the "Request"), should the parties be unable to reach an agreement regarding the purchase price. Because of the importance of the timing of the Request, as noted below, we request clarification of the Board.

145303/022102 1717/66720001

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February 21, 2002

Page 2

As you may be aware, we recently appeared as counsel for Rail Ventures. Based on our recent review of this matter, it appears that the applicable deadline for the filing of the Request in this specific proceeding was addressed in a decision by the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes, dated December 11, 2001. The Board's order issued as part of the December 11th decision (the "Order") reads at (5), in part:

5. If Rail Ventures and Kern Valley cannot agree on a purchase price for the line, either party may request the Board to establish the terms and conditions for the purchase on or before a date 20 days after the date Rail Ventures receives the relevant purchase price information and is granted access to the line.

It appears from our review of the proceeding thus far, that the Board issued this Order concerning timing because of the delays attributable to the procedural requests of Kern Valley.

Despite the language in the Order, our attention has been directed by Kern Valley counsel to 49 C.F.R. 1152.27(g)(1), which sets forth a different time limit. We feel that the issuance by the Board of an Order specific to this particular proceeding supersedes the more general language found in the regulations.

There has also been disagreement with regard to the calculation of the "20-days" referred to in the Order, should that language apply in our case. Assuming, as is here the case, that Rail Ventures received the "relevant purchase price information" before it was "granted access to the line," we believe that the 20 days is calculated beginning with the date Rail Ventures "accesses" the line; i.e., physically visits the rail line. Kern Valley, on the other hand, feels that the 20 days should be calculated beginning with the date Kern Valley "grants" such access; i.e., the date Kern Valley and Rail Ventures mutually agree upon a future later date to visit the rail line (not the date of the visit itself). Kern Valley's interpretation of the Board's Order not only appears forced, but also appears to thwart the Board's intent behind granting the buyer the 20 day period for a meaningful evaluation of the line.

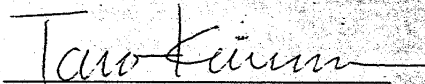
In this case, the agreed-upon access (inspection) dates are February 26 and 27, 2002. Kern Valley claims that the running of the 20 day period occurs on February 28, 2002 (setting aside the fact that the earliest date it could be argued that there was agreement regarding the inspection dates is February 12, 2002). If the cut-off date is the 28th, our client is afforded no time whatsoever to, at the minimum: 1) have its appraiser prepare and complete an appraisal for a rail line; 2) synthesize the completed appraisal; 3) attempt to come to agreement with Kern Valley regarding the purchase price terms; and 4), prepare and file Request with the Board if the parties are unable to agree on the purchase terms. It appears to us that this was not the intended result of the Board's Order.

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Another concern we have, should the running of the 20 days begin on the date of "granting" (not the date of "access"), is the real possibility that the 20 day period may lapse prior to the date of Rail Venture's access to the line. We do believe that the access/inspection will in fact occur on the 26th and 27th. It would unfortunately, however, not be a complete surprise should Kern Valley interpose some objection and not allow Rail Ventures to conduct the visit on the agreed-to dates. If Rail Ventures is unable to access the line prior to the running of the 20 days, it would be a critical blow to their attempt to purchase the line. For these reasons as well, we request that the Board provide further clarification on this issue, as soon as possible.

The original and ten (10) copies of this letter, one additional copy of the first page of this letter marked "COPY," a stamped, self-addressed envelope, and a Certificate of Service are enclosed. If you could direct someone in your office to send us the additional copy with a "received" stamp, or some other stamp of similar designation, affixed, in the enclosed envelope, it would be greatly appreciated. Please call us with any questions or concerns ((206) 292-9988).

Respectfully submitted,



Stephen L. Day
Taro Kusunose
Attorneys for
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701 Pike Street, Suite 1400
Seattle, WA 98101
(206) 292-9988 – Telephone
(206) 343-7053 – Fax

TK:ltg

cc: Hon. Linda J. Morgan (via overnight mail)
Hon. Wayne O. Burkes (via overnight mail)
Hon. Vernon A. Williams (via overnight mail)
Ms. Ellen Hanson, Esq. (via overnight mail)
Mr. John Reed (via overnight mail)
Mr. Fritz Kahn, Esq. (via overnight mail)
Mr. John Heffner, Esq. (via overnight mail)