

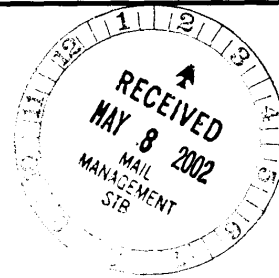


BRUSSELS CINCINNATI CLEVELAND COLUMBUS DAYTON WASHINGTON, D.C.

May 8, 2002

Via Messenger

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001



RE: STB Docket No. AB-529X, *Middletown & Hummelstown Railroad Company—
Abandonment Exemption in Lancaster County, PA*, and STB Docket No. AB-581X, *1411
Corporation Abandonment Exemption—in Lancaster County, PA.*

205 351

205 352

Dear Secretary Williams:

Enclosed please find an original and ten (10) copies of Frank Sahd Salvage Center, Inc.'s Opposition to the Borough of Columbia's "Notice, Appeal and Petition Relating to Decision Served April 12, 2002" and "Petition for Expedited Consideration of Borough of Columbia's Appeal Relating to April 12, 2002 Decision" to be filed in the above-referenced docket.

Also, enclosed is one additional copy of each pleading for stamp and return. Kindly date-stamp the additional copy for return to this office by messenger.

If you have any questions, please do not hesitate to call. My direct dial number is (202) 263-4107.

Sincerely,

Jeffrey O. Moreno
Michael H. Higgins
Attorneys for Frank Sahd Salvage Center, Inc.

ENTERED
Office of the Secretary

MAY - 8 2002

Part of
Public Record

cc: Andrew P. Goldstein, Esq.
Charles H. Montange, Esq.
Robert L. Pfannebecker, Esq.
Mr. Ronald Sahd

BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO. AB-529X - 205351

MIDDLETOWN & HUMMELSTOWN RAILROAD COMPANY—ABANDONMENT
EXEMPTION IN LANCASTER COUNTY, PA

DOCKET NO. AB-581X - 205352

1411 CORPORATION—ABANDONMENT
EXEMPTION IN LANCASTER COUNTY, PA

ENTERED
Office of the Secretary

MAY - 8 2002

Part of
Public Record

**PETITION FOR EXPEDITED CONSIDERATION OF
BOROUGH OF COLUMBIA'S APPEAL RELATING TO APRIL 12, 2002 DECISION**

Frank Sahd Salvage Center, Inc. ("Sahd Salvage"), hereby submits this Petition for Expedited Consideration of the Borough of Columbia's "Notice, Appeal and Petition Relating to Decision Served April 12, 2002" ("Appeal"), served on May 1, 2002, in the above-captioned docket.¹ Contemporaneous with this Petition, Sahd Salvage has filed its Opposition to the Borough's Appeal.

Sahd Salvage takes the unusual step of requesting expedited consideration of the Borough's Appeal because the filing of the Appeal has called into question the closing date for Sahd Salvage's purchase of the Middletown & Hummelstown rail line (the "M&H Line")

¹ According to the Certificate of Service, the Borough served its Appeal via first-class mail on May 1, 2002. Counsel for Sahd Salvage was unaware of the Appeal until it received an errata page from the Borough on May 6, 2002. On request, the Borough faxed the Appeal to Sahd Salvage on May 6, 2002.

pursuant to its Offer of Financial Assistance ("OFA"). As noted in Sahd Salvage's Opposition, the Borough has filed a procedurally defective appeal by filing pursuant to 49 C.F.R. Part 1115 rather than 49 C.F.R. §1152.25(e). As a result, the Borough has filed five days late and it did not simultaneously file a stay request, as directed by 49 C.F.R. §§ 1152.25(e)(2)(i) and 1152.25(e)(7).

Although the Board's rules are clear that an abandonment decision is administratively final on the date of service and that only a stay request will preclude the abandonment from becoming effective pending the Board's decision on a petition to reopen, see 49 C.F.R. § 1152.25(e)(7), the Applicants have expressed concern to Sahd Salvage that they might be precluded from closing the sale of the M&H Line by their contract to sell the line to Shawnee Run Greenway, Inc. ("Shawnee"), which would be revived if the Borough's appeal is granted. Shawnee has filed in support of the Borough's Appeal. This calls into question the Applicants' willingness to complete the transaction by May 27, 2002, the deadline set by the Board's April 12 decision.²

This uncertainty would be eliminated by a prompt order from the Board resolving the Borough's appeal. In the alternative, an Order from the Board directing the Applicants to proceed with the closing absent any grant of a stay request by the Board would provide the Applicants with a sufficient directive to protect them from breach of contract claims by Shawnee.

² Because April 27 is Memorial Day, the Applicants and Sahd Salvage may have to defer closing until May 31, 2002. Both parties are agreeable to this extension and, should the extension become necessary, the parties intend to file a joint request with the Board. See Exhibit 1. This Petition for Expedited Consideration is filed without prejudice to Sahd Salvage's right to request the above extension. In the alternative, in the interest of avoiding further pleadings in this matter, Sahd Salvage asks the Board to grant an extension of the closing date until May 31, 2002 as part of an expedited ruling on the Borough's Appeal.

WHEREFORE, Frank Sahd Salvage Center, Inc. prays that the Board give expedited consideration to the Borough's Appeal or, in the alternative, order the Applicants to conclude the sale of the M&H line to Sahd Salvage within the time frame established by the Board.

Respectfully submitted,



Jeffrey O. Moreno
Michael H. Higgins
THOMPSON HINE LLP
1920 N Street, N.W.
Suite 800
Washington, D.C. 20036
(202) 331-8800

May 8, 2002

*Attorneys for Frank Sahd Salvage
Center, Inc.*

CERTIFICATE OF SERVICE

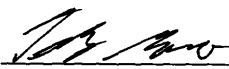
I hereby certify that I have served on this 8th day of May, 2002, a copy of the above
Petition for Expedited Consideration by hand delivery upon the following:

Andrew P. Goldstein, Esq.
McCarthy, Sweeney & Harkaway, P.C.
2175 K Street, N.W.
Suite 600
Washington, D.C. 20423-0001

And by overnight delivery upon:

Charles H. Montage, Esq.
426 NW 162d St
Seattle, WA 98177

Robert L. Pfannebecker
Zimmerman, Pfannebecker, Nuffort & Albert
22 South Duke Street
Lancaster, PA 17602



~~Michael H. Higgins~~
Jeffrey A. Moreno

EXHIBIT 1

May 6, 2002

By Telefax

Andrew P. Goldstein, Esq.
McCarthy, Sweeney & Harkaway, P.C.
2175 K Street, N.W.
Suite 600
Washington, D.C. 20423-0001

Re: *STB Docket No. AB-581X and STB Docket No. AB-529X*

Dear Andy:

This letter is intended to memorialize our conversations regarding the closing date for the sale of the Middletown & Hummelstown rail line to Frank Sahd Salvage Company. Although the parties are striving to close the transaction by Friday, May 24, 2002, that date is contingent upon the completion and evaluation of the environmental testing being performed on behalf of Sahd Salvage. If the testing is not finished in sufficient time to complete our negotiations over the contractual terms of sale, we have agreed to jointly ask the Board for an extension of time to close the sale.

Sahd Salvage is amenable to an extension so long as it is not protracted. Therefore, Sahd Salvage hopes and believes that an extension, if necessary, would not extend beyond Friday, May 31, 2002. A decision whether to request an extension probably should be made by next Monday, May 13, 2002, in order to give the Board sufficient time to act.

If you have any questions or corrections regarding this letter, please let me know.

Sincerely,



Jeffrey O. Moreno

Jeffrey Moreno - your letter of May 6

From: "Andy Goldstein" <apg@mshpc.com>
To: <jeff.moreno@thompsonhine.com>
Date: 5/6/2002 5:35 PM
Subject: your letter of May 6

we are agreeable to making a joint request to the STB for an extension. It is in our interests to close as soon as possible, and we think May 31 is a reasonable target, but we can't be absolutely sure of making it by that date, considering Memorial Day (May 27) and that fact that M&H does a big tourist business. Why don't we wait until we see what Sahd wants to do and then if we have major issues over the contract (which i doubt) before we try to fix a date certain.