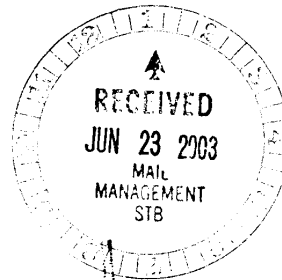




ASSOCIATION OF
AMERICAN RAILROADS

Law Department
Dennis J. Starks
Senior Commerce Counsel

208151



June 23, 2003

DELIVERED BY MESSENGER

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

ENTERED
Office of Proceedings

JUN 23 2003

Part of
Public Record

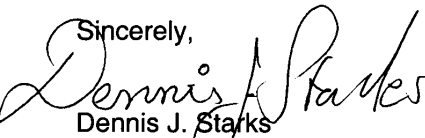
Re: AB-389 (Sub-No. 1X), Georgia Great Southern Division, et. al., -
Abandonment and Discontinuance Exemption - Between Albany &
Dawson, GA

Dear Secretary Williams:

Enclosed for filing in the proceeding referenced above, is an original and ten (10) copies of the Reply Comment Of The Association Of American Railroads To Joint Petition For Partial Reconsideration And/Or Clarification Of Order Served May 16, 2003.

Please date stamp the extra copy of this letter and Reply Comment, provided for that purpose, and return the same via our messenger.

Sincerely,


Dennis J. Starks
Senior Commerce Counsel

Enclosures

cc: All parties of record

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET No. AB-389 (SUB-No.1X)



GEORGIA GREAT SOUTHERN DIVISION, SOUTH CAROLINA CENTRAL RAILROAD
CO., INC. - - ABANDONMENT AND DISCONTINUANCE EXEMPTION - - BETWEEN
ALBANY AND DAWSON, IN TERREL, LEE AND DOUGHERTY COUNTIES, GA

PETITION TO VACATE NOTICE OF INTERIM TRAIL USE OR ABANDONMENT
PURSUANT TO 49 C.F.R. 1152.29

ENTERED
Office of Proceedings

REPLY COMMENT OF THE
ASSOCIATION OF AMERICAN RAILROADS
TO JOINT PETITION FOR PARTIAL RECONSIDERATION
AND/OR CLARIFICATION OF ORDER
SERVED MAY 16, 2003

JUN 23 2003

Part of
Public Record

On June 5, 2003, the Rails-to-Trails Conservancy (RTC) and the South Georgia Rails to Trails (SGRT) submitted a Joint Petition (Petition and/or Petitioners) to the Board "for partial reconsideration of, and clarification relating to, the Board's order in the above captioned proceeding served May 16, 2003." Specifically, petitioners seek reconsideration of and/or clarification of the statement on page 7 of the Board's May 16th decision that reads "[u]nder the statute, the trail sponsor can acquire only the right to use the rail corridor on an interim basis for trail use, and trail use can continue only until the carrier (or another approved rail service provider) restores rail service on all or part of the line." Petitioners contend the statement could be read to suggest that even if a railroad attempts to convey all of its property interest to the trail sponsor (including fee-owned parcels), it conveys no more than a right of use, and /or that any transfer by the railroad of its property is voided upon re-activation of rail service regardless of any contractual provisions or rights to the contrary. Pet. 1-2.

From the AAR's perspective, viewing the Board's prior decision in total, there is nothing about the decision that detracts from the overriding principle that the obligation of a trail user to allow a trail corridor to remain available for reactivation of rail service is a statutory obligation not contingent on a Board determination of the type of property interests of either the reactivating party or trail user.

To the extent, as suggested by petitioners, the statement on page 7 of the decision could be read as saying that a railroad cannot, in a Trails Act transaction, convey its entire ownership interest in a right-of-way to a trail sponsor, the AAR does not believe that the Board intended such a reading, particularly inasmuch as in its decision the Board also stressed that the Trails Act permits the "transfer" of lines by "sale, donation or otherwise" (Dec. at p. 7, fn. 6). See, generally, *Rail Abandonments – Use of Rights-of-way as Trails*, 2 I.C.C. 2d 591, 596 (1986).

However, since the language on p. 7 may be capable of being misread if taken out of context, we agree that it would be helpful if the Board would clarify that this language was not intended to prohibit the transfer of a railroad's entire ownership interest to a trail sponsor in a manner consistent with the Trails Act. See e.g., *Iowa Power, Inc. – Const Exempt – Council Bluffs, IA*, 8 I.C.C. 2d 858 at 868, fn. 11 (1990).

CONCLUSION

The AAR urges the Board to reach a determination on the joint petition for partial reconsideration and/or clarification consistent with the views expressed above.

Of Counsel:

James R. Paschall
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Norfolk Southern Railway Company

Peter Shudtz
Paul R. Hitchcock
CSX Transportation Inc.

Robert T. Opal
Union Pacific Railroad Co.

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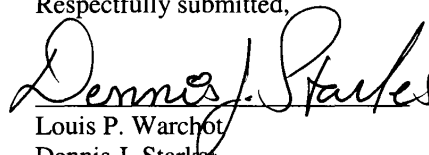
Marcella M. Szel
William M. Tuttle
CP Railway Company

Theodore K. Kalick
Serge Cantin
Canadian National Rwy Co.

William J. Wochner
Kansas City Southern Railway

Dated: June 23, 2003

Respectfully submitted,



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Attorneys for the
Association of American Railroads

* Admitted to West Virginia, only. Practice limited to matters and proceedings before federal courts and agencies.

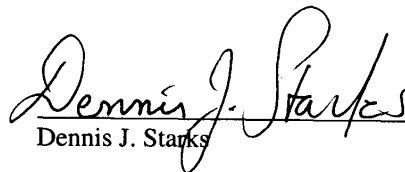
CERTIFICATE OF SERVICE

I hereby certify that on this, the 23rd day of June, 2003, I have served true and accurate copies of the foregoing Reply Comment Of The Association of American Railroad To Joint Petition For Partial Reconsideration And/Or Clarification Of Order Served May 16, 2003, upon all counsel of record, by first class mail, postage prepaid, as follows:

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