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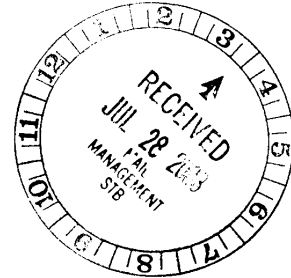
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July 28, 2003

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 700
Washington, D. C. 20423



RE: Docket No. AB-55 (Sub-No. 631X), *CSX Transportation, Inc.—Abandonment Exemption—in Summit County, OH*

Dear Secretary Williams:

Enclosed are the original and 10 copies CSX Transportation, Inc.'s Response to the Notice to Commence Discovery in the above-entitled proceeding. Also enclosed are three diskettes containing the Discovery Response.

Please time and date stamp the additional copy of this letter and the Discovery Response, and return it to our messenger. Thank you for your assistance.

If you have any questions, call or email me.

Sincerely yours,

Louis E. Gitomer
Attorney for CSX Transportation, Inc.

Enclosures

STB-55-631X
Office of Proceedings

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Part of
Public Record

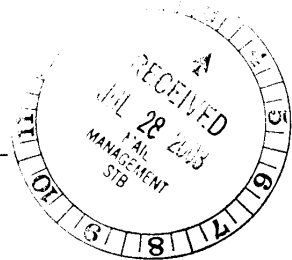
ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-55 (Sub-No. 631X)

CSX TRANSPORTATION, INC.-ABANDONMENT EXEMPTION-
IN SUMMIT COUNTY, OHIO

RESPONSE TO NOTICE TO COMMENCE DISCOVERY



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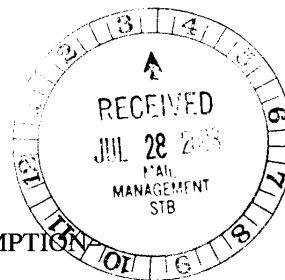
Attorneys for: CSX TRANSPORTATION,
INC.

Dated: July 28, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-55 (Sub-No. 631X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION
IN SUMMIT COUNTY, OHIO



RESPONSE TO NOTICE TO COMMENCE DISCOVERY

CSX Transportation, Inc. (“CSXT”) files this Response with the Surface Transportation Board (the “Board”) to the Notice to Commence Discovery dated July 18, 2003 (the “Discovery Notice”) by Terminal Warehouse, Inc. (“Terminal”). CSXT opposes Terminal’s request for discovery and requests that it be denied.

CSXT incorporates by reference the facts and background of this proceeding that are set forth in CSXT’s Response to Petition to Revoke, which is concurrently being filed in the instant proceeding.

Terminal requests that it be permitted to commence discovery under 49 C.F.R. § 1116. However, 49 C.F.R. § 1116 concerns oral argument before the Board, not discovery, so it provides no basis for Terminal’s request.

Terminal next admits that it failed to comply with the rules at 49 C.F.R. § 1121.2. When a petition to revoke an exemption is filed it must contain an indication that discovery is being sought. Terminal failed to indicate that it was seeking discovery in the petition filed on July 8, 2003. The rules also require that discovery be filed concurrently with the petition to revoke. Terminal also failed to comply with that requirement. CSXT contends that because Terminal failed to comply with the rules in section 1121.2 its Discovery Notice should be denied.

Terminal then argues that “CSX has not yet filed a response, and allowing discovery will not prejudice CSX in any way.” Discovery Notice at 2. CSXT had not responded to Terminal’s petition by July 18 because CSXT is entitled to 20 days, or July 28, to respond to a petition to revoke. 49 C.F.R. § 1104.13(a). Moreover, CSXT will be prejudiced because it will incur additional costs and uncertainty if discovery is permitted. Not only will CSXT incur monetary costs, but it will be forced to divert personnel from their daily tasks in order to respond to Terminal’s discovery. CSXT contends that the Board should deny discovery to protect CSXT from annoyance, undue burden or expense and to prevent the raising of issues untimely or inappropriate to the proceeding, as the Board would in issuing protective conditions in normal discovery. 49 C.F.R. § 1114.21(c).

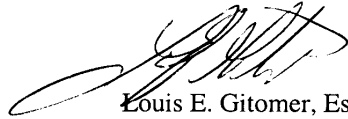
There are three issues that Terminal has failed to address. First, it is the board’s general policy to disfavor discovery in abandonment proceedings. *East St. Louis Junction Railroad Company—Adverse Abandonment—in St. Clair County, IL*, STB Docket No. AB-838 (STB served June 30, 2003), at 6; *Salt Lake City Corporation—Adverse Abandonment—in Salt Lake City, UT*, STB Docket No. AB-33 (Sub-No. 183) (STB served January 11, 2002, at 1-2. Second, Terminal does not indicate the additional information that it will seek through discovery that could be relevant to this proceeding. Finally, CSXT consummated the abandonment on May 23, 2003 terminating this proceeding and the Board’s jurisdiction.¹ CSXT contends that Terminal’s failure to address these three issues is also grounds to deny its request for discovery.

¹ CSXT recognizes that the Board retains jurisdiction over a consummated abandonment in instances of fraud. *CSX Transportation, Inc.—Abandonment—Between Bloomingdale and Montezuma, in Parke County, IN*, ICC Docket No. AB-55 (Sub-No. 486) (STB served September 13, 2002), at 6. However no allegation of fraud has been made here.

CSXT respectfully requests the Board to deny Terminal's request for discovery.

Respectfully submitted,

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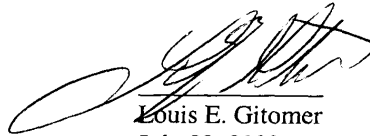
Attorneys for: CSX TRANSPORTATION,
INC.

Dated: July 28, 2003

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this Response in Docket No. AB-55 (Sub-No. 631X), *CSX Transportation, Inc.—Abandonment Exemption—in Summit County, OH* was sent via overnight delivery to:

Frank J. Reed, Jr., Esq.
88 East Broad Street, Suite 900
Columbus, OH 43215

A handwritten signature in black ink, appearing to read "Louis E. Gitomer", is written over a horizontal line.

Louis E. Gitomer
July 28, 2003