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208704

August 12, 2003

VIA OVERNIGHT DELIVERY

Mr. Vernon A. Williams
Surface Transportation Board
Office of the Secretary
1925 K Street, NW
Washington, DC 20423

ENTERED
Office of Proceedings
AUG 14 2003
Part of
Public Record



AB-490X

Re: Challenge to Verified Notice of Exemption Filed by
Greenville County Economic Development Corporation

Dear Mr. Williams:

On behalf of our clients, Lee Groome and Groome & Associates, Inc. (collectively "Groome"), please accept the enclosed as a challenge to the Verified Notice of Exemption Filed by Greenville County Economic Development Corporation ("GCEDC"). Exhibit A. The Surface Transportation Board ("STB") decision dated July 14, 2003, Docket No. AB-490X, provides for an effective date of August 17, 2003. Exhibit B.

Groome asserts that the GCEDC verified notice contains false and misleading information and respectfully requests that the anticipated August 17, 2003 exemption be declared void ab initio, or alternatively, that the matter be stayed pending consideration of this challenge.

In particular, Groome contends that the GCEDC notice contains false and misleading information in that it seeks to discontinue service over 11.8 miles of railroad over which GCEDC never offered service. In addition, the GCEDC notice fails to inform the STB of its ongoing dialogue with the STB's Director of Compliance and Enforcement, Melvin F. Clemens, Jr., concerning its failure to provide rail service. Interestingly, in this regard, GCEDC failed to serve, notify or otherwise inform either Groome or Mr. Clemens of the actual filing of the notice, despite the existence of ongoing litigation between Groome and the GCEDC and despite the prior correspondence with Mr. Clemens. Therefore, Groome never had the opportunity to address the STB of his interest in rail service with regard to this alleged discontinuance.

A. HISTORY OF THE LINE IN QUESTION

In 1999, the GCEDC purchased the line in question from the South Carolina Central Railroad Company (Finance Docket No. 33752). Groome owns property and did business on a portion of the line. At the time of the GCEDC purchase, the area of the line in question was subject to an embargo.

When the embargo ended in December 1999, GCEDC failed to provide rail service to Groome and others served by the line. At no time did GCEDC notify the STB of its failure to provide rail service following the conclusion of the embargo. Mr. Groome met with representatives of the GCEDC numerous times and was repeatedly assured that rail service would be provided to the property in question pursuant to GCEDC's common carrier obligations.

On April 17, 2001, Groome filed an action in South Carolina state court against GCEDC seeking rail service and damages for GCEDC's violation of its obligation to provide rail service. Exhibit C. This matter is currently pending, with the Court most recently entering an Order denying GCEDC's motion to dismiss the action. Exhibit D. Interestingly, GCEDC sought dismissal of this action not only on the ground of statute of limitations, but also on the ground that this matter was pending at the STB.

B. GCEDC's COMMUNICATIONS WITH STB OFFICE OF COMPLIANCE AND ENFORCEMENT

On February 28, 2003, STB Director of Compliance and Enforcement Clemens wrote the GCEDC inquiring about its intentions regarding reinstating service to the line in question. Exhibit E. This letter specifically referenced Groome's complaint to the STB concerning the lack of rail service to his facility. Mr. Clemens' correspondence further noted that failure to address these issues would not only result in his recommendation of a formal complaint, but also his recommendation for the pursuit of damages for involved shippers such as Groome.

In response to a letter dated March 13, 2003, Mr. Clemens provided GCEDC until March 31, 2003 to respond. Exhibit F.

GCEDC responded by letter dated March 31, 2003, essentially stating that funding was unavailable for the rail service in question. Exhibit G. Mr. Clemens responded by letter dated April 3, 2003, unequivocally stating that "the fact that GCEDC has been unsuccessful in acquiring funding to upgrade its purchases does not serve to extinguish [its common carrier] obligation." Exhibit H.

On April 16, 2003, GCEDC notified Mr. Clemens by letter that it intended to instruct its legal counsel to prepare and submit an application to the STB for discontinuance of service. Exhibit I. Importantly, GCEDC's April 16, 2003 letter fails to

Mr. Vernon A. Williams
August 12, 2003
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address Mr. Clemens' reminder that it must meet its common carrier obligation to provide rail service. Mr. Clemens' responsive correspondence to GCEDC acknowledges GCEDC's intentions and expressly notes the fact that GCEDC would be seeking a notice of discontinuance "even though service has not been initiated." Exhibit J. GCEDC never addressed Mr. Clemens' significant point that service had never been initiated.

GCEDC notified Mr. Clemens on May 6, 2003 that it had given notice to several governmental agencies regarding its intent to seek authority to discontinue service. Exhibit K. Mr. Clemens' May 16, 2003 correspondence specifically directed GCEDC to notify "all significant users on the line" in accordance with regulatory requirements. Exhibit L. Despite this specific direction from the STB's Director of Compliance and Enforcement, GCEDC apparently filed its verified notice of exemption on or about June 26, 2003 **without any notice to Groome or his counsel and without any notice to Mr. Clemens**. Further, this verified exemption failed to inform, reference or notify the STB of its ongoing discussions with Mr. Clemens.¹ Remarkably, GCEDC filed its Verified Notice for discontinuance of service after express recognition by the STB Office of Compliance and Enforcement that it had never provided service.

C. GROOME HAS NOT BEEN PROVIDED ANY OPPORTUNITY TO ADDRESS GCEDC's FAILURE TO PROVIDE RAIL SERVICE

Despite ongoing litigation with GCEDC and despite years worth of hallow promises that it would provide rail service in compliance with its common carrier obligations, GCEDC filed a Verified Notice of Exemption with this agency without notifying Groome. In fact, although GCEDC notified counsel that it intended to file such a request, Exhibit M, it intentionally failed to notify Groome of the actual Verified Notice even after express direction by Mr. Clemens to notify shippers such as Groome. More importantly, GCEDC failed to provide notice to Groome pursuant to 49 C.F.R 1152.20 (a)(2)(i), despite being expressly advised by Mr. Clemens as demonstrated by Exhibit L.

Groome learned of the filing through mere happenstance after a colleague's perusal of the STB public filings. Mr. Clemens confirmed on August 11, 2003 that he also was not informed of the filing of the Verified Notice and that he was extremely surprised by the filing and the certifications therein.

D. GCEDC's NOTICE OF EXEMPTION FOR DISCONTINUANCE OF SERVICE IS FALSE AND MISLEADING IN THAT IT SUGGESTS THAT SERVICE HAS BEEN PROVIDED

It is undisputed that GCEDC has never provided service on the line in question. Despite this uncontroverted fact, GCEDC has represented to the STB otherwise by seeking discontinuance of service. This false and misleading information is particularly

¹ The Verified Notice also failed to comply with applicable regulations regarding public notice despite repeated direction from Mr. Clemens' regarding the regulatory requirements. Exhibit A.

Mr. Vernon A. Williams
August 12, 2003
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egregious in light of the fact that Mr. Clemens' clearly articulated this fact to GCEDC in his April 21, 2003 correspondence. Exhibit J. It is also particularly pertinent that despite the voluminous correspondence between Mr. Clemens and GCEDC leading up to the actual filing of the Verified Notice, GCEDC intentionally failed to provide the Verified Notice to Mr. Clemens and consciously failed to inform the STB of this correspondence in its Verified Notice.

E. GCEDC's NOTICE OF EXEMPTION FOR DISCONTINUANCE OF SERVICE IS FALSE AND MISLEADING IN THAT IT FAILS TO DISCLOSE THE FACT THAT NO LOCAL TRAFFIC HAS MOVED OVER THE LINE FOR AT LEAST TWO YEARS DUE TO ITS FAILURE AS A COMMON CARRIER TO PROVIDE RAIL SERVICE IN VIOLATION OF LAW

GCEDC certified in its Verified Notice of Exemption that "no local traffic has moved over the line for at least 2 years." This certification is false and misleading since no traffic has moved over the line due to GCEDC's own failure to provide service as required by law.

As noted previously, GCEDC acquired the line in or about June 1999. At that time, the line was subject to an embargo approved by the STB. At the expiration of the embargo in December 1999, GCEDC undoubtedly assumed its duty to provide rail service. Indeed, it repeatedly assured shippers such as Groome that it would provide the legally required service. Groome relied on these assurances up until April 2001, when it filed the ongoing South Carolina litigation.

In short, no traffic has moved on the line in question since December 1999 solely due to GCEDC's violation of its duties to provide service. GCEDC's intentional misrepresentations and omissions to the STB in its Verified Notice require that this agency declare the Verified Notice void *ab initio*, or, alternatively, that the STB stay the anticipated August 17, 2003 action pending resolution of this matter.²

F. GCEDC's NOTICE OF EXEMPTION FOR DISCONTINUANCE OF SERVICE IS FALSE AND MISLEADING IN THAT IT CERTIFIES THAT NO FORMAL COMPLAINT IS PENDING

GCEDC certified in its Verified Notice of Exemption that "no formal complaint filed by a user of rail service on the line ... regarding cessation of service over the line is pending with the Surface Transportation Board (Board)...." Exhibit A.

GCEDC's certification can only be characterized as willful in light of the history of this matter. Mr. Clemens' February 28, 2003 correspondence begins with the

² Additionally, the representations and omissions in the certification should be viewed in the context of the omission of notification to Groome despite Mr. Clemens' direction and the omission of notification to Mr. Clemens or reference in the Verified Notice to the ongoing correspondence.

Mr. Vernon A. Williams
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notification "of a complaint filed by Lee K. Groome, President of Groome and Associates...." Exhibit E. The March 18, 2003 correspondence from Mr. Clemens to GCEDC unequivocally states that "Mr. Groome has complained about the failure of GCEDC to provide freight rail service to G&A's facility north of Traveler's Rest, SC, which is adjacent to the rail line acquired by GCEDC." Exhibit F.

In addition, GCEDC apparently determined that it would intentionally omit from its Verified Notice of Exemption the fact that the lawsuit was pending in South Carolina state court. Presumably, GCEDC is attempting to avoid notification to the STB of the pending lawsuit since it is not pending in United States District Court. Certainly, the conscious omission of this pertinent information is misleading and directly contrary to public policy. This conclusion is particularly buttressed by the fact that GCEDC filed its certification of Verified Notice of Exemption without notifying Groome, without notifying Mr. Clemens and without any reference to the ongoing dispute.

G. CONCLUSION

GCEDC's certification and Verified Notice of Exemption for Discontinuance of Service contains blatant falsehoods and misleading information. This includes the facts that: (1) GCEDC filed an application for discontinuance of service when service had never been initiated; (2) GCEDC falsely certified or certified in misleading fashion that no local traffic has moved over the line for at least two years when it knew that no traffic had moved due to its failure to provide common carrier obligation as required by law; (3) GCEDC falsely certified or certified in misleading fashion that no complaint had been filed when it was expressly informed of Groome's complaint by Mr. Clemens and when it was involved in the pending lawsuit; and (4) GCEDC intentionally failed to notify Groome of its Verified Notice and intentionally failed to notify Mr. Clemens of its Verified Notice.

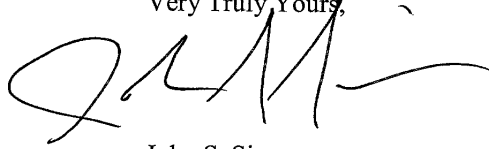
In essence, GCEDC has attempted to perpetuate a fraud on this Board with its certification and Verified Notice. GCEDC acquired this rail line with Board approval during an embargo which expired December 1999. GCEDC never initiated service on the line despite its common carrier obligations. After well over three and one-half years of blatantly failing to meet its obligations, during which time GCEDC failed to seek authority for its actions with this Board, it surreptitiously filed the certification and Verified Notice stating facts it knew were false or misleading.

For the foregoing reasons, Groome respectfully submits that anticipated proposed August 17, 2003 exemption pending in STB Docket No. AB-490X be summarily declared void ab initio. At a minimum, Groome respectfully requests that the Board stay all proceedings in the application prior to August 17, 2003, pending investigation and resolution of the questions raised in this matter.

Mr. Vernon A. Williams
August 12, 2003
Page 6

With best regards, I am

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'J. S. Simmons', with a long horizontal flourish extending to the right.

John S. Simmons

Cc: Lee K. Groome
Melvin F. Clemens, Jr.
Virginia S. Lanford
Francis Marion, Esquire

EXHIBIT

A

208300

COLUMBIA CHARLESTON FLORENCE GREENVILLE

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Sinkler Boyd, PA

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July 7, 2003

VIA FEDERAL EXPRESS

Mr. Vernon A. Williams
Surface Transportation Board
Office of the Secretary
1925 K Street, NW
Washington, DC 20423

ENTERED
Office of Proceedings

JUL - 8 2003

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AB-490X

Re: Verified Notice of Exemption

Dear Mr. Williams:

On June 26, 2003, this law firm filed a Verified Notice of Exemption (the "Notice") with your office on behalf of Greenville County Economic Development Corporation ("GCEDC"). The Notice provided that GCEDC proposed to consummate the discontinuance of service on July 14, 2003. This date was given in the Notice because when it was prepared and executed, we planned to file the Notice at least fifty days prior to that date. However, it was brought to our attention that GCEDC was required to publish notice in a newspaper for three consecutive weeks before filing the Notice with the Surface Transportation Board. Thus, the Notice was filed at a later date than we had anticipated. Since the Notice was completed and executed, we filed it without the change in date. However, we are aware that, pursuant to 49 CFR §1152.50, the discontinuance cannot be consummated until fifty (50) days after the filing of the Notice. Thus, GCEDC will not attempt to consummate the discontinuance on the date provided in the Notice. Please let me know if you have any questions regarding the Notice. Thank you very much for your assistance.

Sincerely,

Virginia S. Lanford

Virginia S. Lanford



COLUMBIA CHARLESTON FLORENCE GREENVILLE

DID # 0102205002

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June 26, 2003

208234

VIA U.S. MAIL

Surface Transportation Board
Office of the Secretary
1925 K Street, NW
Washington, DC 20423

Re: Verified Notice of Exemption

To Whom It May Concern:

Enclosed please find an original and ten (10) copies of Greenville County Economic Development Corporation's Verified Notice of Exemption and its attachments for filing. Please also find a check for the filing fee in the amount of \$2,700. Please let me know if there are any questions.



AB 490X

Sincerely,

Virginia S. Lanford
Virginia S. Lanford

FEE RECEIVED

JUN 30 2003

Enclosures

SURFACE
TRANSPORTATION BOARD

Office of Proceedings

JUN 30 2003

FILED

JUN 30 2003

Part of
Surf. Trans. Bd. Rec.

RECEIVED

VERIFIED NOTICE OF EXEMPTION
DEPARTMENT OF TRANSPORTATION
Surface Transportation Board

STB No. AB 490 (Sub-No. ---X)



Greenville County Economic Development Corporation-Verified Notice of Exemption

Greenville County Economic Development Corporation (GCEDC) is seeking to discontinue service on its Greenville and Northern (G&N) Railroad Line (the "G&N Line"). GCEDC proposes to consummate the discontinuance of this service on or about July 14, 2003. The discontinuance of service on the G&N Line is exempt under the requirements of 49 CFR 1152.50, as no local traffic has moved over the line for at least two years, any overhead traffic can be rerouted over other lines, and no formal complaint has been filed by a user of rail service on the line. No actual traffic has moved over the G&N Line since 1993 because one of the bridges partially washed out and the line is in extremely poor condition. See Surface Transportation Board Decision, STB Docket No. AB-312 (Sub-No. 2X), Mar. 30, 1998. A copy of this decision is attached hereto as Exhibit A.

GCEDC is seeking funds to repair the G&N Line, and if successful, GCEDC intends to make such repairs and to seek authorization from the Surface Transportation Board (the "Board") to renew rail service on the line. The G&N Line infrastructure is in need of repairs at an estimated cost of approximately \$8 million. The needed repairs include structural upgrades to seven structures/bridges, clearing and grubbing 52,000 lineal feet of rail right of way, several thousands of cross ties, 103,500 feet of #100 rail, and 28 road crossing upgrades among others. A report containing a statement of the needed repairs and their estimated cost is attached hereto as Exhibit B.

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JUN 30 2003

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JUN 30 2003

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TRANSPORTATION BOARD

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JUN 30 2003

SURFACE
TRANSPORTATION BOARD

GCEDC is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.

As discussed above, GCEDC seeks Board approval of a discontinuance of service on the line. GCEDC does not desire abandonment of the line.

In compliance with 49 CFR §1152.22(a)(4), a detailed map of the subject line is attached hereto as Exhibit C.

Correspondence in connection with this notice should be sent to Phyllis Henderson, President of GCEDC, at the following address:

301 University Ridge, Suite 2400
Greenville, South Carolina 29601

The G&N Line runs from the City of Greenville, South Carolina, at mile marker 0.0 to the northern limits of the City of Traveler's Rest, South Carolina, at mile marker 11.8, for a distance of 11.8 miles. The G&N Line runs through United States Postal Service ZIP Codes 29690, 29609, 29613, 29617, 29611, and 29601 in Greenville, South Carolina and 29690 in Travelers Rest, South Carolina.

GCEDC is seeking a discontinuance of service, not an abandonment of the G&N Line. Thus, the information required in 49 CFR 1152.22(e)(4) is not applicable in this situation.

This action is exempt from the environmental and historic reporting requirements contained in 49 CFR §§1152.22(f) and 1152.20(d)(2). The proposed action will not exceed the thresholds set forth in 49 CFR §§1105.7 and 1105.8, since the line has not been operational for approximately ten years.

Since GCEDC has no employees and the line has not been in operation for approximately ten years, there will be no railroad employees affected by the proposed action. Thus, it is not necessary for action to be taken to protect employees. However, if GCEDC learns of any

employees who will be affected by the proposed action, it will take appropriate steps to adequately protect these employees, including those measures set forth in Oregon Short Line R. Co.-Abandonment-Goshen, 360 I.C.C. 91 (1979).

A Certificate of Service is attached hereto as Exhibit D, in compliance with 49 CFR §1152.50(d)(2).

VERIFICATION

STATE OF SOUTH CAROLINA

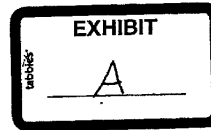
COUNTY OF GREENVILLE

Phyllis Henderson makes oath and says she is the President of the Greenville County Economic Development Corporation applicant herein; that she has been authorized by the applicant (or as appropriate, a court) to verify and file with the Surface Transportation Board the foregoing application in STB AB 490 (Sub-No. ---); that she has carefully examined all of the statements in the application as well as the exhibits attached hereto and made a part thereof; that she has the knowledge of the facts and matters relied upon in the application; and that all representations set forth therein are true and correct to the best of her knowledge, information, and belief.

Phyllis Henderson

Subscribed and sworn to before me Rita Hinton and for the State and County above named, this 15 day of May, 2003.

My commission expires 10-31-2012.



**Case
Docket No.**
AB 312 2 X

Title
SOUTH CAROLINA CENTRAL RAILROAD COMPANY, INC., D/B/A CAROLINA PIEDMONT DIVISION--ABANDONMENT
EXEMPTION--GREENVILLE COUNTY, SC

Decision Summary

EXEMPTED FROM THE PRIOR APPROVAL REQUIREMENTS OF 49 U.S.C. 10903 THE ABANDONMENTS BY CPDR, OF 2 SEGMENTS OF ITS LINE OF RAILROAD EXTENDING FROM ; (1) MILEPOST AJK 585.34, IN EAST GREENVILLE, SC, TO MILEPOST AJK 588.63 IN GREENVILLE COUNTY, SC; AND ESTABLISHES A PROCEDURAL SCHEDULE.

Docket No.

Title

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The WordPerfect (WPD) version of this decision is provided as a courtesy and should not be used for citation purposes. The PDF file represents the official Board decision.

WP Envoy (requires viewer)

WordPerfect

- 28836.evy

- 28836.wpd

If you are attempting to view a .EVY file and do not have an Envoy reader, you may download this free software from [this link](#).

Full Text of Decision

28836

SERVICE DATE - APRIL 1, 1998

EB

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-312 (Sub-No. 2X)

SOUTH CAROLINA CENTRAL RAILROAD COMPANY, INC., D/B/A CAROLINA
PIEDMONT DIVISION--ABANDONMENT EXEMPTION--IN GREENVILLE COUNTY, SC

Decided: March 30, 1998

By petition filed December 12, 1997,⁽¹⁾ South Carolina Central Railroad Company, Inc., d/b/a Carolina Piedmont Division (CPDR), seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon two segments of its line of railroad extending from: (1) milepost AJK 585.34, in East Greenville, SC, to milepost AJK 588.63 in Greenville, SC; and (2) milepost 0.0 to milepost 2.0 in Greenville, a total distance of 5.29 miles, in Greenville County, SC. We will grant the exemption, subject to environmental and standard employee protective conditions.

<http://www.stb.dot.gov/decisions/ReadingRoom.nsf/51d7c65c6f78e79385256541007f0580/8ec84...> 3/24/2003

BACKGROUND

In April 1997, CPDR purchased the northern segment of the line (between milepost 0.0 and milepost 2.0) as part of an 11.8-mile line acquisition from the Greenville & Northern Railway (G&NR). According to CPDR, there are no rail shippers located on the northern segment of the line and no train has operated on this segment since 1993 because one of the bridges partially washed out and the line is in extremely poor condition. CPDR states that, prior to 1993, the northern segment was used by G&NR solely for movements of rail equipment to and from repair and storage facilities near milepost 0.0.

In 1990, CPDR purchased the southern segment of the line (between milepost AJK 585.34 and milepost AJK 588.63) from CSX Transportation, Inc. According to CPDR, Boral Brick Company (BBC) is the only active shipper located on the southern segment, and the only traffic moving over this segment during the past several years has been inbound shipments of brick.⁽²⁾ CPDR states that alternative transportation is available to BBC over the extensive highway network in the area. CPDR asserts that BBC has been using motor carriers to meet more than 95% of its shipping needs and uses rail only as a last resort.

CPDR states that the southern segment of the line is constructed predominantly of 80 and 85 pound rail, rolled between 1910 and 1925, and that the track is in fair condition. In order to continue operating over this segment, however, CPDR submits that an average of 500 ties per mile would need to be replaced and washouts would need to be repaired.

CPDR also provided rehabilitation figures estimating what it would cost to restore the entire line to Federal Railroad Administration (FRA) class 1 standards. According to CPDR, significant work is required on one bridge, about 30% of the ties need to be replaced, additional ballast is required, and nearly 3.2 miles of track will have to be resurfaced. The estimated cost of rehabilitating both the northern and southern segments of the line to FRA class 1 standards is \$128,500.

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 10903, a rail line may not be abandoned without our prior approval. Under 49 U.S.C. 10502, however, we must exempt a transaction or service from regulation when we find that: (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

Detailed scrutiny under 49 U.S.C. 10903 is not necessary to carry out the rail transportation policy. By minimizing the administrative expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. 10101(7)]. An exemption will also foster sound economic conditions and encourage efficient management by relieving CPDR from the costs of rehabilitating and maintaining the line, and by allowing CPDR to use its assets more productively elsewhere on its system [49 U.S.C. 10101(5) and (9)]. Other aspects of the rail transportation policy will not be affected adversely.

Regulation of the transaction is not necessary to protect shippers from the abuse of market power because there are no shippers on the northern segment of the line and the sole shipper on the southern segment of the line apparently is already using motor carriers to meet the majority of its transportation needs.⁽³⁾ Nevertheless, to ensure that the shipper is informed of our action, we will require CPDR to serve a copy of this decision on BBC within 5 days of the service date of this decision and certify to us that it has done so.

Under 49 U.S.C. 10502(g), we may not use our exemption authority to relieve a carrier of its statutory

obligation to protect the interests of its employees. Accordingly, as a condition to granting this exemption, we will impose the employee protective conditions in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

CPDR has submitted an environmental report with its petition and has notified the appropriate Federal, state, and local agencies of the opportunity to submit information concerning the energy and environmental impacts of the proposed action. See 49 CFR 1105.11. Our Section of Environmental Analysis (SEA) has examined the environmental report, verified the data it contains, and analyzed the probable effects of the proposed action on the quality of the human environment, and served an environmental assessment (EA) on February 10, 1998. In the EA, SEA indicated that the U.S. Department of Commerce, National Geodetic Survey (NGS), has identified two geodetic station markers that could be affected by the proposed abandonment. Therefore, SEA recommends that a condition be imposed requiring CPDR to consult with NGS and provide it with 90 days' notice prior to disturbing or destroying any geodetic marker.

No comments to the EA were filed by the March 12, 1998 due date. Based on SEA's recommendations, we conclude that the proposed abandonment, as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

SEA states that, following the line's abandonment, the right-of-way may be suitable for other public use under 49 U.S.C. 10905. We note that no one has sought a public use condition, and none will be imposed.

It is ordered:

1. Under 49 U.S.C. 10502, we exempt from the prior approval requirements of 49 U.S.C. 10903 the abandonment of the above-described line, subject to the employee protective conditions in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979), and the condition that CPDR shall consult with the NGS and provide it with 90 days' notice prior to disturbing or destroying any geodetic marker.
2. CPDR must serve a copy of this decision on BBC within 5 days after the service date of this decision and certify to the Board that it has done so.
3. An offer of financial assistance (OFA) under 49 CFR 1152.27(c)(1)⁽⁴⁾ to allow rail service to continue must be received by the railroad and the Board by April 10, 1998, subject to time extensions authorized under 49 CFR 1152.27(c)(1)(i)(C). The offeror must comply with 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). Each OFA must be accompanied by a \$1,000 filing fee. See 49 CFR 1002.2(f)(25).
4. OFAs and related correspondence to the Board must refer to this proceeding. The following notation must be typed in bold face on the lower left-hand corner of the envelope: "**Office of Proceedings, AB-OFA.**"
5. Provided no OFA has been received, this exemption will be effective on May 1, 1998. Petitions to stay must be filed by April 16, 1998, and petitions to reopen must be filed by April 26, 1998.
6. Pursuant to the provisions of 49 CFR 1152.29(e)(2), CPDR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CPDR's filing of a notice of consummation by April 1, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If a legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed not later than 60 days after satisfaction, expiration or removal of the legal or regulatory barrier.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams

Secretary

1. Notice of the filing was served and published in the Federal Register on December 31, 1997 (62 FR 68352).
2. CPDR indicates that BBC received 50 carloads in 1992, 65 carloads in 1993, 65 carloads in 1994, 34 carloads in 1995, 37 carloads in 1996, and 60 carloads in 1997 (through November).
3. Given our market power finding, we need not determine whether the proposed abandonment is limited in scope.
4. See Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, STB Ex Parte No. 537 (STB served Dec. 24, 1996, and June 27, 1997).

**REHABILITATION OF THE GREENVILLE AND NORTHERN RAILROAD
(COUNTY OF GREENVILLE, SOUTH CAROLINA)**

Track Reconstruction

Cost per lineal foot of track reconstruction for the GCEDC railroad would be approximately \$90 to \$100.

The length of the northern segment is approximately 9.8 miles or 51,744 feet of which 2,200 feet should be subtracted (Western Corridor improvements) leaving approximately 49,544 feet that need rehabilitation.

\$5,000,000

Rail reconstruction

Rehabilitation of trestles/structures.

\$1,000,000

Crossings

There 28 rail crossings along the Greenville and Northern railroad segment that will require new active signal warning system improvements.

\$2,000,000

Reacquisition of right-of-way

To reconnect the northern and southern segments.

\$2,000,000

Total Cost Approximately

\$10,000,000

February 27, 2003

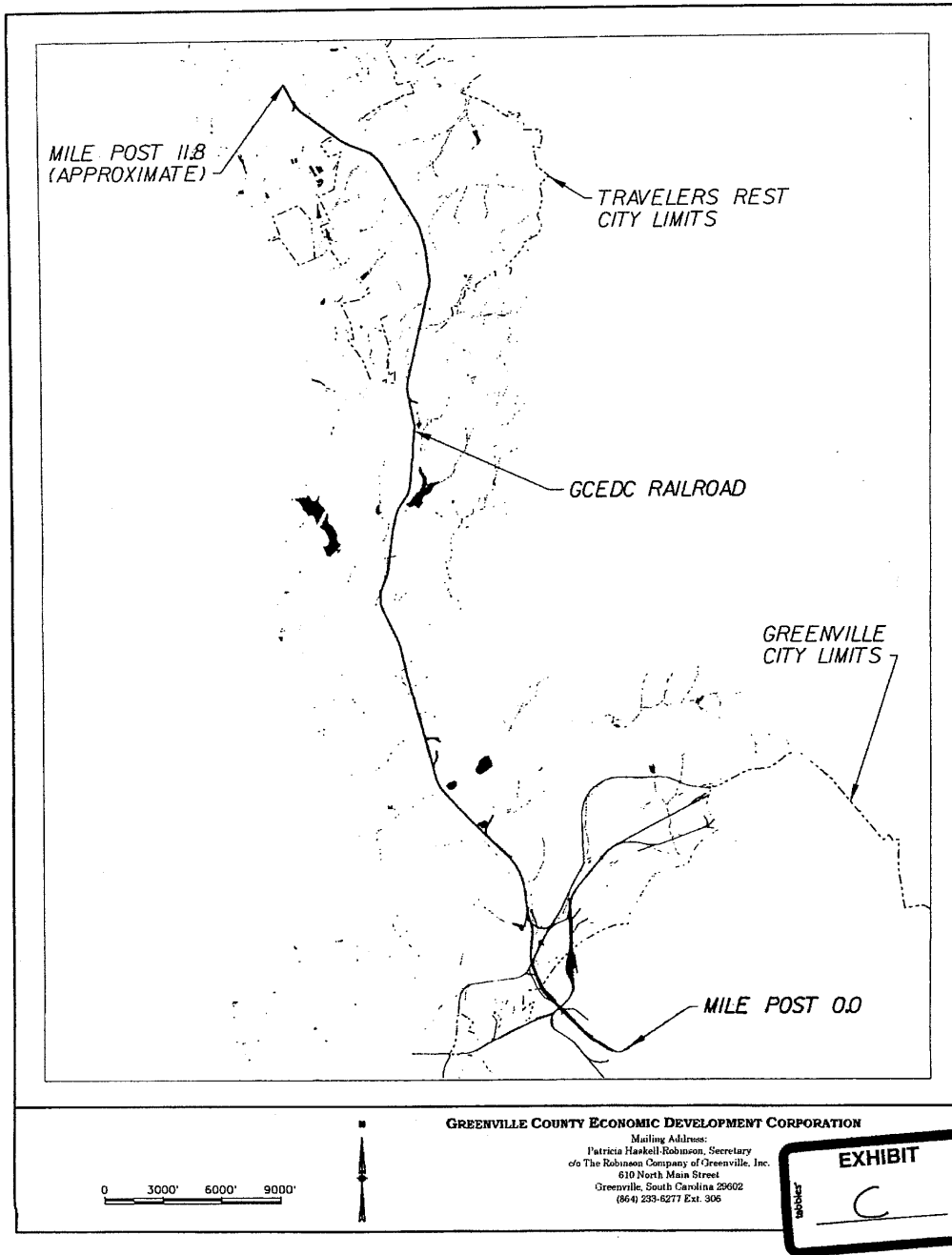
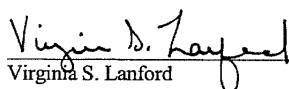


EXHIBIT
C



CERTIFICATE OF SERVICE

I, the undersigned attorney, do hereby certify that I have caused the attached papers to be served by mailing a copy thereof, by first class mail, postage prepaid, to the parties shown below at the address(es) shown below, in compliance with 49 CFR §1152.50(d)(1).


Virginia S. Lanford

DATE MAILED: May 6, 2003

MAILED TO: Ms. Barbara Hines
Land Section
U.S. National Forest Service
4931 Broad River Road
Columbia, SC 29212

United States Department of Agriculture
Attn: Nancy S. Bryson, Esq., General Counsel
1400 Whitten Bldg. Rm. 107W
Washington, DC 20250-1400

United States Department of Agriculture
Chief of the Forest Service
Washington Office
201 14th & Independence, SW
P.O. Box 96090
Washington, DC 20090-6090

United States Department of Interior
Recreation Resources Assistance Division
Attn: Horace Clark, Esq.
Office of the Solicitor
75 Spring St. SW
Richard Russell Federal Bldg.
Atlanta, GA 30303

United States Department of Interior
The National Park Service
Attn: Horace Clark, Esq.
Office of the Solicitor
75 Spring St. SW

Richard Russell Federal Bldg.
Atlanta, GA 30303

United States Department of Interior
The National Park Service
Southeast Region
Atlanta Federal Center
100 Alabama St. SW
Atlanta, GA 30303

United States Department of Defense
Military Traffic Management Command
Attn: Robert Korpany
MTMCTEA
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606

South Carolina Public Service Commission
Attn: David Butler, General Counsel
101 Executive Center Drive
Columbia, SC 29210

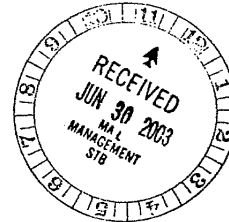
South Carolina Public Service Commission
Attn: Joseph Fianchino, Transportation Department
101 Executive Center Drive
Columbia, SC 29210

DOCUMENT(S) ATTACHED: NOTICE OF EXEMPTION

[illegible]

VERIFIED NOTICE OF EXEMPTION
DEPARTMENT OF TRANSPORTATION
Surface Transportation Board

STB No. AB 490 (Sub-No. ---X)



Greenville County Economic Development Corporation-Verified Notice of Exemption

Greenville County Economic Development Corporation (GCEDC) is seeking to discontinue service on its Greenville and Northern (G&N) Railroad Line (the "G&N Line"). GCEDC proposes to consummate the discontinuance of this service on or about July 14, 2003. The discontinuance of service on the G&N Line is exempt under the requirements of 49 CFR 1152.50, as no local traffic has moved over the line for at least two years, any overhead traffic can be rerouted over other lines, and no formal complaint has been filed by a user of rail service on the line. No actual traffic has moved over the G&N Line since 1993 because one of the bridges partially washed out and the line is in extremely poor condition. See Surface Transportation Board Decision, STB Docket No. AB-312 (Sub-No. 2X), Mar. 30, 1998. A copy of this decision is attached hereto as Exhibit A.

GCEDC is seeking funds to repair the G&N Line, and if successful, GCEDC intends to make such repairs and to seek authorization from the Surface Transportation Board (the "Board") to renew rail service on the line. The G&N Line infrastructure is in need of repairs at an estimated cost of approximately \$8 million. The needed repairs include structural upgrades to seven structures/bridges, clearing and grubbing 52,000 lineal feet of rail right of way, several thousands of cross ties, 103,500 feet of #100 rail, and 28 road crossing upgrades among others. A report containing a statement of the needed repairs and their estimated cost is attached hereto as Exhibit B.

GCEDC is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.

As discussed above, GCEDC seeks Board approval of a discontinuance of service on the line. GCEDC does not desire abandonment of the line.

In compliance with 49 CFR §1152.22(a)(4), a detailed map of the subject line is attached hereto as Exhibit C.

Correspondence in connection with this notice should be sent to Phyllis Henderson, President of GCEDC, at the following address:

301 University Ridge, Suite 2400

Greenville, South Carolina 29601

The G&N Line runs from the City of Greenville, South Carolina, at mile marker 0.0 to the northern limits of the City of Traveler's Rest, South Carolina, at mile marker 11.8, for a distance of 11.8 miles. The G&N Line runs through United States Postal Service ZIP Codes 29690, 29609, 29613, 29617, 29611, and 29601 in Greenville, South Carolina and 29690 in Travelers Rest, South Carolina.

GCEDC is seeking a discontinuance of service, not an abandonment of the G&N Line. Thus, the information required in 49 CFR 1152.22(e)(4) is not applicable in this situation.

This action is exempt from the environmental and historic reporting requirements contained in 49 CFR §§1152.22(f) and 1152.20(d)(2). The proposed action will not exceed the thresholds set forth in 49 CFR §§1105.7 and 1105.8, since the line has not been operational for approximately ten years.

Since GCEDC has no employees and the line has not been in operation for approximately ten years, there will be no railroad employees affected by the proposed action. Thus, it is not necessary for action to be taken to protect employees. However, if GCEDC learns of any

employees who will be affected by the proposed action, it will take appropriate steps to adequately protect these employees, including those measures set forth in Oregon Short Line R. Co.-Abandonment-Goshen, 360 I.C.C. 91 (1979).

A Certificate of Service is attached hereto as Exhibit D, in compliance with 49 CFR §1152.50(d)(2).

VERIFICATION

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Phyllis Henderson makes oath and says she is the President of the Greenville County Economic Development Corporation applicant herein; that she has been authorized by the applicant (or as appropriate, a court) to verify and file with the Surface Transportation Board the foregoing application in STB AB 490 (Sub-No. --); that she has carefully examined all of the statements in the application as well as the exhibits attached hereto and made a part thereof; that she has the knowledge of the facts and matters relied upon in the application; and that all representations set forth therein are true and correct to the best of her knowledge, information, and belief.

Phyllis Henderson

Subscribed and sworn to before me Phyllis Henderson and for the State and County above named, this 15 day of May, 2003.

My commission expires 10-31-2012.

30277

SERVICE DATE - JUNE 3, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33752]

Greenville County Economic Development Corporation—Acquisition Exemption—South Carolina Central Railroad Company, Inc., Carolina Piedmont Division

Greenville County Economic Development Corporation (Greenville County), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire two sections of rail line from the South Carolina Central Railroad Company, Inc., Carolina Piedmont Division (CPDR), in Greenville County, SC, as follows: (1) between milepost AJK 585.34, in East Greenville, and milepost AJK 588.63, in Greenville, a distance of 3.29 miles (Southern Line);¹ and (2) between milepost 0.0, in Greenville, and milepost 11.8, in Traveler's Rest, a distance of 11.8 miles (Northern Line).²

The transaction is expected to be consummated on or shortly after May 28, 1999.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d)

¹ Greenville County reports that CPDR will continue to be the operator of the Southern Line.

² Greenville County states that it is currently seeking an operator for the Northern Line and that, once it reaches an agreement with the operator of the Northern Line, the operator will file a verified notice of exemption to operate the Northern Line.

may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33752, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Robert J. Svets, Counsel for Greenville County Economic Development Corporation, Greenville County Square, 301 University Ridge, Suite 100, Greenville, SC 29601.

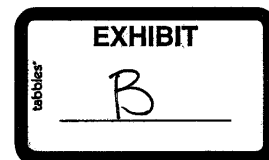
Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 26, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary



33791

SERVICE DATE - JULY 18, 2003

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-490X]

Greenville County Economic Development Corporation – Discontinuance of Service
Exemption – in Greenville County, SC

The Greenville County Economic Development Corporation (GCEDC) has filed a verified notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances of Service to discontinue service over 11.8 miles of railroad, known as the Greenville and Northern Railroad Line, extending from milepost 0.0, in Greenville, to milepost 11.8, at the northern limits of Traveler’s Rest, in Greenville County, SC (line).¹ The line traverses United States Postal Service Zip Codes 29601, 29609, 29611, 29613, 29617, and 29690.

GCEDC has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor

¹ South Carolina Central Railroad Company, Inc., d/b/a Carolina Piedmont Division was authorized to abandon the portion of the line between milepost 0.0 and milepost 2.0, in South Carolina Central Railroad Company, Inc., d/b/a Carolina Piedmont Division – Abandonment Exemption – in Greenville County, SC, STB Docket No. AB-312 (Sub-No. 2X) (STB served Apr. 1, 1998); however, it appears that the abandonment was never consummated.

of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.²

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 17, 2003,³ unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR

² As discussed below, GCEDC has complied with or is exempt from these requirements.

³ Under 49 CFR 1152.50(d)(3), the earliest the exemption could become effective is 50 days after the verified notice of exemption was filed. In this case, notice was filed on June 30, 2003, and GCEDC proposed consummating the discontinuance of service on or about July 14, 2003. In a letter filed on July 8, 2003, Counsel for GCEDC acknowledged that the discontinuance of service could not be consummated until 50 days after the filing of the verified notice, or on August 17, 2003.

1152.27(c)(2),⁴ must be filed by July 28, 2003.⁵ Petitions to reopen must be filed by August 7, 2003, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to GCEDC's representative: Phyllis Henderson, President, Greenville County Economic Development Corporation, 301 University Ridge, Suite 2400, Greenville, SC 29601.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 14, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

⁴ Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

⁵ Because this is a discontinuance of service proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Additionally, this proceeding is exempt from environmental and historic reporting requirements. GCEDC only intends to discontinue service over the line and to facilitate possible future operations in the event it is successful in securing funds to repair the line. Because GCEDC's discontinuance of service will merely result in the cessation of service over the line, this proceeding is exempt from the reporting requirements listed above and no environmental documentation will be prepared. See 49 CFR 1105.6(c)(2) and 1105.8(a) and (b).



STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

Groome & Associates, Inc., and
Lee K. Groome,

Plaintiffs,

vs.

Greenville County Economic
Development Corporation,

Defendant.

C.A. No.: 2001 - CP - 23-235/

SUMMONS
(Non-Jury)
(Declaratory Judgment)

FILED CLERK OF COURT
GREENVILLE, S.C.
PAUL B. WOODWARD, JR.

Filed 4/17/01

2001 APR 17 A 9:13

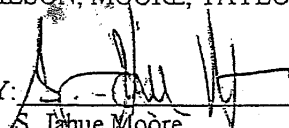
Hand to file by 4/3/01

TO: THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint in this matter, a copy of which is herewith served upon you, and to serve a copy of your ANSWER to said Complaint upon the subscriber at his office, 1700 Sunset Boulevard, P. O. Box 5709, West Columbia, South Carolina, 29171, within THIRTY (30) days from the service thereof, exclusive of the day of such service; and if you fail to answer the COMPLAINT within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

WILSON, MOORE, TAYLOR & THOMAS, P.A.

BY:


S. Janue Moore

Attorney for the Plaintiffs

P. O. Box 5709

West Columbia, SC 29171

(803) 796-9160

West Columbia, South Carolina
April 3, 2001

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

Groome & Associates, Inc., and
Lee K. Groome,

C.A. No.:

2001 - CP - 23-235/

Plaintiffs,

vs.

COMPLAINT

Greenville County Economic
Development Corporation,

Defendant.

FILED CLERK OF COURT
GREENVILLE CO., S.C.
PAUL R. WICKESHER

2001 JUN 17 A 9 13

Plaintiffs above-named Complaining of the Defendant herein, alleges that:

FOR A FIRST CAUSE OF ACTION

1. The corporate Plaintiff is a Georgia corporation lawfully engaged in business in South Carolina and licensed to do business in South Carolina. The individual Plaintiff is a resident and citizen of Greenville County, South Carolina. The Defendant is a legal entity existing under the laws of the State of South Carolina.
2. For a number of years, the Plaintiffs have owned property in Greenville, South Carolina adjacent to a railroad line.
3. The railroad line in question is governed by the Public Service Commission and by the Surface Transportation Board of the Federal Government.
4. Pursuant to rules and regulations of the Public Service Commission and the Surface Transportation Board, rail owners are obligated to provide service to customers located adjacent to rail lines pursuant to published tariffs and regulations.

5. The rail line on which the Plaintiffs' property is located was subject to an embargo which ended December of 1999.

6. In or about June of 1999, the Surface Transportation Board issued its Order allowing the Defendant to secure possession and ownership of the section of rail where the Plaintiffs' business is located.

7. The Defendant was obligated to provide the Plaintiffs with rail service pursuant to the embargo as of June 3, 1999 and was required to provide full rail service to the Plaintiffs after December of 1999.

8. At all times complained of herein, the Plaintiffs continued to discuss rail service with the Defendant and continued to receive assurances that rail service would be re-established for the Plaintiffs' property.

9. In reliance upon the representations of the Defendant that rail service would be re-established, the Plaintiffs continued to discuss the problem in good faith and honestly believed that rail service was in the process of being re-established.

10. Notwithstanding assurances to the contrary that rail service would be establish to the Plaintiffs' property, the Defendant dismantled the hardware to properly operate a railroad and allowed the entire rail system servicing the Plaintiffs' property to become dormant.

11. The Defendant is legally obligated pursuant to Federal and State law to provide the Plaintiffs with rail service.

12. The refusal and the continued refusal on the part of the Defendant to provide rail service is a violation of State and Federal law.

13. Plaintiffs are informed and believe that they are entitled to a declaratory judgment declaring the Defendant to be in violation of State and Federal law in regard to their continued refusal to provide the Plaintiffs with rail service.

14. Plaintiffs are informed and believe that the Defendant should be declared obligated to provide the Plaintiffs with rail service at this time.

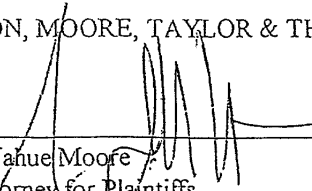
15. Pursuant to this Court's equity powers, Plaintiffs are informed and believe that this Court should issue its preliminary and permanent injunction requiring the Defendant to immediately establish rail service to the Plaintiffs' location.

16. As a direct and proximate cause of the refusal of the Defendant to establish and maintain rail service to the Plaintiffs' property, the Plaintiffs have lost significant amounts of income and profit; the Plaintiffs' property has been devalued; the Plaintiffs have lost valuable transportation rights; the Plaintiffs have had to expend large amounts of money to others to transport produce; the Plaintiffs have lost large amounts of income; the Plaintiffs have incurred huge expenses for unnecessary transportation and handling; and the Plaintiffs have been otherwise damaged all to their damage both actual and punitive.

17. Pursuant to Federal and State law, Plaintiffs are informed and believe that they are entitled to treble damages plus attorney's fees and costs.

WHEREFORE, Plaintiffs pray for judgment against the Defendant for actual damages; for punitive damages; for treble damages; for a declaration of the rights of the parties one to another; for a preliminary and permanent injunction; for attorney's fees and costs; and for such other and further relief as this Court might deem just and proper.

WILSON, MOORE, TAYLOR & THOMAS, P.A.

BY: 

S. Jahue Moore
Attorney for Plaintiffs

P. O. Box 5709
West Columbia, SC 29171
(803) 796-9160

West Columbia, South Carolina
April 3, 2001

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

RECEIVED

DATE DUE

DOCKETED

SCANNED

JUDGMENT IN A CIVIL CASE

CASE NO.: 01-CP-23-2351

EXHIBIT

D

Moome & Associates Inc et al

PLAINTIFF(S)

Greenville County Economic

DEFENDANT(S) Development Corp.

CHECK ONE:

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a),
SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other:
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRCP; ☐ Bankruptcy:
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other _____

IT IS ORDERED AND ADJUDGED:

☒ See attached order;

☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this _____

day of _____

, 2003

Court Reporter: _____

PRESIDING JUDGE - _____

This judgment was entered on the 24th day of June 2003 and a copy mailed first class this day 24th of June, 2003 to attorneys of record or to parties (when appearing pro se) as follows:

John Simmons

ATTORNEY(S) FOR THE PLAINTIFF(S)

Frankie Marion

ATTORNEY(S) FOR THE DEFENDANT(S)

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
Groome & Associates, Inc. and	)	
Lee Groome,	)	C.A. No. 01-CP-23-2351
	)	
Plaintiffs,	)	
	)	
vs.	)	ORDER
	)	
Greenville County Economic	)	
Development Corporation,	)	
	)	
Defendant.	)	

FILED: CLERK OF COURT
GREENVILLE CO. S.C.
JUN 24 P 12:31

This matter is before the Court for consideration of Defendant Greenville County Economic Development Corporation's ("GCEDC") motion to dismiss. For the following reasons, Defendant's motion to dismiss is DENIED.

In considering a motion to dismiss, the Court "must consider the facts alleged in the complaint as true," and must construe the complaint "in the light most favorable to the nonmoving party." Woodell v. Marion School District One, 307 S.C. 297, 298, 414 S.E.2d 794 (Ct. App. 1992).

Plaintiffs Groome & Associates, Inc. and Lee K. Groome filed this action on April 17, 2001, seeking injunctive relief and damages involving rail service to their property in Greenville County, South Carolina. GCEDC purchased the rail line in June 1999 on the approval of the Surface Transportation Board. At the time of the purchase, the line was subject to an embargo that was to terminate in December 1999. Following the termination of the embargo, GCEDC failed to provide full rail service to the line, as required by state and federal law, including the section at issue providing service to

Plaintiffs. It is undisputed that GCEDC did not seek approval from the Surface Transportation Board for abandonment until at least May 2003.¹

Plaintiffs' complaint alleges that GCEDC falsely represented to them on numerous occasions between June 1999 and April 2001 that rail service would be re-established and continued to their property.

Following the entry of default judgment against Defendant, the Court on April 24, 2002 vacated the default judgment, finding that GCEDC was not properly served. Plaintiffs' Complaint subsequently was served on June 24, 2002 and the instant motion to dismiss was filed. Defendant assert in its motion that Plaintiffs' claims are barred by the statute of limitations and that Plaintiffs' claims are preempted by federal law.

Initially, although Defendant asserts that the statute of limitations was triggered in December 1999 upon its assumption of rail line obligations, GCEDC concedes that it did not attempt to notify the Surface Transportation Board of its intention to abandon the rail line until at least May 2003. The ICC Termination Act ("ICCTA" or "the Act") requires that a common carrier such as Defendant follow statutory and regulatory requirements for abandoning service, including notification to the Surface Transportation Board and affected parties such as Plaintiffs.

In essence, Defendant asserts that the statute of limitations on which it relies under the Act expired prior to any notification to the Board as mandated by the ICCTA. This Court is unpersuaded that the statute of limitations expired prior to this required action. Alternatively, this Court concludes that the alleged wrongful acts of Defendant

¹ This Court makes no finding as to the legal adequacy of GCEDC's representation that it intended to seek abandonment of the rail line as required by the Surface Transportation Board. It is undisputed, however, that the first notification to the Board that it intended to abandon the line occurred at the earliest in May 2003.

constitute an ongoing wrong and that the statute of limitations has not expired. Cutchin v. S.C. Dept. of Highways and Public Transportation, 301 S.C. 35, 37, 389 S.E.2d 646, 648 (1990).

The Court also concludes, contrary to Defendant's assertions, that a four-year statute applies to Plaintiffs' federal claims under the Act. Although the ICCTA provides for a three-year period of limitations for the filing of an action with the Surface Transportation Board, the Act does not specify a limitations period for the filing of a civil action. Pursuant to 28 U.S.C. § 1658, where no specific limitations period applies, a four-year statute of limitations applies. Thus, this Court alternatively concludes that, even assuming as correct Defendant's assertion that the limitations period commenced in December 1999, Plaintiffs' federal claims are not time barred.

Plaintiffs' state law claims are similarly not time barred even assuming as true Defendant's claim that the statute commenced in December 1999. Plaintiffs' Complaint alleges that Defendant falsely represented to them on numerous occasions from June 1999 to April 2001 that service would be re-established and continued, and that Plaintiffs relied on these representations. Our appellate courts have recognized that the doctrine of equitable estoppel applies to bar a defense of expiration of the statute of limitations where a defendant's promises result in a plaintiff's forbearing from filing an action in an alleged timely fashion. Dillon County School District No. Two v. Lewis Sheet Metal Works, Inc., 286 S.C. 207, 217-19, 332 S.E.2d 555, 561 (Ct. App. 1985).

Defendant also asserts that the Act preempts this Court's jurisdiction over Plaintiffs' claims. It is undisputed that the ICCTA expressly provides that a person may bring a claim against a rail carrier such as GCEDC either with the Surface Transportation

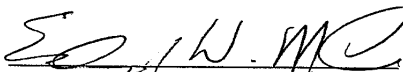
Board or by bringing a civil action. 49 U.S.C. § 11704(c)(1). Plaintiffs opted to bring a civil action as permitted by the Act.²

The First Circuit Court of Appeals in Pejepscot Industrial Park, Inc. v. Grimmel Industries, 215 F.3d 195(1st Cir. 2000) thoroughly analyzed the issue of whether the Act preempted claims such as those asserted by Plaintiffs. The Court there reversed a district court dismissal of the action, finding that the Act provided concurrent jurisdiction over claims such as those in the case at bar. The Court agrees with the Court's analysis in Pejepscot to the extent that Plaintiffs' claims in the instant matter are not preempted.

For the foregoing reasons, Defendant's motion to dismiss Plaintiffs' action as time barred is hereby DENIED and Defendant's motion to dismiss Plaintiffs' claims as preempted by federal law is also DENIED.

Defendant also consented at the hearing of this matter for the amendment of Plaintiffs' Complaint.

IT IS SO ORDERED.


The Honorable Edward W. Miller
Circuit Court Judge

6/19/03
Date

² Although Plaintiff Groome apparently inquired of the Surface Transportation Board about the lack of rail service by GCEDC, there is no evidence in the record that Plaintiffs filed any formal claim or action against Defendant with the Board.



Surface Transportation Board
Washington, D.C. 20423-0001

February 28, 2003

EXHIBIT

E

Office of Compliance and Enforcement

1925 K Street, N.W., Suite 780

Washington, DC 20423-0001

Mr. Gerald Seals, Administrator
Greenville County Economic Development Corporation
301 North Main Street, Suite 2300
Greenville, South Carolina 29601

202-365-1573
FAX 202-365-9011

Re: Rail Service Complaint

Dear Mr. Seals:

This letter is to inform you of a complaint filed by Lee K. Groome, President of Groome & Associates (G&A) and the Northern Greenville Business Association (copy enclosed). Mr. Groome's concern is for the lack of rail service to G&A's facility north of Travelers Rest, SC, which is adjacent to a rail line acquired by the Greenville County Economic Development Corporation (GCEDC).

By way of background, GCEDC purchased two sections of rail line from the South Carolina Central Railroad Company, Inc. (SCCRC), Piedmont Division, in 1999, the northern segment of which is an 11.8 mile line which served the G&A facility. GCEDC's purchase of the line was approved by the Board in Finance Docket No. 33752, served June 3, 1999. With that purchase, GCEDC assumed a common carrier obligation under 49 U.S.C. 11101(a), and GCEDC's failure to institute rail service over the unabandoned line segment would constitute a failure of your obligation and a violation under that section. As such, I need to know GCEDC's intentions with respect to the institution of rail service, and I will expect that response by Close of Business March 17, 2003. Failure to resolve these issues will result in my recommendation to the Board that it institute, on its own motion, a formal complaint proceeding to address the lawfulness of GCEDC's failure to institute service on the line, the appropriateness of damages to involved shippers for any service failures, and whether the acquisition authority granted in Finance Docket No. 33752 should be revoked.

Sincerely,

Melvin F. Clemens, Jr.

Director

Enclosures

cc: Mr. Peter Strub, Board Member GCEDC
Mr. Lee K. Groome, Groome & Associates



Surface Transportation Board
Washington, D.C. 20423-0001

March 18, 2003



Office of Compliance and Enforcement

1925 K Street, N.W., Suite 780
Washington, DC 20423-0001

202-565-1573
FAX 202-565-9011

Mr. Peter M. Strub, Board Member
Greenville County Economic Development Corporation
% TranSystems Corporation
75 Beattle Place, Suite 400
Greenville, South Carolina 29601

Re: Rail Service Complaint

Dear Mr. Strub:

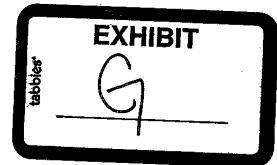
Thank you for your letter of March 13th, which was received March 17th, responding to my February 28th inquiry to the Greenville County Economic Development Corporation (GCEDC) about GCEDC's intentions to reinstitute freight rail service over an unabandoned line the Corporation acquired in 1999 north of Travelers Rest, and which serves a facility owned by Lee K. Groome, President of Groome & Associates (G&A). As I indicated, Mr. Groome has complained about the failure of GCEDC to provide freight rail service to G&A's facility north of Travelers Rest, SC, which is adjacent to the rail line acquired by GCEDC. In my letter, I requested a response by March 17th.

In your response, you indicated that my letter had not been received until March 10th, and you requested additional time (until March 31st) for GCEDC to formally respond. I am agreeable to the extension of time you have requested. In the interest of time, I will appreciate it if you will submit GCEDC's response by fax as well as by mail. I look forward to hearing from you.

Sincerely,

Melvin F. Clemens, Jr.
Director

cc: Lee K. Groome



GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION

Mailing Address:
Patricia Haskell-Robinson, Secretary
c/o The Robinson Company of Greenville, Inc.
610 North Main Street
Greenville, South Carolina 29602
(864) 233-6277 Ext. 308



March 31, 2003

Board of Directors

Phyllis Henderson
Chairman & President

Patricia Haskell-Robinson
Secretary

Peter Strub
Treasurer

Joe Dill

Scott Case

Mr. Melvin F. Clemens, Jr.
Director
Surface Transportation Board
1925 K Street N.W., Suite 780
Washington, DC 20423-0001

Reference: GCEDC Railroad

Dear Mr. Clemens:

Thank you for granting GCEDC an extension until March 31, 2003 to respond to your letter dated February 28, 2003. In order for you to fully appreciate our situation, we believe that it is essential that you understand why we purchased the rail line and what we have been doing to obtain funding to rehabilitate and restore operating service to the line.

On September 29, 1998, the Greenville County Council passed a resolution wherein Greenville County agreed to preserve the rail line corridors for which Railtex of San Antonio, Texas was filing abandonment. In addition, County Council agreed to participate with the municipalities and businesses along the routes, as well as the South Carolina Department of Transportation ("SCDOT") in establishing a comprehensive plan for rail preservation.

County Council approved the creation of the Greenville County Economic Development Corporation ("GCEDC" or "the Corporation"). On May 28, 1999, this Corporation purchased, at a cost of \$1.3 million, approximately 13-miles of inactive rail rights-of-way located in Greenville County and formerly owned by Railtex of San Antonio, Texas. The County of Greenville and SCDOT provided funding for the purchase.

Greenville County Council appointed the Greenville County Economic Development Corporation (GCEDC), which was given the responsibility

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OFFICE OF TRANSPORTATION
AND ECONOMIC DEVELOPMENT
DIRECTOR'S OFFICE

Mr. Melvin F. Clemens, Jr.
March 31, 2003
Page 2

of preserving, maintaining and rehabilitating the newly acquired rail right-of-way. Upon its creation, the Corporation adopted the following mission statement:

To facilitate through rail line ownership and/or rail corridor preservation inter-modal business, commuter, shipping, and leisure travel access to greater Greenville and its gateways. Our highest priorities in carrying out this mission are safety, citizenship, responsibility, and cost effectiveness.

The corridor consists of two segments: (1) one segment runs from the City of Greenville going northwest to the City of Travelers Rest (the Greenville and Northern —G&N— rail line, historically known as the Swamp Rabbit), and (2) the other segment runs southeast from the City of Greenville to the General Electric plant in the City of Mauldin. The G&N line has been inactive for several years due to the need for substantial infrastructure rehabilitation (described below), and this is the rail line, which runs through the property of Groome & Associates, Inc. as described in the complaint letter sent by Mr. Lee K. Groome. As a result of purchasing negotiations with Railtex, the South Carolina Central Railroad Company, Inc. leased back and is operating the southern segment.

The Greenville and Northern line (G&N) begins north of Travelers Rest, comes through Travelers Rest, crosses behind Furman University, and follows the Reedy River into Greenville to Linky Stone Park behind the Peace Center for the Performing Arts. The G&N rail line also joins the existing CSX and Norfolk and Southern lines just north of the railroad station, connecting the G&N to a statewide system and the proposed Southeast Fast Rail Corridor (SFRC). The Norfolk and Southern is proposed to be upgraded to accommodate 150 mph trains on the Southeast Fast Rail Corridor which will further open the Upstate to economic development and tourism. This connectivity will be important to the future of Greenville County.

The GCEDC purchased the corridors to rehabilitate and preserve a transportation link that can provide commuter rail service, recreation opportunities, improve access to jobs for low-income citizens, and enhance freight movement. Benefits will include developing initiatives designed to promote economic growth within the rail corridor and direct access to the cultural, recreational, and educational opportunities located in Greenville's Central Business District and Furman University to the north. The successful completion of the G&N project will result in a rehabilitated rail line that will improve transportation efficiency by minimizing new highway construction while still improving inter-city travel. Lessening vehicular travel will also help improve air quality, which is vitally important to Greenville County as it is expected to be designated a non-attainment area. This is consistent with other long-range initiatives to improve the region's air quality and transportation.

The G&N railroad segment infrastructure is in need of repairs at an estimated cost of \$8 million dollars. These repairs will include structural upgrades to seven structures/bridges.

Mr. Melvin F. Clemens, Jr.
March 31, 2003
Page 3

clearing and grubbing 52,000 lineal feet of rail right of way, several thousands of cross ties, 103,500 feet of #100 rail, new switches, and 28 road crossing upgrades among other repairs. Pictures of the G&N rail line are included illustrating the conditions of the rail infrastructure at the time of purchase by GCEDC.

Since the purchasing of the segments, the GCEDC has been constantly submitting grant applications for infrastructure rehabilitation to the federal, state and local governments, to no avail. In particular, we have applied with Greenville County to receive local Tax Accommodations and Capital Improvements Tax monies, with the FHWA to receive a Transportation & Community System Preservation Program grant, and at the federal level through Congressman DeMint and Senator Graham's offices. We are continuing to work with Congressman Jim DeMint, Senator Lindsay Graham and Senator Fritz Hollings for federal funds to rehabilitate the line.

Rail service on the G&N lines has been unavailable for several years due to the serious deteriorated condition of the rail and bridge trestles, and operation of rail service is impossible until such time as funds are secured to rehabilitate the line. It is important to note that prior to Greenville County's purchase of the rail line, Railtex had issued a self imposed embargo of the rail service operations thus the existing rail service had been stopped several months prior to GCEDC obtaining ownership.

At this time, the GCEDC Board requests that a Discontinuance of Service be granted for the northern segment (from Linky Stone Park to north of Travelers Rest) of our rail line until such time that we are able to obtain funds to rehabilitate the line and restore rail service. We prefer this option over filing for abandonment of the rail service due to potential South Carolina State statutes, that under an abandonment order, the GCEDC may lose some properties that were originally obtained when the rail line was established.

Thank you for your understanding and review of our request. If you have any questions or comments, please do not hesitate to contact me at 864-234-0866.

Sincerely,



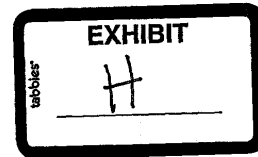
Peter M. Strub
GCEDC Board Member

Cc: GCEDC Board of Directors and Officers



Surface Transportation Board
Washington, D.C. 20423-0001

April 3, 2003



Office of Compliance and Enforcement

1925 K Street, N.W., Suite 780

Washington, DC 20423-0001

202-565-1573
FAX 202-565-9011

Mr. Peter M. Strub, Board Member and Treasurer
Greenville County Economic Development Corporation
% TranSystems Corporation
75 Beattie Place, Suite 400
Greenville, South Carolina 29601

Re: GCEDC Rail Service Complaint

Dear Mr. Strub:

Thank you for your letter of March 31st, which was received by overnight delivery yesterday, responding to my February 28th inquiry to the Greenville County Economic Development Corporation (GCEDC) about GCEDC's intentions with respect to the reinstitution of rail freight service over a line of railroad the Corporation acquired in 1999 north of Travelers Rest, and which, if restored, would serve a facility owned by Lee K. Groome, President of Groome & Associates (G&A). As you know, Mr. Groome has complained about GCEDC's failure to provide rail freight service to G&A's facility, which is adjacent to the unabandoned rail line acquired by GCEDC.

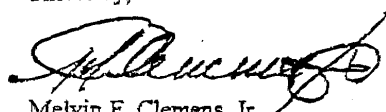
In your response, you indicated that GCEDC purchased several rail corridors with the intention of rehabilitating and preserving a transportation link and enhancing freight movement, and that the 11.8 mile segment serving Travelers Rest, will require about \$8 million to restore to an operable condition. While I appreciate GCEDC's dilemma with respect to the difficulty it faces in finding funding sources for the various rail service improvements it plans, I also have a dilemma. As I have pointed out in previous correspondence on this subject, the line described above that was purchased by GCEDC from the South Carolina Central Railroad Company (SCCRC) in 1999 (Finance Docket No. 33752) had not been abandoned, making the purchaser a railroad under Federal Law with all the attendant common carrier obligations of a rail carrier. And the fact that GCEDC has been unsuccessful in acquiring funding to upgrade its purchases does not serve to extinguish that obligation.

Therefore, Mr. Groome is correct in asserting a demand for rail service and GCEDC is obligated to provide that service unless relieved of that obligation by this Board. Such relief can come either through an authority granted by the Board to abandon the line or to discontinue service over the line. In your letter of March 31st, you indicated that the GCEDC Board was requesting that a "Discontinuance of Service" be granted for the line in question, and "until such time that we are able to obtain funds to rehabilitate the line and restore rail service." However, abandonment or discontinuance is not an informal process, and therefore cannot be simply requested. If GCEDC believes it will continue to be unable to restore service, it must formally apply for abandonment or discontinuance authority in accordance with the Board's rules of practice at 49 CFR 1111, and its rules governing abandonment and discontinuance at 49 CFR 1152, and such application must be accompanied by an appropriate filing fee. An attorney or transportation practitioner can advise you of the procedures.

Letter to Peter Strub, Page 2.

Short of that, I am compelled to advise the Board of this continuing failure of common carrier obligation and recommend that the Board undertake enforcement action, which, as I pointed out in my February 28th letter, could include an order for damages to Mr. Groome and/or divestiture of the line. And while it is not my intention to force litigation of this issue, substantial time has passed and I cannot ignore Mr. Groome's legitimate pleas for help. I will appreciate an immediate response by GCEDC, indicating either that it is restoring rail service or that it is submitting to the Board, a formal application to be relieved of its common carrier obligation.

Sincerely,

A handwritten signature in dark ink, appearing to read "Melvin F. Clemens, Jr.", written in a cursive style.

Melvin F. Clemens, Jr.
Director

cc: Lee K. Groome

04/23/03 WED 10:01 FAX 202 565 9011 STB OCE WASH, DC
FROM TRANSYSTEMS 8642340435

NO. 587 002
0001

EXHIBIT

I

GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION

Mailing Address:
Patricia Haskell-Robinson, Secretary
c/o The Robinson Company of Greenville, Inc.
610 North Main Street
Greenville, South Carolina 29602
(864) 233-6277 Ext. 306

April 16, 2003

Board of Directors

Phyllis Henderson
Chairman & President

Patricia Haskell-Robinson
Secretary

Peter Strub
Treasurer

Joe Dill

Scott Case

Mr. Melvin F. Clemens, Jr.
Director
Surface Transportation Board
1925 K Street N.W., Suite 780
Washington, DC 20423-0001

Reference: GCEDC Railroad

Dear Mr. Clemens:

This letter is to inform the Surface Transportation Board that the Greenville County Economic Development Corporation (GCEDC) has instructed our legal counsel to prepare and submit an application, along with the appropriate filing fee, for a "Discontinuance of Service" regarding the northern segment of our rail line from downtown Greenville to north of Travelers Rest in South Carolina. We anticipate that the submission of this application should be completed by the end of April.

If you have any questions or comments, please do not hesitate to contact me at 864-234-0866.

Sincerely,



Peter M. Strub
GCEDC Board Member

Cc: GCEDC Board of Directors and Officers



Surface Transportation Board
Washington, D.C. 20423-0001

April 21, 2003



Office of Compliance and Enforcement

1925 K Street, N.W., Suite 780
Washington, DC 20423-0001

202-565-1573
FAX 202-565-9011

Mr. Peter M. Strub, Board Member and Treasurer
Greenville County Economic Development Corporation
% TranSystems Corporation
75 Beattie Place, Suite 400
Greenville, South Carolina 29601

Re: GCEDC Rail Service Complaint

Dear Mr. Strub:

Thank you for your letter of April 14th, responding for the Greenville County Economic Development Corporation (GCEDC) to my letter requesting an indication of GCEDC's intentions with respect to service over an 11.8 mile line acquired by the Corporation in 1999, (Finance Docket No. 33752) between Greenville and Travelers Rest, SC.

In your response, you indicated that it was the Corporation's intention to seek authority to discontinue service over the line, even though service has not been instituted, and that GCEDC's attorney would be filing with the Board by the end of April seeking the discontinuance authority in an effort to extinguish your common carrier obligation. The purpose of this letter is to ensure that any filing with the Board for such authority, is accompanied by the requisite certificate of notice as required by our regulations (49 CFR Subpart C - Sections 1152.20, and 21), and the application requirements codified at 49 CFR 1152.22 (copies enclosed).

Please do not hesitate to contact me if you have further questions regarding this issue.

Sincerely,

Melvin F. Clemens, Jr.
Director

Enclosures
cc: Lee K. Groome

EXHIBIT

tabbles

K

GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION

Mailing Address:

Patricia Haskell-Robinson, Secretary
The Robinson Company of Greenville, Inc.
510 North Main Street
Greenville, South Carolina 29602
(864) 253-0377 Ext. 306

May 6, 2003

Board of Directors

Phyllis Henderson
Chairman & President

Patricia Haskell-Robinson
Secretary

Peter Strub
Treasurer

Joe Dill

Scott Case

South Carolina Public Service Commission
* Attn: David Butler, General Counsel -
101 Executive Center Drive
Columbia, SC 29210

Re: Greenville County Economic Development Corporation-Notice of Exemption

To Whom It May Concern:

This letter is to notify you that Greenville County Economic Development Corporation ("GCEDC") of Greenville, South Carolina, intends to file a verified notice of exemption under 49 CFR 1152.50 with the Surface Transportation Board for authorization to discontinue railroad service on its Greenville and Northern (G&N) Railroad Line, as described below. It is our understanding that no actual rail service has occurred on this line since 1993. GCEDC is seeking funds to repair the G&N Line, and if successful, GCEDC intends to make such repairs and to seek authorization from the Surface Transportation Board to renew rail service on the G&N Line.

GCEDC intends to discontinue service on the G&N rail line, which it purchased from Railtex of San Antonio, Texas, on May 28, 1999. The G&N Line, which was previously owned and operated by Railtex (now RailAmerica, Inc.), runs from the City of Greenville, South Carolina, at mile marker 0.0 to the northern limits of the City of Travelers Rest, South Carolina, at mile marker 11.8, for a distance of 11.8 miles.

The G&N Line runs through United States Postal Service ZIP Codes 29630, 29609, 29613, 29617, 29611, and 29601 in Greenville, South Carolina and 29690 in Travelers Rest, South Carolina.

GCEDC intends to file a verified notice of exemption with the Surface Transportation Board on or about May 20, 2003.

Based on information in our possession, the G&N line does not contain federally granted rights-of-way. Any documentation in the GCEDC's possession will be made available promptly to those requesting it.

Sincerely,



Phyllis Henderson
President, GCEDC

Cc: GCEDC Board of Directors
Andrew J. White, Haynsworth, Sinkler and Boyd, P.A.



Surface Transportation Board
Washington, D.C. 20423-0001

May 16, 2003



Office of Compliance and Enforcement

1925 K Street, N.W., Suite 780

Washington, DC 20423-0001

Mr. Peter M. Strub, Board Member and Treasurer
Greenville County Economic Development Corporation
% TranSystems Corporation
75 Beattle Place, Suite 400
Greenville, South Carolina 29601

202-565-1573
FAX 202-565-9011

Re: GCEDC Rail Service Complaint

Dear Mr. Strub:

This confirms receipt of your letter of May 6th, indicating the entities to which you have given notice of your intent to seek authority from the Board to discontinue service over the 11.8 mile segment serving Travelers Rest, South Carolina, that was acquired by the Greenville County Economic Development Corporation (GCEDC).

The purpose of this letter is to ensure that all of the entities identified in the Board's regulations at 49 CFR 1152.20 (copy enclosed), are provided the Notice of Intent to Discontinue Service. In addition to the State and Federal entities you have indicated, the Board is to be provided the Notice of Intent by certified mail (49 CFR 1152.20 (a)(1)), and all significant users on the line are to be notified (49 CFR 1152.20 (a)(2)(i)) along with the Governor of the State (49 CFR 1152.20 (a)(2)(ii)). Also, the notice is to be posted at stations and published in a local newspaper in each county in which any part of the line is located at least once during each of 3 consecutive weeks, and all publishing and notice must be accomplished within the 30-day period prior to the filing of the application (49 CFR 1152.20 (b)(2)).

Please do not hesitate to contact me if you have any questions.

Enclosure

Sincerely,

Melvin F. Clemens, Jr.
Director

cc: Lee K. Groome

GREENVILLE | CHARLESTON | COLUMBIA | FLORENCE

**Haynsworth
Sinkler Boyd, P.A.** ATTORNEYS AND COUNSELORS AT LAW

SCANNED

DATE D
DOCKE

EXHIBIT

75 B... (2001-2119)
POST OFFICE BOX 2048 (29602-2048)
GREENVILLE, SOUTH CAROLINA
TELEPHONE 864.240.3200
FACSIMILE 864.240.3300
WEBSITE www.hsblawfirm.com

ANDREW J. WHITE, JR.
DIRECT DIAL NUMBER 864.240.3288
EMAIL awhite@hsblawfirm.com

May 13, 2003

John S. Simmons, Esq.
Simmons Griffin & Lydon, LLP
P.O. Box 5
Columbia, SC 29202

Re: Greenville County Economic Development Corporation
HSB File No. 15159.0140

Dear Mr. Simmons:

Enclosed is a courtesy copy of the notification which Greenville County Economic Development Corporation has sent various public agencies in connection with its intention to seek authorization from the Service Transportation Board to discontinue service on the Greenville and Northern Railroad line (as more fully described in the attached documents).

Yours truly,

Andrew J. White Jr.
Andrew J. White, Jr.

AJWjr/evc
Enclosure

GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION

Mailing Address:

Patricia Haskell-Robinson, Secretary
c/o The Robinson Company of Greenville, Inc.
610 North Main Street
Greenville, South Carolina 29602
(864) 233-6277 Ext. 306

May 6, 2003

Board of Directors

Phyllis Henderson
Chairman & President

Patricia Haskell-Robinson
Secretary

Peter Strub
Treasurer

Joe Dill

Scott Case

South Carolina Public Service Commission
Attn: David Butler, General Counsel
101 Executive Center Drive
Columbia, SC 29210

Re: Greenville County Economic Development Corporation-Notice of Exemption

To Whom It May Concern:

This letter is to notify you that Greenville County Economic Development Corporation ("GCEDC") of Greenville, South Carolina, intends to file a verified notice of exemption under 49 CFR 1152.50 with the Surface Transportation Board for authorization to discontinue railroad service on its Greenville and Northern (G&N) Railroad Line, as described below. It is our understanding that no actual rail service has occurred on this line since 1993. GCEDC is seeking funds to repair the G&N Line, and if successful, GCEDC intends to make such repairs and to seek authorization from the Surface Transportation Board to renew rail service on the G&N Line.

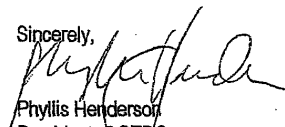
GCEDC intends to discontinue service on the G&N rail line, which it purchased from Railtex of San Antonio, Texas, on May 28, 1999. The G&N Line, which was previously owned and operated by Railtex (now RailAmerica, Inc.), runs from the City of Greenville, South Carolina, at mile marker 0.0 to the northern limits of the City of Travelers Rest, South Carolina, at mile marker 11.8, for a distance of 11.8 miles.

The G&N Line runs through United States Postal Service ZIP Codes 29690, 29609, 29613, 29617, 29611, and 29601 in Greenville, South Carolina and 29690 in Travelers Rest, South Carolina.

GCEDC intends to file a verified notice of exemption with the Surface Transportation Board on or about May 20, 2003.

Based on information in our possession, the G&N line does not contain federally granted rights-of-way. Any documentation in the GCEDC's possession will be made available promptly to those requesting it.

Sincerely,


Phyllis Henderson
President, GCEDC

Cc: GCEDC Board of Directors
Andrew J. White, Haynsworth, Sinkler and Boyd, P.A.

South Carolina Public Service Commission
Attn: David Butler, General Counsel
101 Executive Center Drive
Columbia, SC 29210

South Carolina Public Service Commission
Attn: Joseph Fianchino, Transportation Department
101 Executive Center Drive
Columbia, SC 29210

United States Department of Agriculture
Attn: Nancy S. Bryson, Esq., General Counsel
1400 Independence SW
Whitten Bldg. Rm. 107W
Washington, DC 20250-1400

United States Department of Agriculture
Chief of the Forest Service
Washington Office
201 14th & Independence, SW
P.O. Box 96090
Washington, DC 20090-6090

United States Department of Defense
Military Traffic Management Command
Attn: Robert Korpany
MTMCTEA
720 Thimble Shoals Blvd, Suite 130
Newport News, VA 23606

United States Department of Interior
The National Park Service
Attn: Horace Clark, Esq.
Office of the Solicitor
75 Spring St. SW
Richard Russell Federal Bldg.
Atlanta, GA 30303

United States Department of Interior
Recreation Resources Assistance Division
Attn: Horace Clark, Esq.
Office of the Solicitor
75 Spring St. SW
Richard Russell Federal Bldg.
Atlanta, GA 30303

United States Department of Interior
The National Park Service
Southeast Region
Atlanta Federal Center
100 Alabama St. SW
Atlanta, GA 30303

Ms. Barbara Hines
Land Section
U.S. National Forest Service
4931 Broad River Road
Columbia, SC 29212

The letter on the other side
was mailed to these agencies
on or about 5/7/03.

MILE POST 11.8
(APPROXIMATE)

TRAVELERS REST
CITY LIMITS

GCEDC RAILROAD

GREENVILLE
CITY LIMITS

MILE POST 0.0

0 3000' 6000' 9000'



GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION

Mailing Address:
Patricia Haskell-Robinson, Secretary
c/o The Robinson Company of Greenville, Inc.
610 North Main Street
Greenville, South Carolina 29602
(864) 233-6277 Ext. 306