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September 29, 2003



209012

BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: *Kansas City Southern Railway Company—Construction And Operation
Exemption—Geismar Industrial Area Near Gonzales And Sorrento LA;
Finance Docket No. 32530*

Dear Secretary Williams:

Pursuant to the decision served August 29, 2003 in the above referenced proceeding, I am enclosing herewith an original and eleven copies of Comments of The Kansas City Southern Railway Company. A copy of this filing has been served today upon all parties of record to this proceeding. Please date-stamp the eleventh copy of these Comments and return it the courier for our files.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Mullins".

William A. Mullins

Enclosure

cc: Parties of Record

**ENTERED
Office of Proceedings**

SEP 29 2003

**Part of
Public Record**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 32530

**KANSAS CITY SOUTHERN RAILWAY COMPANY
- CONSTRUCTION AND OPERATION EXEMPTION -
GESIMAR INDUSTRIAL AREA NEAR GONZALES AND SORRENTO, LA**

COMMENTS OF THE KANSAS CITY SOUTHERN RAILWAY COMPANY



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**Attorneys for The Kansas City Southern
Railway Company**

September 29, 2003

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SURFACE TRANSPORTATION BOARD**

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- CONSTRUCTION AND OPERATION EXEMPTION -
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COMMENTS OF THE KANSAS CITY SOUTHERN RAILWAY COMPANY

The Kansas City Southern Railway Company ("KCSR") hereby comments on the Board's request, as set forth in its decision issued August 29, 2003 in the above-referenced proceeding, to demonstrate "a need to keep this proceeding pending." KCSR is agreeable to discontinuation of this proceeding, and is willing to withdraw its application to effectuate that end, so long as discontinuation of the proceeding is without prejudice to KCSR's and the shippers' rights to pursue a future build-in over the same or a similar route.

As the Board is fully aware and as set forth in August 29th decision, this proceeding (the "Geismar build-in proceeding") has a long history. The matter has been held in abeyance since the Board's decision, served August 27, 1998, giving KCSR and the shippers who could potentially have been served by the KCSR build-in to the Geismar industrial corridor an opportunity to review the effectiveness of KCSR service via the haulage rights granted as part of the CN/IC merger proceeding.¹ By holding the proceeding in abeyance and not dismissing it, the

¹ The access agreement was entered into between Canadian National Railway Company ("CN"), Illinois Central Railway Company ("IC"), and KCSR as a settlement agreement as part of the then-pending CN/IC control proceeding (STB Finance Docket No. 33556). The access agreement allowed KCSR access, via haulage rights, to BASF Corporation ("BASF"), Borden Chemicals and Plastics Ltd. ("Borden"), and Shell, U.S. ("Shell"). The Board later expanded

Board allowed KCSR and the shippers the option to revive and restart the rail line construction proceeding without the need to start from scratch and rebuild the record.

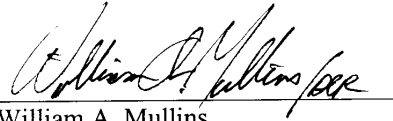
Neither KCSR nor the shippers have felt the need to restart the build-in process or to finalize the environmental review process in the five years that this proceeding has been held in abeyance. While KCSR continues to have some problems with its ability to compete on equal terms with CN/IC via haulage rights, those problems can likely be resolved through other means. The existence, or non-existence, of the Geismar build-in proceeding does not impact those other means. Accordingly, keeping the Geismar build-in proceeding open provides no benefit to KCSR or the shippers and KCSR does not believe it is necessary for the Board to “keep this proceeding” pending.

Because of the foregoing, KCSR hereby withdraws its construction petition, and does not object to the discontinuation of this proceeding as long as such discontinuation is without prejudice to KCSR starting another build-in proceeding at some time in the future that would cover the same or similar shippers and geographic territory. Discontinuing this proceeding without prejudice is fully consistent with prior precedent. *See, e.g., Kansas City Southern Railway Company—Adverse Abandonment—In St. Clair County, IL, Gateway Eastern Railway Company – Adverse Abandonment- In St. Clair County, IL*, STB Docket No. AB-103 (Sub-No. 15), STB Docket No. AB-849 (STB served April 7, 2003); *Big Stone-Grant Industrial*

that agreement to include Rubicon Inc., Uniroyal Chemical Company, Inc., and Vulcan Chemicals under the same terms and conditions that governed KCSR’s access to BASF, Borden and Shell. *See Canadian National Railway Company, Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporated—Control—Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad Company*, STB Finance Docket No. 33556, Decision No. 37 (STB served May 25, 1999).

*Development and Transportation, L.L.C.--Construction Exemption--Ortonville, MN and Big
Stone City, SD, Finance Docket No. 32645 (Sub-No. 1)(STB served June 9, 1998).*

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "William A. Mullins", is written over a horizontal line.

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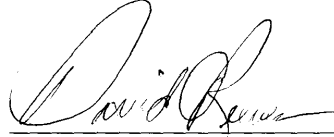
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Attorneys for The Kansas City Southern
Railway Company

CERTIFICATE OF SERVICE

I have this day served a copy of the foregoing Comments of The Kansas City Southern Railway Company upon all other parties of record by depositing a copy in the U.S. mail in a properly addressed envelope with adequate first-class postage thereon prepaid or by other expeditious means.

Dated: September 29, 2003

A handwritten signature in black ink, appearing to read "David C. Reeves", written over a horizontal line.

David C. Reeves
Attorney for The Kansas City Southern
Railway Company