

SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE
KAREN HASSELL HERREN
KENDRA A. ERICSON

TELEPHONE:
(202) 347-7170

FAX:
(202) 347-3619

WRITER'S E-MAIL:
rdr@sloverandloftus.com

January 26, 2004

BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 711
Washington, D.C. 20423-0001

209952

Re: Docket No. AB-842X, Almono LP – Abandonment
Exemption – In Allegheny County, PA

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding please find an original and ten copies of Almono LP's Reply to Objection to Notice of Withdrawal of Petition for Exemption for Abandonment.

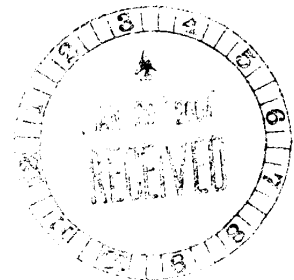
An extra copy of the Reply is also enclosed. Kindly indicate receipt and filing by time-stamping this copy and returning it to the bearer of this letter. Thank you for your attention to this matter.

Sincerely,

Robert D. Rosenberg

Robert D. Rosenberg
An Attorney for Almono LP

Enclosures



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

209952

In the Matter of:

ALMONO LP – ABANDONMENT
EXEMPTION – IN ALLEGHENY
COUNTY, PENNSYLVANIA

STB Docket No. AB-842X

Office of Proceedings

JAN 26 2004

Part of
Public Record

**ALMONO LP REPLY TO OBJECTION TO NOTICE OF WITHDRAWAL
OF PETITION FOR EXEMPTION FOR ABANDONMENT**

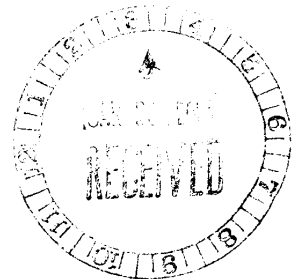
Of Counsel:

Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: January 26, 2004

ALMONO LP
c/o Regional Industrial Development
Corporation of Southwestern Pennsylvania
425 Sixth Avenue, Suite 500
Pittsburgh, PA 15219

Robert D. Rosenberg
Andrew B. Kolesar III
Kendra E. Ericson
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

In the Matter of:

ALMONO LP – ABANDONMENT
EXEMPTION – IN ALLEGHENY
COUNTY, PENNSYLVANIA

STB Docket No. AB-842X

**ALMONO LP REPLY TO OBJECTION TO NOTICE OF WITHDRAWAL
OF PETITION FOR EXEMPTION FOR ABANDONMENT**

Almono LP (“Almono”) hereby replies to the Objection to Notice of Withdrawal of Petition for Exemption for Abandonment (“Objection”) that Allegheny Valley Railroad Company (“AVR”) filed on January 22, 2004.

AVR’s Objection is bereft of any supporting authority for the proposition that Almono is restricted from withdrawing its Petition at this time. A carrier’s decision to seek abandonment authority lies in the carrier’s discretion, and even exercise of the authority granted by the Board is discretionary on the carrier’s part. Nothing in 49 U.S.C. § 10904 or the Board’s regulations at 49 C.F.R. § 1152.27 purport to limit Almono’s right to withdraw its Petition before the Board has prescribed a purchase price, much less before an offer of financial assistance (“OFA”) has even been tendered or the abandonment decision is effective by its own terms. The Board’s practice has been to permit withdrawals at this early stage. See, e.g., Docket No. AB-83 (Sub-No. 16S), Maine Central R.R. – Abandonment Exemption – In Androscoggin County, ME (STB served Sept. 15, 2000) at 5 (“When we authorize a carrier to abandon a line, that authority is permissive, not mandatory. The carrier can choose to exercise that authority or not.

Because we do not compel a carrier to abandon a line, we normally grant a carrier's motion to withdraw its request for abandonment authority.'').

AVR's insinuations concerning Almono's supposed unwillingness to meet its common carrier obligations are completely without substance. Almono acquired its line with knowledge and acceptance of its common carrier obligations, and Almono intends to continue to honor those obligations. Moreover, the shippers using the line have voiced no objection to Almono's actions, and instead support Almono.

Accordingly, there is no basis on which the Board can or should entertain AVR's Objection, especially as AVR has not presented any grounds for interfering with Almono's right to withdraw its Petition.

Respectfully submitted,

ALMONO LP
c/o Regional Industrial Development
Corporation of Southwestern Pennsylvania
425 Sixth Avenue, Suite 500
Pittsburgh, PA 15219

Of Counsel:

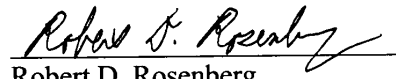
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: January 26, 2004

Robert D. Rosenberg 
Andrew B. Kolesar III
Kendra E. Ericson
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

CERTIFICATE OF SERVICE

I hereby certify that this 26th day of January, 2004, I have caused a copy of the foregoing Reply to be served on the parties of record in this case by United States first-class mail, postage prepaid, and/or by hand delivery.


Robert D. Rosenberg