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*THE NORTHERN CENTRAL
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FROM: James Riffin, CEO
The Northern Central Railroad

TO: Vernon Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

**BY FAX AND OVERNIGHT
DELIVERY**

2100662

RE: James Riffin d/b/a The Northern Central Railroad - Acquisition and Operation
Exemption - Lines of Railroad in York County, Pennsylvania and Baltimore
County, Maryland, Finance Docket No. 34484.

**ENTERED
Office of Proceedings**

DATE: April 19, 2004

APR 22 2004

Dear Secretary Brown:

**Part of
Public Record**

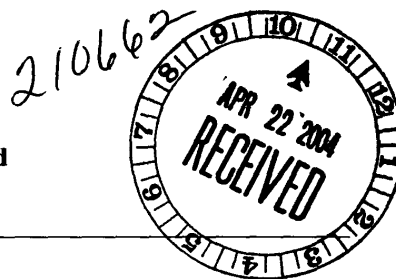
I am enclosing an original and ten (10) copies of Riffin's Answer to Maryland's Request for Expedited Handling and Maryland's Motion for Cease and Desist Order, in the above referenced proceeding.

Thank you for your assistance.

Sincerely,

James Riffin, CEO
The Northern Central Railroad

Before the
Surface Transportation Board
Finance Docket No. 34484



**JAMES RIFFIN d/b/a THE NORTHERN CENTRAL RAILROAD-
ACQUISITION AND OPERATION EXEMPTION - LINES OF RAILROAD IN
YORK COUNTY, PENNSYLVANIA AND BALTIMORE COUNTY, MARYLAND**

**RIFFIN'S ANSWER TO
MARYLAND'S REQUEST FOR EXPEDITED HANDLING
MARYLAND'S MOTION FOR CEASE AND DESIST ORDER**

ENTERED
Office of Proceedings
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Public Record

1. On April 14, 2004, the State of Maryland ("Maryland"), through its counsel, Charles A. Spitulnik, filed with the Board a Supplemental Request of the State of Maryland for Expedited Handling of its Petition to Revoke ("Supplemental Request") and a Motion for a Cease and Desist Order ("Motion"). What follows is James Riffin d/b/a The Northern Central Railroad's ("Riffin") Answer to that Supplemental Request and Motion..

I. REQUEST FOR EXPEDITED DECISION

2. A number of potential shippers have expressed a strong desire to utilize the rail services Riffin proposes to offer. Due to the uncertainty caused by Maryland's Petition to Revoke, Riffin is reluctant to enter into any binding contracts with those shippers until Riffin is certain he will in fact be allowed to provide rail service for those shippers.

3. Due to the uncertainty caused by Maryland's Petition to Revoke, Riffin is reluctant to enter into contracts to rehabilitate the line mentioned in his Notice of Exemption. He feels uncomfortable spending large sums of money rehabilitating line, which may be for naught.

4. For the reasons enumerated above, Riffin does not oppose Maryland's request for an expedited decision.

II. MOTION FOR CEASE AND DESIST ORDER.

5. Riffin incorporates by reference the factual allegations contained in paragraphs 1 through 4 above, as if fully set forth herein.

6. For the reasons stated below, Riffin **opposes** Maryland's Motion for a Cease and Desist Order.

7. The basis for the Cease and Desist Order is Maryland's Petition to Revoke Notice of Exemption ("Petition"). If Maryland's Petition were to be granted, or if there was a very high probability that Maryland's Petition would be granted, then it may be appropriate to issue the requested Cease and Desist Order.

8. In its Petition, Maryland has argued Riffin's statement, that he proposes to acquire 2.9 miles of abandoned line in Maryland, is misleading. Maryland argues this statement is misleading, because there is no probability that Riffin will be successful in his efforts to acquire that Maryland line. Maryland argued that Maryland owns this 2.9 miles of abandoned line, and argued Maryland refuses to grant Riffin any interest in this 2.9 miles of abandoned line. Maryland then concluded there is no probability that Riffin will be able to acquire this 2.9 miles of abandoned line.

9. Maryland's argument, that there is no probability that Riffin will be able to acquire any interest in the 2.9 miles of abandoned Maryland line, is unlikely to be persuasive, for the following reasons:

A. As was pointed out in Riffin's Answer to Petition of the State of Maryland to Revoke the Verified Notice of Exemption ("Riffin's Answer"), which is incorporated by reference herein, as if fully set forth herein, the 2.9 miles of Maryland line consists of a number of easement segments, which were acquired via condemnation in 1836. Maryland law stipulates that when an easement, which was acquired via condemnation, is abandoned, all rights to that easement revert back to the original owner, as if the easement never existed. In the instant case, these easement segments were abandoned circa 1972 - 1990, thereby causing title to revert back

to the original owners. Consequently, any title Maryland's predecessor in title may have had, was lost when the abandonment occurred. Consequently, Maryland's argument that it has title to these easement segments, is without merit. If Maryland does not have title to these easement segments, then Maryland's argument that it will not transfer any of its interests in these easement segments to Riffin, becomes moot.

B. Maryland Law stipulates that if a railroad does not use a Maryland railroad right-of-way for 10 years, then another Maryland railroad may acquire that right-of-way, via condemnation if necessary. Maryland Law also stipulates that a Maryland Railroad may acquire, via condemnation if necessary, land it finds to be "useful or convenient," even if that land is public land. Since Riffin is a Maryland railroad company, and since Riffin deems the 2.9 miles of Maryland line to be "useful or convenient," Riffin has the absolute right to acquire that 2.9 miles of Maryland line via condemnation. Therefore, even if Maryland did have some title to the 2.9 miles of Maryland line, and even if Maryland elected not to grant Riffin any interest in that Maryland line, Riffin could still acquire that Maryland line via condemnation.

10. The Board, in its March 25, 2004 decision, noted in footnote 1, that since the 2.9 miles of Maryland line was abandoned line, Riffin did not need authority from the Board to acquire that Maryland line. Consequently, even if Riffin's statement, that he proposed to acquire this line, could somehow be construed to be misleading, Riffin's statement would be irrelevant, since it was not a basis for the Board's decision.

11. Maryland failed to append to its Petition any evidence to support its position that it owned the 2.9 miles of Maryland line, which is the subject of this litigation. Therefore, Maryland's Petition should be denied, for lack of any evidence to support its position.

12. Maryland has indicated it is opposed to Riffin acquiring the 2.9 miles of Maryland line. It has not opposed Riffin's acquisition of the 20.9 miles of York County, Pennsylvania line. Were the Board to find Riffin's statement regarding his proposal to acquire the Maryland line to be misleading, it is conceivable the Board may amend its decision, and only grant Riffin authority to acquire and operate the York County line. If this were to occur, Riffin would still be a rail carrier subject to the jurisdiction of the Board. Therefore, it would be inappropriate to issue

a Cease and Desist Order ordering Riffin to stop holding himself out as a rail carrier subject to the jurisdiction of the Board.

13. Part of the basis for Maryland's request for a Cease and Desist Order, is its representation that Riffin is constructing rail line on a parcel of land commonly known as 10919 York Road, Cockeysville, [identified as Parcel 193 on Map 42 of Baltimore County's property tax maps ("Parcel 193")], and that Riffin is "excavating dirt and filling waters of the State of Maryland that feed the Chesapeake Bay." As was pointed out in Riffin's Motion to Impose Sanctions, and Riffin's Affidavit ("Affidavit") accompanying that Motion to Impose Sanctions, both of which were sent to the Board via overnight delivery on April 16, 2004, which is incorporated by reference herein, as if fully set forth herein, Parcel 193 is not a part of the 2.9 miles of Maryland line which was the subject of Riffin's Notice of Exemption. In addition, as Riffin stated in his Affidavit, he is not constructing line on Parcel 193, nor has the State of Maryland, except in its Supplemental Request, alleged Riffin "has begun excavating dirt and filling waters of the State of Maryland that feed the Chesapeake Bay." Riffin feels any issues Maryland may have with Riffin regarding Riffin's activities on properties that are not a part of the 2.9 miles of Maryland line which was the subject of Riffin's Notice of Exemption, should be dealt with in a Maryland court of law, not before the Board.

WHEREFORE, for the reasons stated above, Riffin would **oppose** Maryland's Motion for a Cease and Desist Order, and ask that the Board **deny** Maryland's Motion for a Cease and Desist Order.

Respectfully submitted,



James Riffin d/b/a The Northern Central Railroad

CERTIFICATE OF SERVICE

I hereby certify, that on this 19th day of April, 2004, a copy of the foregoing "Riffin's Answer to Supplemental Request of the State of Maryland for Expedited Handling and Motion for a Cease and Desist Order," was mailed, postage prepaid, to Charles A. Spitulnik, of McLeod, Watkinson & Miller, Suite 800, One Massachusetts Avenue, NW, Washington, DC 20001, counsel for the State of Maryland.



James Riffin