

214162

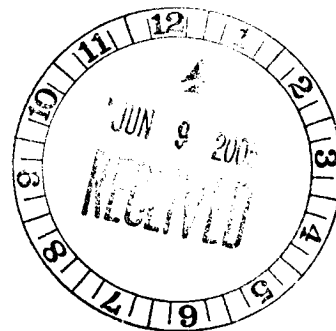
FOUR PENN CENTER
SUITE 200
1600 JOHN F. KENNEDY BLVD.
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TELEPHONE 215.563.9400
FACSIMILE 215.665.9988
WWW.GGELAW.COM

G&E GOLLATZ
GRIFFIN
& EWING
ATTORNEYS - AT - LAW

ERIC M. HOCKY
DIRECT DIAL 215.320.3720
emhocky@ggelaw.com

June 8, 2005
VIA: UPS Overnight

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
Mercury Building, #711
1925 K Street, N.W.
Washington, DC 20423-0001



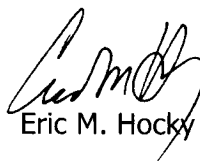
Re: Pittsburg & Shawmut Railroad, LLC -
Abandonment Exemption
STB Docket No. AB-976 (X)
Petition for Exemption of Abandonment

Dear Secretary Williams:

Enclosed for filing are the original and ten copies of the Petition of Pittsburg & Shawmut Railroad, LLC for Exemption of Abandonment, together with a check in the amount of \$5,200 representing the filing fee. Also enclosed is a copy of the draft Federal Register notice on a computer diskette compatible with the Board's current word processing capabilities.

Please time-stamp the extra copy of this letter to indicate receipt, and return it to me in the stamped, self-addressed envelope provided for your convenience.

Respectfully,


Eric M. Hocky

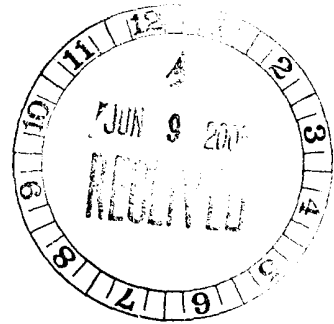
Enclosures

cc: All Parties on Service List (w/enclosure)

ENTERED
Office of Proceedings
JUN 9 - 2005
Part of
Public Record

GOLLATZ, GRIFFIN & EWING, P.C.

214162



Before the

SURFACE TRANSPORTATION BOARD

Docket No. AB-976 (X)

FEE RECEIVED

JUN 9 - 2005

**SURFACE
TRANSPORTATION BOARD**

**PETITION OF PITTSBURG & SHAWMUT RAILROAD, LLC
FOR EXEMPTION OF ABANDONMENT**

Armstrong and Jefferson Counties, Pennsylvania

EXPEDITED CONSIDERATION REQUESTED

**ENTERED
Office of Proceedings**

JUN 9 - 2005

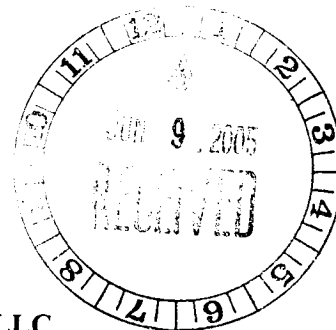
**Part of
Public Record**

FILED
JUN 9 - 2005
**SURFACE
TRANSPORTATION BOARD**

ERIC M. HOCKY
GOLLATZ, GRIFFIN & EWING, P.C.
Four Penn Center
Suite 200
1600 John F. Kennedy Blvd.
Philadelphia, PA 19103
(215) 563-9400
Attorneys for Pittsburgh & Shawmut, LLC

Dated: June 8, 2005

Before the
SURFACE TRANSPORTATION BOARD



**PETITION OF PITTSBURGH & SHAWMUT RAILROAD, LLC
FOR EXEMPTION OF ABANDONMENT**

Armstrong and Jefferson Counties, Pennsylvania

EXPEDITED CONSIDERATION REQUESTED

Pittsburgh & Shawmut Railroad, LLC ("PSR LLC") hereby petitions for an exemption under 49 U.S.C. §10502 from the provisions of 49 U.S.C. §10903 to enable PSR LLC to abandon 40.0 miles of railroad located in Armstrong and Jefferson Counties, Pennsylvania. In support of its request for exemption, PSR LLC represents as follows:

BACKGROUND OF TRANSACTION

PSR LLC proposes to abandon the line of railroad which runs between milepost 22.0 south of Brookville in Jefferson County, Pennsylvania, and milepost 62.0 in Mahoning in Armstrong County, Pennsylvania (the "Subject Line"). The Subject Line is currently operated by Buffalo & Pittsburgh Railroad, Inc. ("BPRR"), an affiliate of PSR LLC. BPRR is simultaneously filing a notice of exemption to discontinue its operations over the Subject Line. See Docket No. AB-369 (No. 5X).¹

The Subject Line was previously owned and operated by Pittsburgh & Shawmut Railroad, Inc. ("PSRR"). In January, 2004, as a result of a corporate family transaction PSRR

¹ Although the proceedings have not been consolidated, PSR LLC and BPRR filed a joint Environmental / Historic Report.

was merged with and into BPRR. Buffalo & Pittsburgh Railroad, Inc., Allegheny & Eastern Railroad, Inc., Pittsburg & Shawmut Railroad, Inc., and Bradford Industrial Rail, Inc. - Corporate Family Transaction Exemption, STB Finance Docket No. 34447 (served January 22, 2004). For financing reasons, certain physical assets including those comprising the Subject Line were acquired by PSR LLC, a newly formed non-carrier subsidiary of BPRR. See Pittsburg & Shawmut Railroad, LLC - Acquisition Exemption - Buffalo & Pittsburgh Railroad, Inc., STB Finance Docket No. 34449 (served January 22, 2004).

The last local rail service provided on the Subject Line segment was September 1999 when the last customer on the line closed. There have been attempts to bring new business to the Subject Line, but no other traffic has originated or terminated on this line segment since that time. All overhead traffic that had traversed the Subject Line has since been re-routed. Because of the lack of use, PSR LLC proposes to abandon the Subject Line and to salvage the track materials.²

ABANDONMENT OF THE SUBJECT LINE SHOULD BE EXEMPTED

The abandonment of the Subject Line by PSR LLC would require authorization pursuant to 49 U.S.C. §10903 unless the exemption requested herein is granted. The Board is

² At this time, PSR LLC (and BPRR) plan to retain the track between milepost 22.0 and milepost 24.0, and between milepost 56.0 and milepost 62.0, and to operate them as private sidetracks or spurs. See Norfolk Southern Railway Company – Abandonment Exemption – In Mecklenburg County, NC, STB Docket No. AB-290 (Sub-No. 247X) (served April 9, 2004); Missouri Pacific Railroad Company – Abandonment Exemption – In Marion County, IL, ICC Docket No. AB-3 (Sub-No. 77X) (served June 21, 1989).

directed by 49 U.S.C. §10502 to grant an exemption if it finds that (1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. §10101, and (2) either the transaction is limited in scope or regulation is not needed to protect shippers from the abuse of market power.

In a series of decisions, the Interstate Commerce Commission found that the abandonment of rail lines on which no traffic originated or terminated for at least two years should be exempt from regulation under then 49 U.S.C. §10505 (now §10502). Exemption of Out of Service Rail Lines, 366 ICC 885 (1983); Exemption of Out of Service Rail Lines, 1 ICC 2d 55 (1984), as modified by 2 ICC 2d 146 (1986).³ Although the Subject Line has been out of service for almost six years, PSR LLC's proposed abandonment is not eligible for the out of service exemption because it only acquired the assets comprising the Subject Line approximately 18 months ago.⁴ However, for the same reasons that those decisions found that out of service rail lines satisfy the exemption criteria, the Board should find that abandonment of the Subject Line should be exempted and should use the same shortened time periods as provided for class exemptions. The specific reasons for such finding are discussed below.

This abandonment of approximately 40.0 miles of rail line located in two counties in rural Pennsylvania does not require detailed scrutiny to carry out the rail policies of 49 U.S.C. §10101, and is in keeping with the Board's overall policy of removing unnecessary regulatory barriers from carriers. It is clear from the lack of traffic over a six year period, despite attempts to attract new business, that there is little likelihood of there ever being a future demand for local

³ This exemption is now codified at 49 C.F.R. §1152 Subpart F.

⁴ BPRR's proposed discontinuance is eligible for the two year out of service exemption because it has succeeded by merger to the prior operator of the Subject Line.

rail service over the Subject Line. Approval of the exemption under 49 U.S.C. §10502 will enable PSR LLC to abandon the Subject Line and make better use of its resources without the extensive costs and delays that would otherwise occur if an application were required to be filed under Section 10903, and is in keeping with the following rail policies described in 49 U.S.C. §10101:

* * *

(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

* * *

(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues...

* * *

(5) to foster sound economic conditions in transportation...

* * *

(7) to reduce regulatory barriers to entry into and exit from the industry...

* * *

(9) to encourage honest and efficient management of railroads;

* * *

(15) to provide for the expeditious handling and resolution of all proceedings.

Moreover, the grant of the exemption will not be inconsistent with any of the 15 items which have been made a part of rail transportation policy by 49 U.S.C. §10101.

The scope of the exemption requested is limited and will have no direct impact on shippers or other rail carriers. Since the proposed transaction is of limited scope, it is not necessary for the Board to consider whether shippers need to be protected from abuse of market power. However, even if the Board were to consider market power, it is clear that shippers do not need to be protected from its abuse since there are no shippers remaining on the Subject Line, and no prospects of future shippers. Accordingly, regulation is not needed to protect shippers from abuse of market power.

No formal complaint by a user of rail service on the Subject Line, or a state or local government entity acting on behalf of such a user, regarding cessation of service over the Subject Line either is pending with the Board or any U.S. District Court or has been decided in favor of a complainant within the last two years.

ADDITIONAL INFORMATION

PSR LLC provides the following additional information that would be required under 49 C.F.R. 1152.50(d)(2) and 1152.22 if this Petition were filed under the Board's class exemption:

- (a)(1) The exact name of applicant is: Pittsburgh & Shawmut Railroad, LLC.
- (a)(2) PSR LLC is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105, although it does not operate the Subject Line and has only residual common carrier authority.
- (a)(3) PSR LLC seeks to abandon the Subject Line. PSR LLC owns the track, improvements and roadbed structure comprising the Subject Line, but does not operate the Subject Line. PSR LLC intends to retain the tracks between milepost 22.0 and 24.0, and between milepost 56.0 and milepost 62.0, and have them operated by BPRR as private sidetracks or spurs. The

remainder of the Subject Line between milepost 24.0 and milepost 56.0 will be salvaged.

- (a)(4) A map of the Subject Line is attached as Exhibit A.
- (a)(7) The representative of PSR LLC to whom correspondence should be sent is Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., Four Penn Center, Suite 200, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103.
- (a)(8) The Subject Line traverses through United States ZIP Codes 15472, 15663, 15770, 15778, 15847, 16232, 16259, 17821 and 17844.
- (e)(4) PSR LLC believes that the Subject Line may be suitable for use for other public purposes, in particular for trail use. Jefferson and Armstrong Counties have expressed interest in acquiring the Subject Line for trail purposes.

PSR LLC proposes to consummate the abandonment at the earliest possible date permitted by the Board.

EMPLOYEE PROTECTION

Although no employees of PSR LLC are expected to be affected by the abandonment, PSR LLC recognizes that this abandonment will be made subject to the employee protective conditions in Oregon Short Line Railroad Co.--Abandonment--Goshen, 360 ICC 91 (1979).

ENVIRONMENTAL AND HISTORIC REPORTS

The Environmental/Historic Report, required by 49 C.F.R. §1121.3(a) and §1152.60, was filed with the Board on May 17, 2005, and was served in accordance with the requirements of 49 C.F.R. §§1105.7 and 1105.8. As noted in the report, Applicant has complied

with the notice requirements of 49 C.F.R. §1105.11. On May 26, 2005, Applicant sent to Pennsylvania's State Historic Preservation Office the completed Section 106 forms that had been requested.

NOTICE

PSR LLC notified the agencies required under 49 C.F.R. §§1152.60(d) and 1152.50 (d), of its intent to file this Petition. Copies of the notices are attached as Exhibit B. Further, pursuant to the provisions of 49 C.F.R. §1152.60(c), PSR, LLC has attached, as Exhibit C, a draft Federal Register notice of its petition to be published by the Board within 20 days of the petition's filing with the Board. PSR LLC is also submitting a copy of the draft notice on a computer diskette compatible with the Board's current word processing capabilities.

EXPEDITED CONSIDERATION REQUESTED

As noted above, the operator of the Subject Line, BPRR is filing a notice of exempt abandonment to discontinue operations under the Board's out of service class exemption. Assuming no stay is issued, BPRR will be eligible to consummate its discontinuance 50 days after filing (that being July 29, 2005). In order that salvage of the Subject Line can be coordinated, and to allow it to take place as early as possible, PSR LLC requests that the Board grant this exemption on the same timing as will apply to BPRR's discontinuance, and that PSR LLC be permitted to consummate the abandonment on or after July 29, 2005. PSR LLC does not believe that any interested parties would be harmed by the shortened notice periods.

CONCLUSION

For the foregoing reasons, PSR LLC requests that the Board, under 49 U.S.C. §10502, exempt the abandonment of the Subject Line from regulation under 49 U.S.C. §10903, and handle the exemption on the schedule adopted for class exemptions.

Respectfully submitted,



ERIC M. HOCKY
GOLLATZ, GRIFFIN & EWING, P.C.
Four Penn Center
Suite 200
1600 John F. Kennedy Blvd.
Philadelphia, PA 19103
(215) 563-9400
Attorneys for Pittsburgh & Shawmut, LLC

Dated: June 8, 2005

VERIFICATION

I hereby verify on behalf of Pittsburgh & Shawmut, LLC, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on June 8, 2005.


Name: David Phillips
Title: President

EXHIBIT A

MAP

Brookville to Mahoning Abandonment

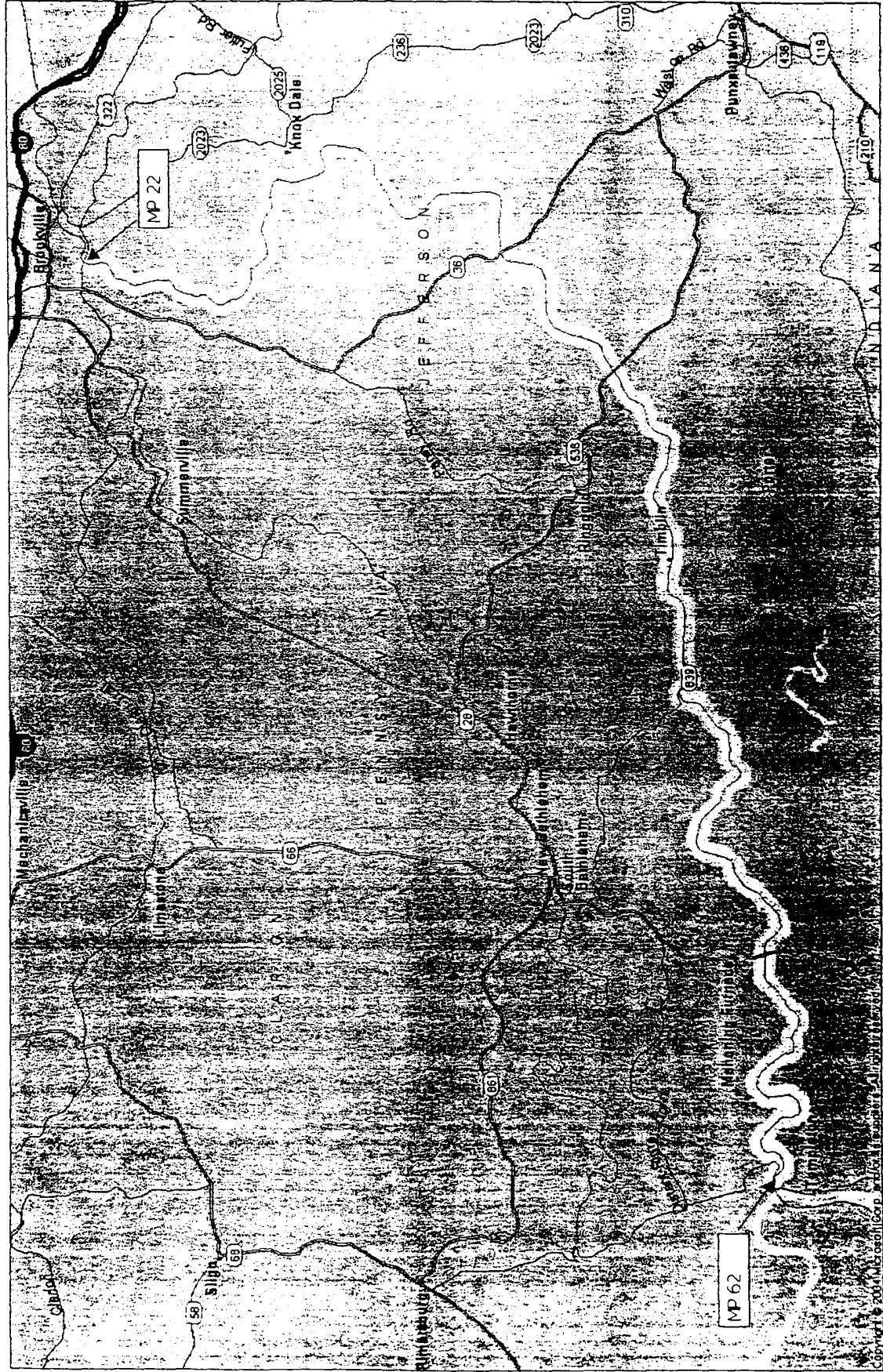


EXHIBIT B

10 DAY NOTICES

213 WEST MINER STREET
PO BOX 796
WEST CHESTER, PA 19381
TELEPHONE 610.692.2116
FACSIMILE 610.692.9177
WWW.GGELAW.COM

G&E GOLLATZ
GRIFFIN
& EWING
ATTORNEYS - AT - LAW

LEANORE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

May 23, 2005
VIA: FIRST CLASS MAIL

Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

RE: Buffalo & Pittsburgh Railroad, Inc. -
Discontinuance Exemption
STB Docket No. AB369 (No. 5X)

Pittsburgh & Shawmut Railroad, LLC -
Abandonment Exemption
STB Docket No. AB976 (X)

Dear Sirs and/or Madams:

This letter is to advise you that Buffalo & Pittsburgh Railroad, Inc. ("BPRR") will be filing a verified notice of exemption pursuant to the provisions of 49 CFR 1152 Subpart F in STB Docket No. AB369 (No. 5X), and that Pittsburgh & Shawmut Railroad, LLC ("PSR LLC") will be filing a verified petition for exemption pursuant to the provisions of 49 USC 10502 and 49 CFR 1152 Subpart G in STB Docket No. AB976 (X). BPRR and PSR LLC intend to file with the Surface Transportation Board on or about June 6, 2005.

PSR LLC proposes to abandon its line of railroad which runs in a southwest direction from milepost 22.0 south of Brookville in Jefferson County, Pennsylvania to milepost 62.0 in Mahoning in Armstrong County. BPRR will discontinue its operations over the line at the same time. This line traverses through United States Postal ZIP Codes 15472, 15663, 15770, 15778, 15847, 16232, 16259, 17821 and 17844.

BPRR and PSR LLC plan to retain the track between milepost 22.0 and milepost 24.0, and between milepost 56.0 and milepost 62.0, and operate them as private sidetracks or spurs. BPRR and PSR LLC intend to salvage the remainder of track between milepost 24.0 and milepost 56.0.

GOLLATZ, GRIFFIN & EWING, P.C.

PHILADELPHIA

WILMINGTON

Pennsylvania Public Utility Commission

May 23, 2005

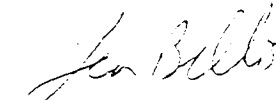
Re: Notice of Abandonment

Page 2 of 2

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

BPRR and PSR LLC filed an Environmental/Historic Report with the Surface Transportation Board on May 17, 2005, and will provide a copy upon request.

Very truly yours,



Leanne D. Bellis
Paralegal

cc: Kevin Bowser
William V. Gentilman
Eric M. Hocky, Esquire

213 WEST MINER STREET
PO. BOX 796
WEST CHESTER, PA 19381
TELEPHONE 810.692.2116
FACSIMILE 810.692.2177
WWW.GGELAW.COM

GC&E GOLLATZ
GRIFFIN
& EWING
ATTORNEYS - AT - LAW

LEANORE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

May 23, 2005
VIA: FIRST CLASS MAIL

Pennsylvania Department of Transportation
400 North Street
8th Floor
Harrisburg, PA 17120

RE: Buffalo & Pittsburgh Railroad, Inc. -
Discontinuance Exemption
STB Docket No. AB369 (No. 5X)

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Pennsylvania Department of Transportation

May 23, 2005

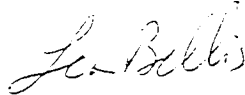
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Leanne D. Bellis
Paralegal

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William V. Gentilman
Eric M. Hocky, Esquire

213 WEST MINER STREET
PO BOX 796
WEST CHESTER, PA 19381
TELEPHONE 610.692.9116
FACSIMILE 610.692.9177
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GG&E GOLLATZ
GRIFFIN
& EWING
ATTORNEYS - AT - LAW

LEANDRE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

May 23, 2005
VIA: FIRST CLASS MAIL

Mr. Dave Dorfman
Policy and Programs Division
Military Surface Deployment and Distribution Command
Transportation Engineering Agency
720 Thimble Shoals Blvd., Ste. 130
Newport News, VA 23606-4537

RE: Buffalo & Pittsburgh Railroad, Inc. -
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Military Surface Deployment and Distribution Command

May 23, 2005

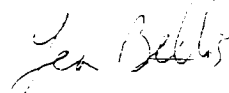
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Leanne D. Bellis
Paralegal

cc: Kevin Bowser
William V. Gentilman
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TELEPHONE 610.692.2116
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& EWING
ATTORNEYS - AT - LAW

LEANORE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

May 23, 2005
VIA: FIRST CLASS MAIL

Office of Chief of Forest Service
U.S. Department of Agriculture
Auditor's Building
201 14th Street S.W. and Independence Ave., S.W.
Washington, DC 20250

RE: Buffalo & Pittsburgh Railroad, Inc. -
Discontinuance Exemption
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U.S. Department of Agriculture

May 23, 2005

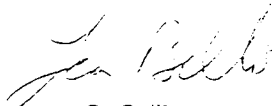
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Leanne D. Bellis
Paralegal

cc: Kevin Bowser
William V. Gentilman —
Eric M. Hocky, Esquire

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WEST CHESTER, PA 19381
TELEPHONE 610.692.2116
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G&E GOLLATZ
GRIFFIN
& EWING
ATTORNEYS - AT - LAW

LEANORE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

May 23, 2005
VIA: FIRST CLASS MAIL

National Park Service
National Center For Recreation
and Conservation
Org. Code 2220
1849 C Street, NW
1201 Eye Street
9th Floor
Washington, DC 20240-0001

National Park Service
Land Resources Division
1849 C Street, NW
1201 Eye Street
9th Floor
Washington, DC 20240-0001

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GOLLATZ, GRIFFIN & EWING, P.C.

WEST CHESTER

PHILADELPHIA

WILMINGTON

National Park Service

May 23, 2005

Re: Notice of Abandonment

Page 2 of 2

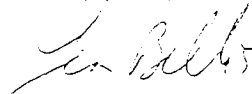
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Very truly yours,



Léanore D. Bellis
Paralegal

cc: Kevin Bowser
William V. Gentilman
Eric M. Hocky, Esquire

GOLLATZ, GRIFFIN & EWING, P.C.

WEST CHESTER

PHILADELPHIA

WILMINGTON

EXHIBIT C

DRAFT FEDERAL REGISTER NOTICE

FEDERAL REGISTER

STB Docket No. AB-976 (X)

Notice of Petition for Exemption to Abandon Service

On June 9, 2005, Pittsburgh & Shawmut Railroad, LLC filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment of a line of railroad between milepost 22.0 south of Brookville in Jefferson County, Pennsylvania, and milepost 62.0 in Mahoning in Armstrong County, Pennsylvania, which traverses through United States Postal Service ZIP Codes 15472, 15663, 15770, 15778, 15847, 16232, 16259, 17821 and 17844, a distance of 40.0 miles. —

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by Oregon Short Line Railroad Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested parties should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the FEDERAL REGISTER.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance

regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties or record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served on the persons, shown on the attached list, by first class mail, postage prepaid.


ERIC M. HOCKY, ESQUIRE

Dated: June 8, 2005

SERVICE/ADDRESS LIST

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Armstrong County Commissioners
Armstrong County Courthouse
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Kittanning, PA 16201

Environmental Protection Agency
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National Park Service
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