

214528

WESTERN CAROLINA RAILWAY SERVICE

C O R P O R A T I O N

Post Office Box 16614, Greenville, South Carolina 29606 - 7614

August 11, 2005

ORIGINAL

Mr. Vernon A. Williams,
Secretary
Surface Transportation Board
1925 K Street, NW, Suite 700
Washington, DC 20423-0001

ENTERED
Office of Proceedings

AUG 12 2005

Part of
Public Record

AUG 11 2005
RECEIVED

Re: STB Docket No. AB-490-1-X
Greenville County Economic Development Corporation
Petition for Exemption for Partial Discontinuance and Partial Abandonment
In Greenville County, SC

Secretary Williams:

Please find enclosed for filing in STB Docket No. AB-490-1-X, *Greenville County Economic Development Corporation Petition for Exemption for Partial Discontinuance and Partial Abandonment in Greenville County, SC*, one original and ten copies of Western Carolina Railway Service Corporation's Amended Notice of Intent to File an Offer of Financial Assistance.

Please also find enclosed one additional copy of the notice(s) and this letter. I do hereby request that each of these additional documents be date stamped to indicate receipt of this filing and returned in the provided self-addressed stamped envelope.

A review of the enclosed documents will reveal that the reason this amended filing is needed is GCEDC's failure to timely provide release of liability documents specified as required by William A. Mullins, Attorney for GCEDC. Enclosure 1, a copy of a July 26, 2005 e-mail from William A. Mullins to Steven C. Hawkins both 1) implied that e-mail was an acceptable form of communication, and 2) verified both of GCEDC's representative's e-mail addresses.

In Enclosure 2, an excerpt of GCEDC's letter of July 29, 2005, GCEDC expressed their opposition to my requested 30-day extension of time (requested within my July 14, 2005 Notice of Intent to File an Offer of Financial Assistance) on the basis of having "promptly and expeditiously responded" to my request for information. However, in GCEDC's letter of July 26, 2005 (an excerpt of which is contained within this filing as Exhibit A), GCEDC had required that my company execute a release of liability document before beginning an inspection of the line.

It is important to note that most all (excepting the northernmost 2 miles or so of the subject line) cannot be inspected from a public access road or any other public point and, given the heavy vegetation and overgrowth that exists on the entire line, any form of hi-rail inspection trip is not possible. Thus, in order to make an accurate determination of net liquidation value, a walking inspection will be required and it will take multiple days to complete, as we will have to "cut our way through" to inspect track and other online structures. I expressly request the STB's intervention in this matter and ask that GCEDC be required to provide the necessary documents so that we may begin our NLV inspection.

Vernon A. Williams
August 11, 2005
Page 2

Of further interest in this matter, I am providing a copy of an article which appeared in the August 5, 2005 *Greenville Journal* (as Enclosure 3). In this article, Greenville County Council and GCEDC Chairman Butch Kirven is quoted as saying that he doesn't expect the sale of the line "to materialize". Other than a brief meeting with Peter Strub during the summer of 2003, I have not met with any of the members of GCEDC's board of directors and feel that comments such as these indicate the existence of prejudice in this matter on the part of GCEDC. We have barely begun the OFA process, and already GCEDC has developed and expressed publicly an opinion against the validity of my offer, which they have not yet seen.

I implore the Board to make note of this premature bias and give it due and equal consideration when determining the final outcome of this docket.

Should you have questions or concerns regarding this letter or the enclosed filing, please do not hesitate to contact me.

Thank you for your time and consideration.

Sincerest regards,

A handwritten signature in black ink, appearing to read "Steven C. Hawkins", with a long horizontal flourish extending to the right.

Steven C. Hawkins,
President

Enclosures

Cc: William A. Mullins, Attorney for Greenville County Economic Development Corporation

BEFORE THE SURFACE TRANSPORTATION BOARD
WASHINGTON, DC

STB DOCKET NO. AB-490-1-X

GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION
PETITION FOR EXEMPTION
FOR PARTIAL DISCONTINUANCE AND PARTIAL ABANDONMENT
IN GREENVILLE COUNTY, SC

AMENDED NOTICE OF INTENT TO FILE AN
OFFER OF FINANCIAL ASSISTANCE

(NOTE: AMENDMENTS APPEAR IN **BOLD TYPE**)

ENTERED
Office of Proceedings

AUG 12 2005

Part of
Public Record

Steven C. Hawkins,
President
Western Carolina Railway Service Corporation
Post Office Box 16614
Greenville, SC 29606-7614

Office 864 • 895 • 3757
Fax 864 • 895 • 3769

steven.hawkins@wcrscorp.com

ORIGINAL

August 11, 2005

**BEFORE THE SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-490-1-X

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION
PETITION FOR EXEMPTION
FOR PARTIAL DISCONTINUANCE AND PARTIAL ABANDONMENT
IN GREENVILLE COUNTY, SC**

**AMENDED NOTICE OF INTENT TO FILE AN
OFFER OF FINANCIAL ASSISTANCE**

(NOTE: AMENDMENTS APPEAR IN BOLD TYPE)

Pursuant to 49 USC 10904(c) and 49 CFR 1152.27(c)(2)(i), Western Carolina Railway Service Corporation ("WCRS") does hereby express its intention to file an offer of financial assistance ("OFA") to purchase 11.8 miles of rail line, extending from MP 0.0, in Greenville, SC, to MP 11.8, at the northern limits of Travelers Rest, SC, in Greenville County; that portion of STB Docket No. AB-490-1-X, proposed to be abandoned by Greenville County Economic Development Corporation ("GCEDC").

By copy of this notice, WCRS, pursuant to 49 CFR 1152.27(a) does hereby request that GCEDC provide the following to the undersigned:

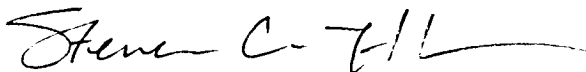
1. GCEDC's minimum purchase price for the line; and,
2. GCEDC's most recent reports on the physical condition of the line, in its entirety; and,
3. GCEDC's traffic, revenue, and other data necessary to determine the amount of financial assistance that would be required to restore and maintain operations over the line; and,
4. GCEDC's estimate of the net liquidation value of the line, with supporting data, reflecting available real estate appraisals, assessments of the quality and quantity of track material on the line, and removal cost estimates (including the cost of transporting removed materials to point of sale or point of storage for relay use); and,
5. Documentation indicating the extent to which GCEDC has marketable fee title on the line's right-of-way as contrasted to easements or other interests that would revert to others if the

line were not being used for railroad purposes. Such documentation of title is deemed necessary to determine whether, and to what extent, the line's real estate should be considered for net liquidation value purposes, pursuant to 49 CFR 1152.27(a)(3); and,

6. Current valuation maps for the line, including any deed indices that appear on accompanying maps. Such maps are essential to verification as to the quality of the land included in the sale of the line and are deemed included within the meaning of 49 CFR 1152.27(a)(3); and,
7. Any other information deemed relevant to appropriate valuation of the line for purposes of acquisition pursuant to an offer of financial assistance.
- 8. Release of liability documents as required by GCEDC's letter of July 26, 2005 (See: EXHIBIT A), and as requested by WCRS's e-mail of July 31, 2005 (See: EXHIBIT B).**

In view of the accelerated procedures in abandonment exemption proceedings, WCRS does hereby petition the Board to toll the period for submitting offers of financial assistance for an additional 30 days, in order to provide WCRS adequate time to review and analyze the material to be provided by GCEDC and submit an appropriate OFA. Such petition will not prejudice the interests of GCEDC or any other party.

Respectfully submitted,



Steven C. Hawkins,
President
Western Carolina Railway Service Corporation
Post Office Box 16614
Greenville, SC 29606-7614

Office 864 • 895 • 3757
Fax 864 • 895 • 3769

steven.hawkins@wcrscorp.com

**BEFORE THE SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-490-1-X

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION
PETITION FOR EXEMPTION
FOR PARTIAL DISCONTINUANCE AND PARTIAL ABANDONMENT
IN GREENVILLE COUNTY, SC**

**AMENDED NOTICE OF INTENT TO FILE AN
OFFER OF FINANCIAL ASSISTANCE CERTIFICATE OF SERVICE**

EXHIBIT A

Steven C. Hawkins
July 26, 2005
Page 3

7. Any other information. When fully completed, GCEDC's responses to the prior six categories will meet or exceed what the statute and the Board's regulations require. GCEDC is aware at this time of having any other information "deemed relevant" to the appropriate portion of the line.

GCEDC is willing to allow you to inspect the line, subject to suitable liability releases and the like. If you wish to conduct such an inspection, please contact GCEDC's local attorney in Greenville, Andrew J. White of Haynsworth Sinkler Boyd, P.A., 75 Beattie Place, Two Liberty Square, 11th Floor, Greenville, SC 29601; Phone: (864) 240-3200, Fax: (864) 240-3300.

Sincerely,



William A. Mullins

Enclosures

cc: Peter M. Strub (w/o enclosures)
Vernon A. Williams (w/enclosures)
Secretary
Surface Transportation Board

**BEFORE THE SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-490-1-X

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION
PETITION FOR EXEMPTION
FOR PARTIAL DISCONTINUANCE AND PARTIAL ABANDONMENT
IN GREENVILLE COUNTY, SC**

**AMENDED NOTICE OF INTENT TO FILE AN
OFFER OF FINANCIAL ASSISTANCE**

EXHIBIT B

Subject: Line Inspection

Date: Sunday, July 31, 2005 10:23 PM

From: Steven C. Hawkins <steven.hawkins@wcrscorp.com>

To: <awhite@hsblawfirm.com>

Cc: "WMullins@bakerandmiller.com" <WMullins@bakerandmiller.com>, "Byrd, Jason M." <jason.byrd@wcrscorp.com>

Mr. White:

In Mr. Mullins letter of July 26, he indicated that there our certain release of liability documents you wish to have completed prior to a line inspection of the former Greenville & Northern property. We do indeed desire to perform a thorough walking inspection of the entire property and wish to 1) request multiple copies of your release forms and 2) schedule our anticipated inspection dates. We will be walking the entire 11.8 miles and anticipate a need for three to four days total (including a detailed structure analysis of all on-line structures) for such inspection. We will gladly complete the necessary documents, have them notarized (if you so require) and have them back in your possession in advance of our inspection if you could mail them to us at your earliest convenience.

Please advise if such an arrangement is satisfactory.

Thank you.

Sincerest regards,

Steven C. Hawkins,
President

Western Carolina Railway Service Corporation
Post Office Box 16614
Greenville, South Carolina 29606 – 7614

864-905-2974 Cellular
864-895-3757 Office
864-895-3769 Fax

Visit us on the web at: www.wcrscorp.com

This e-mail is intended for the addressed recipient only. Content therein is considered confidential and is not to be printed, copied, forwarded, or discussed without the expressed written consent of Western Carolina Railway Service Corporation.

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August 2005, a copy of the foregoing document was served by:

United States Postal Service First Class Mail, postage fully pre-paid, upon:

William A. Mullins,
Baker & Miller, PLLC
2401 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20037-1725

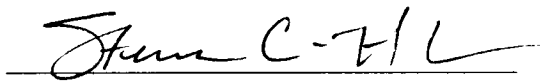
Catherine N. Hicks,
Cross Roads Sales
131 Pinsley Circle
Greenville, SC 29617-3045

Richard W. Hills, Jr.,
Bleachery Road Warehouse, LLC
210 Old Bleachery Road
Greenville, SC 29609-4135

Randolph R. Mathena,
Paper Cutters, Inc.
840 North Hwy 25 By Pass
Greenville, SC 29617-6246

Larry E. Seay,
IMP Incorporated
P.O. Box 578
Lyman, SC 29365-0578

Brad Wyche,
Upstate Forever
P.O. Box 2308
Greenville, SC 29602-2308



Steven C. Hawkins,
President
Western Carolina Railway Service Corporation
Post Office Box 16614
Greenville, SC 29606-7614

Office 864 • 895 • 3757
Fax 864 • 895 • 3769

steven.hawkins@wcrscorp.com

Thu, Aug 11, 2005 12:25 PM

Hawkins, Steven C.**Subject: Your Request For Information** [REDACTED] **Set No. AB-490-1-X.****Date:** Tuesday, July 26, 2005 11:58 AM**From:** WMullins@bakerandmiller.com**To:** <steven.hawkins@wcrscorp.com>**Cc:** "White, Andrew (Andy)" <awhite@hsblawfirm.com>, [REDACTED],
<pmstrub@transystems.com>, "Kirven, Butch" <bkirven@greenvillecounty.org>,
<DReeves@bakerandmiller.com>, <CZorbaugh@bakerandmiller.com>

Mr. Hawkins,

You were faxed this letter about 30 minutes ago but I send it also as a PDF via e-mail. The enclosures, which are numerous and bulky, are being mailed to you directly from the law offices of Greenville's County Economic Development Corporation's general counsel, Andy White. Those offices are located in Greenville. The STB will also be receiving a copy of the enclosures, which I will deliver to the STB from here in D.C. Our intent is to get back with you Friday to deliver the final information that we don't yet have, but which we should have by Friday or Monday at the latest.

William ("Bill") A. Mullins
Attorney At Law
Baker and Miller PLLC
Suite 300
2401 Pennsylvania Ave, N.W.
Washington, D.C. 20037
(202) 663-7823 (Direct)
(202) 663-7849 (Fax)

The above message may be privileged, confidential and protected from disclosure by attorney/client, work product or other privileges. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error. Then delete it. Thank you.

Steven C. Hawkins

July 29, 2005

Page 2

GCEDC has promptly and expeditiously responded to your request for information, GCEDC opposes your request for a 30 day extension of the time period for submitting an offer of financial assistance.

Sincerely,



William A. Mullins

cc: Chairman Kirven
Andrew White
Peter Strub
Vernon A. Williams
Secretary
Surface Transportation Board

Local company wants to purchase railroad

Western Carolina Railway would restore service on abandoned line

BY GARY HYNDMAN

staff writer

A local railroad company plans to bid on the right to purchase and operate a controversial rail line currently owned by the Greenville County Economic Development Corp.

Western Carolina Railway Service Corp. of Greenville filed a notice with the U.S. Surface Transportation Board on July 15 expressing its intention to file an Offer of Financial Assistance and Notice of Intent to Participate on the Greenville & Northern Railroad the county is seeking to abandon.

Steven C. Hawkins, Western Carolina's president, declined to comment but did issue a press release, saying he is working to secure private funding to purchase and restore rail service to the line.

Hawkins, a Greenville native and Eastside High graduate, is a 15-year veteran of the rail business. He has worked in both labor and management for RailTex and Norfolk Southern.

In his press release, he said his offer would both preserve the rail corridor and provide for economic development in the northwest quadrant of the county.

"While the line does need significant repairs to restore service," the release reads, "the return on this investment will be measured not in dollars earned by the corporation, but most significantly by the new businesses, new jobs, reduced future highway maintenance costs and future fuel emissions from an increase in truck traffic (that would result without the line in place), increased property values and increased tax base for the municipalities it serves."

Hawkins also requested a 90-day extension on the normal 120-day deadline permitted by Surface Transportation Board regulations, giving him until Nov. 21 to prepare his offer.

In 1999, Greenville County Council allocated \$1.3 million to purchase the 11.8-mile line between Berea and Travelers Rest, along with another 3.29-mile rail corridor from RailTex, one of the nation's largest railroad companies. RailTex had discontinued service in 1996 after the company concluded it wasn't financially feasible to repair two structurally unsound bridges on the line.

County Council authorized the purchase to preserve the corridor for future rail service.

It formed the economic development corporation to acquire and manage the line. But after failing to find anyone to operate it or funds to repair it, the corporation abandoned plans to restore rail service in 2001.

That year Lee Groome, president of Groome & Associates, one of two remaining shippers served by the railroad, filed a lawsuit in state court against the corporation for failure to fulfill its common carrier obligation to operate the line.

In 2004, the court sided with the corporation. But Groome filed a complaint with the Surface Transportation Board later that year.

Last week, the board found that the state

court had no jurisdiction over the rail line. It ruled that the corporation had violated federal law by failing to either operate the line or seek formal abandonment of it and awarded Groome damages of \$87,000.

The amount of damages was limited both by an error by Groome's former attorney that caused the two-year statute of limitations to expire and because he failed to satisfy the board that the loss of rail service cost him his business.

"All he got was \$87,000 on a technicality," said Greenville County Council Chairman Butch Kirven, who also chairs the corporation's board. "I don't see how we can look at this as anything but a victory for GCEDC."

Groome sees it differently.

"Basically," he said, "they broke the law. They're just starting a legal process they should have started in 1999."

That process is a formal abandonment proceeding that the corporation recently filed with the Surface Transportation Board. If approved by the board, it would preserve the corridor for future rail service and allow for establishing a public trail there in the meantime as part of the National Trails System Act.

Upstate Forever, a local nonprofit that promotes sensible growth, filed a request for the trail with the Surface Transportation Board in June. Volunteers have been working on weekends to clear the line of vegetation, with future plans to disassemble and salvage the track.

But according to Surface Transportation Board regulations, rail service would take precedence over the trail.

Western Carolina and the county's economic development corporation will attempt to negotiate a deal for purchase of the line. If they fail to reach an agreement by a pre-determined deadline, the board would step in to set a fair price.

Hawkins and his company may face considerable cost to make the line serviceable again. Estimates range from hundreds of thousands of dollars to more than \$1 million.

Restored rail service would give Groome a chance to resume the paper business he shut down in 2008.

He and the other remaining shipper on the line, Randy Mathens of Paper Cutters, had plans to purchase the railroad back in 1999. Unwilling to pay RailTex's \$750,000 asking price, they were waiting on the company to initiate abandonment proceedings at which time they planned to submit an Offer of Financial Assistance at a lower price.

Instead, the county bought the railroad. And when its economic development corporation failed to find an operator, the two shippers were left without service.

"They didn't want us to have it," said Groome. "It's all politics."

Kirven said he doesn't expect the sale of the line "to materialize." He said trail development would be its best use, encouraging residential development along the corridor.

He said a nonprofit organization would likely operate the trail.

Contact Gary Hyndman at 679-1226 or ghyndman@greenvillejournal.com

WESTERN CAROLINA RAILWAY SERVICE

C O R P O R A T I O N

Post Office Box 16614, Greenville, South Carolina 29606 - 7614

August 11, 2005

COPY

Mr. William A. Mullins
Baker & Miller, PLLC
2401 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20037-1725

Re: STB Docket No. AB-490-1-X
Greenville County Economic Development Corporation
Petition for Exemption for Partial Discontinuance and Partial Abandonment
In Greenville County, SC

Mr. Mullins:

Please find enclosed with regard to STB Docket No. AB-490-1-X, *Greenville County Economic Development Corporation Petition for Exemption for Partial Discontinuance and Partial Abandonment in Greenville County, SC*, one copy of Western Carolina Railway Service Corporation's Amended Notice of Intent to File an Offer of Financial Assistance.

Thank you for your time and consideration.

Sincerest regards,



Steven C. Hawkins,
President

Enclosures

Cc: Vernon A. Williams, Secretary for the Surface Transportation Board