

WESTERN CAROLINA RAILWAY SERVICE

C O R P O R A T I O N

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

March 25, 2006

ORIGINAL

By Electronic Filing

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

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

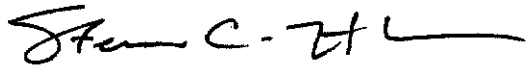
Secretary Williams:

Please find attached 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*, Western Carolina Railway Service Corporation's Petition to Reconsider.

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

Thank you for your time and consideration.

Sincerest regards,



Steven C. Hawkins,
President

Attachment

**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**

**PETITION TO RECONSIDER THE BOARD'S MARCH 15, 2006 DECISION
ESTABLISHING TERMS AND CONDITIONS**

**PETITION TO HOLD IN ABEYANCE THE DEADLINE FOR WESTERN CAROLINA
RAILWAY SERVICE CORPORATION TO ACCEPT THE TERMS AND CONDITIONS
ESTABLISHED BY THE BOARD**

Steven C. Hawkins,
President
Western Carolina Railway Service Corporation
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steven.hawkins@wcrscorp.com

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Pursuant to 49 CFR 1117.1, Western Carolina Railway Service Corporation ("WCRS") hereby petitions the Board to reconsider its March 15, 2006 decision (36800) setting the terms and conditions for WCRS' purchase of 11.8 miles of rail line now currently owned by Greenville County Economic Development Corporation ("GCEDC") on the basis that GCEDC has failed to provide WCRS discovery and prevented the Board from having before it a complete and factual record of information upon which it could make an informed decision.

Additionally, WCRS petitions the Board to hold in abeyance the March 27, 2006 deadline to accept terms and conditions established by its March 15, 2006 decision (36800), as well as its April 5, 2006 deadline that would vacate the prior decision that postponed the effective date of the decision and notice authorizing interim trail use or abandonment, until such time the Board has had time to review that evidence presented herein by this petition and reconsider its decision setting the terms and conditions for WCRS' purchase.

BACKGROUND

WCRS filed a Request for Establishment of Terms and Conditions (215795) on February 14, 2006, to which GCEDC filed its subsequent Reply (215840) on February 21, 2006 and Amended Reply (215851) on February 23, 2006. WCRS additionally filed a Motion to Strike (215906) on March 2, 2006, to which GCEDC filed its Reply (215940) on March 7, 2006. The Board issued its Decision (36800) establishing the terms and conditions on March 15, 2006.

FAILURE TO PROVIDE DISCOVERY

WCRS filed a Notice of Intent to File an Offer of Financial Assistance (214333) on July 15, 2005, as well as an Amended Notice of Intent to File an Offer of Financial Assistance (214528) on August 11, 2005. In these notices, WCRS specifically requested “*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.*” and “*Any other information deemed relevant to appropriate valuation of the line for purposes of acquisition pursuant to an offer of financial assistance.*” (See: **Exhibit A**).

In GCEDC’s Reply (215840) of February 21, 2006, GCEDC stated, “*Further, as additional information became available from GCEDC’s expert valuation witnesses, it provided the new, more accurate valuation numbers to WCRS.*” (See: **Exhibit B**), yet in GCEDC’s Reply (215940) of March 7, 2006, GCEDC contrarily stated, “*No such discovery was served in this proceeding.*” (See: **Exhibit C**) These statements are both misleading and quite simply, not factual. Throughout the entire negotiation period, nothing more than an “asking price” was ever provided to WCRS by GCEDC (See: **Exhibit D**). WCRS attempted to explain this failure to provide discovery to the Board in its Request for Establishment of Terms and Conditions (See: **Exhibit E**) under the heading “Assumptions Regarding the Basis of Disparity”.

While GCEDC did initially provide that information it had available to it as of July 29, 2005, GCEDC did not ever provide any of that information submitted to the Board as Exhibits 1, 2, 3 and 4 of GCEDC's February 21, 2006 Reply (215840), particularly its November 14, 2005 Real Estate Appraisal which constitutes GCEDC's Exhibit 3 and the Board's decided land value, in its entirety. WCRS' first knowledge of this information was upon WCRS' receipt of GCEDC's February 21, 2006 Reply, to which WCRS could not then reply to, or reprove, under law. In this respect, GCEDC prejudiced WCRS' ability to properly and completely document its argument and evidence in its Request for Establishment of Terms and Conditions, and as a result, prejudiced the Board by restricting WCRS from providing a complete record upon which the Board could reason an informed decision.

MOTION TO RECONSIDER

In light of the above evidence that GCEDC failed to provide discovery to WCRS, WCRS hereby moves to submit expert testimony (**See: Exhibit F**) as evidence for the Board's consideration in this docket... evidence that GCEDC's "clearly" Fee Simple characterization of the title is not as "clear" as GCEDC would have the Board to believe. WCRS petitions the Board to allow this new evidence so that it can consider a more complete record of the facts in reconsidering its March 15, 2006 Decision.

Although the expert testimony submitted by GCEDC in its February 21, 2006 Reply is an interesting academic review of one part of the title issues, it hardly qualifies as an attorney's unqualified opinion of title. Moreover, even though the title policy is not evidence that the railroad line was consisted of easement rights as opposed to fee simple, the broad exceptions in that policy fall well short of establishing a "clear title". As indicated in Mr. Walsh's Verified Statement, the question of what is an acceptable title, particularly a railroad title, requires far more research in order to fully assess the condition of title. GCEDC has addressed but one of those issues in its submission concerning the language contained in selected deeds in the chain of title for the Northern Segment now owned by GCEDC.

This new evidence further supports WCRS' argument that there are significant questions about the overall quality of the title to the rail corridor. When an appraiser assumes a "fee simple interest" he is also

expecting the title to be free of significant defects. Consequently, WCRS reiterates its position that without a title insurance policy or a legal opinion of title certifying a clear title, an accurate appraisal of GCEDC's interest in the real estate in question would be significantly reduced.

INDEMNIFICATION

While WCRS maintains a strong interest in acquiring this line for operation, it likewise maintains a steadfast position that GCEDC's Fee Simple characterization of the title is not as clear as GCEDC would have the Board to believe. In that regard, WCRS petitions the Board to require GCEDC to indemnify WCRS for that value the Board ultimately assigns to any land it deems GCEDC to hold a Fee Simple interest in.

There is both Interstate Commerce Commission ("ICC") and Board precedent in this request. In a decision served October 20, 1994 by the Board's predecessor, the ICC (See: Southern Pacific Transportation Company – Abandonment Exemption – Sacramento and El Dorado Counties, CA, ICC Docket No. AB-12-159-X), as well as a decision served June 19, 2002 by the Board (See: Union Pacific Railroad Company – Abandonment – Polk County, IA, STB Docket No AB-33-170), both agencies conditioned that price established as the value for the land in each case on the seller's indemnification of the buyer against any defect in title. Citing the 2002 Union Pacific case, two prices were set: One with indemnification, one without.

Should the Board not elect to require such indemnification of GCEDC, such uncertainty in the title would impair WCRS' ability to use the land as collateral for any loan required to purchase said rail corridor. Should the Board elect to impose this requirement on GCEDC following its reconsideration of the matter, WCRS would be much more inclined to move forward with its acquisition and operation of the subject line.

CONCLUSION

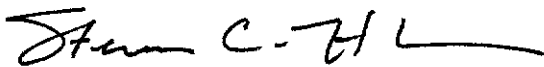
In conclusion, WCRS asserts that GCEDC has failed to provide WCRS with discovery, and on that basis, herein petitions the Board to allow expert testimony reproving GCEDC's assertions regarding the condition of title and relative land value.

In giving consideration to the value of the land, WCRS reminds the Board that while the subject line was largely in operable condition when purchased by GCEDC in 1999 and, as a result, may have then commanded a higher value as a "going concern", the line has clearly depreciated in value given GCEDC's lack of investment in any maintenance or improvements and its current in non-operable condition.

Without a title insurance policy or a legal opinion of title certifying a clear title, and based on the Board's reconsideration of the true evidence now available, the Board should fix **\$46,268** as the purchase price for the line.

Should the Board determine **any value higher** than \$46,268 as the purchase price for the line, **the Board should require GCEDC to indemnify WCRS against any title defects relating to any land it deems GCEDC to hold a Fee Simple interest in.**

Respectfully submitted,



Steven C. Hawkins,
President
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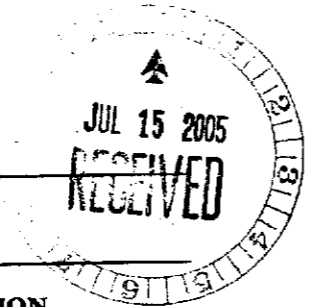
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EXHIBIT A

**BEFORE THE SURFACE TRANSPORTATION BOARD
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**NOTICE OF INTENT TO FILE AN
OFFER OF FINANCIAL ASSISTANCE**

NOTICE OF INTENT TO PARTICIPATE

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

[REDACTED] 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,

- [REDACTED]
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.

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.

With further regard to STB Docket No. AB-490-1-X, WCRS does herein submit its notice of intent to participate and hereby requests to be placed on the Board's service list. All correspondence and/or documentation should be directed to:

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

Respectfully submitted,



Steven C. Hawkins,
President
Western Carolina Railway Service Corporation
Post Office Box 16614
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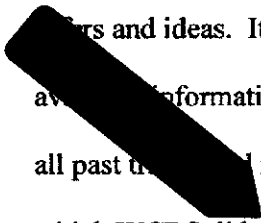
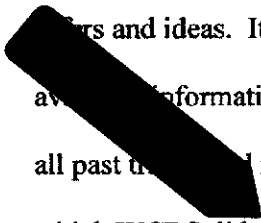
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EXHIBIT B

PUBLIC VERSION

property by quitclaim deed; and (5) GCEDC shall deliver all releases from any mortgage within 90 days of closing. Moreover, as required by 49 U.S.C. §10904(f)(4)(A), if WCRS closes on the purchase of the Line, it may not transfer or discontinue service on the Line prior to the end of the second year after consummation of the sale, nor may it transfer the Line, except to GCEDC, prior to the end of the fifth year after consummation of the sale.

VI. Assertions By WCRS Regarding GCEDC's Willingness To Negotiate In Good Faith Are Ill Founded and Unwarranted

Finally, although not relevant to the evidence regarding the NLV of the Line or to the statutory requirements, WCRS spends a portion of its request to set terms and conditions by arguing that GCEDC did not negotiate with WCRS in good faith. WCRS is simply wrong in this assertion. GCEDC has bent over backwards to accommodate WCRS's constantly changing  and ideas. It promptly provided WCRS with its best estimate of the value of the Line, all available information in GCEDC's possession regarding the physical condition of the Line, and all past  revenue data. It offered WCRS an opportunity to physically inspect the Line, which WCRS did. Further, as additional information became available from GCEDC's expert valuation witnesses, it provided the new, more accurate valuation numbers to WCRS. While GCEDC's reactions and positions during the entire negotiating period may not have been to WCRS's liking, WCRS forgets that GCEDC is a quasi-governmental body. As such, while satisfying its responsibilities under Section 10904, it also has responsibilities to Greenville County residents and businesses besides WCRS.

Indeed, if WCRS is unhappy with the negotiations, perhaps it should look at its own actions. When GCEDC provided WCRS with better substantiated valuation estimates, which resulted in a lower valuation than had first been estimated by GCEDC but a much higher valuation than WCRS was willing to pay, WCRS seemed to immediately lose interest in

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EXHIBIT C

February 14, 2006, and the Board approved the extension. Finding itself unable to come to an agreement with GCEDC, WCRS requested the Board on February 14 to set terms and conditions. GCEDC filed its reply evidence February 21. WCRS moved on March 2 to strike most of GCEDC's evidence. GCEDC hereby replies to that motion.

DISCUSSION

I. WCRS'S MOTION DOES NOT CONTEST THE ADMISSIBILITY OF GCEDC'S EVIDENCE BUT SIMPLY THE WEIGHT TO BE ACCORDED TO IT; THUS, THE MOTION SHOULD BE DENIED.

WCRS's "motion" makes no attempt to establish that GCEDC's evidence is inadmissible under the Board's rules or precedent. The Board has two regulations that allow it to strike pleadings. WCRS's motion satisfies neither of these regulations. Section 1104.8 of Title 49 CFR allows the Board to strike "any redundant, irrelevant, immaterial, impertinent, or scandalous matter." Clearly GCEDC's assailed reply evidence does not fit within this description, nor does WCRS make any claim that it does. The Board's other regulation that relates to striking pleadings - 49 CFR §1114.31(d) - allows the Board to strike information from pleadings if a party has failed to respond to discovery submitted under 49 CFR §1114.26. No such discovery was served in this proceeding. Again, the cited regulation is inapplicable and WCRS makes no claim that it applies. Neither was GCEDC's evidence untimely, or a reply to a reply, either of which might, in some circumstances, warrant striking it.² Accordingly, as WCRS has failed to establish that any of the assailed evidence is subject to being stricken under the Board's regulations or precedents, WCRS's motion should be denied.

² See Northeast Interchange Railway, LLC – Lease And Operation Exemption – Line In Croton-On-Hudson, NY, STB Finance Docket No. 34734, and Gordon Reger – Continuance In Control Exemption – Northeast Interchange Railway, LLC, STB Finance Docket No. 34735 (served Nov. 18, 2005), slip op. at 3; CSX Transportation, Inc. – Abandonment Exemption – In Franklin County, PA, STB Docket No. AB-55 (Sub-No. 568X) (served July 27, 2005), slip op. at 4 (reply to a reply which is not accompanied by a motion for admission will be stricken).

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EXHIBIT D

VERIFIED STATEMENT OF STEVEN C. HAWKINS

My name is Steven C. Hawkins. I am President and owner of Western Carolina Railway Service Corporation ("WCRS"), with offices at 311 Lister Road, Landrum, SC 29356-8714 and a mailing address of Post Office Box 16614, Greenville, SC 29606-7614. I am the sole Party of Record representing WCRS in STB Docket No. AB-490-1-X. I have been the sole WCRS recipient of all mailed, faxed, and e-mailed documents filed by other Parties of Record in this docket. I have been the sole representative of WCRS in all phone calls and e-mails between WCRS and Greenville County Economic Development Corporation ("GCEDC"). I have been a party to all meetings held in person between WCRS and GCEDC. This singular representation of WCRS thus qualifies me to know what documents, materials and information have or have not been provided to WCRS by any party to this proceeding.

The purpose of this statement is attest to the Surface Transportation Board ("Board") that WCRS has never been provided with any of the documents, materials and information presented in GCEDC's February 21, 2006 Reply (215840) filed with the Board; information that was previously requested by WCRS as evidenced in Exhibit A, herein.

I further attest to the Board that WCRS' first knowledge of that information upon which GCEDC had based its "asking price" during the negotiating period became known to WCRS only upon its download of GCEDC's Reply (215840) from the Board's website on February 22, 2006. WCRS did not receive its own paper copy of this filing until the morning of February 23, 2006, via DHL Express Delivery.

I, Steven C. Hawkins, hereby declare under penalty of perjury that the foregoing statement is factual, true and correct.

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

Steven C. Hawkins

Executed March 25, 2006

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EXHIBIT E

To summarize, the following is a list of what GCEDC has asserted its valuations for the Northern Segment to be during the past nine (9) months. It can only be assumed, given the disparity in values, that none of these valuations were made using the Net Liquidation Value formula employed by the Board:

Date	Value	STB File No.	Reference
June 24, 2005	\$354,525	214237	Exhibit 11, Pages 73-74
July 29, 2005	\$1,700,000	214811	Exhibit B, Pages 17-18
January 4, 2006	\$1,400,000	This document	Page 3
February 7, 2006	\$1,133,769	This document	Exhibit A, Pages 11-12

Throughout these proceedings, WCRS has maintained its offer at **\$46,268 based on \$-1,657,219 NLV plus \$0 (zero dollars) for real property assuming easement only and no fee simple ownership of the right of way.**

ASSUMPTIONS REGARDING THE BASIS OF DISPARITY

Given the fact that GCEDC has never provided any documentation to support its widely varying minimum purchase prices, WCRS has been left to surmise (from conversations and e-mails) the following "assumptions" on the part of GCEDC. These assumptions may be factors in GCEDC's establishment of its minimum purchase price:

ASSUMPTION I: *A portion of the value applied to GCEDC's minimum purchase price is based on Fee Simple ownership of the rail line's real estate.*

REBUTAL I: In addition to those deeds already provided to the Board (**See: EXHIBIT D of WCRS' October 3, 2005 OFA, pages 82-137**), WCRS notes that of the nine (9) parcels owned by GCEDC (**See: EXHIBIT C**) in the tax records of Greenville County, only three (3) are a part of the right of way of the Northern Segment between MP 0.0 and MP 11.8, and when combined, total \$11,550 in assessed value. Assuming assessed value to be approximately 80% of market value, this would make the total market value for all real estate owned by GCEDC between MP 0.0 and MP 11.8 to be approximately

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EXHIBIT F

GAINES & WALSH
ATTORNEYS AT LAW
P.O. BOX 5156
SPARTANBURG, SOUTH CAROLINA 29304

TRACY J. GAINES (1909-1980)
THOMAS E. WALSH (1919-1990)

WILLIAM E. WALSH
DAVID L. WALSH

STREET ADDRESS:
150 ARCHER STREET
SPARTANBURG, SC 29306

TELEPHONE 864-583-6363
FAX 864-583-8446

March 24, 2006

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

Re: Greenville County Economic Development Corporation – Northern Segment

VERIFIED STATEMENT OF WILLIAM E. WALSH

I am William E. Walsh, an attorney licensed to practice law since November 1974. I received a B.A. in history from Duke University in 1971 and a J.D. from the Washington & Lee School of Law in 1974. I have been an agent from Chicago Title Insurance Company since 1975. During early part of my legal career I was involved in acquiring real estate for the City of Spartanburg in connection with several urban renewal projects. This property was in many of the oldest parts of the City of Spartanburg and exposed me to all manner of title problems. The special problems presented by railroad titles is something I have had to deal with in several projects. As a result of these experiences, I developed an interest both in local history and the history of the early railroads in the upstate of South Carolina. At your request we have reviewed Chicago Title Insurance Company Owner's insurance policy number 7210640-13402 (the "Policy") and the deeds attached as Exhibit A to the Policy. You asked our opinion whether a title insurance policy in that form was effective to establish a clear fee simple title to the property described in the Policy. Our opinion is that the Policy provides almost no coverage and only

purports to insure easements. The exception contained in Schedule B of the Policy, however are so broad that the question of whether the insured property is owned in fee simple or is an easement is largely irrelevant.

Simply reviewing a set of documents such as those contained in Exhibit A to the Policy is only a small part of the research that would be necessary to give an unqualified opinion of title. The form of the Policy reflects the great difficulty in certifying title to land that was previously part of a railroad. In a title insurance policy, Schedule A describes the nature of the interest insured. Of more importance are the exceptions from coverage set forth in Schedule B of the Policy. All title insurance policies contain some exceptions. Whether in a particular case the exceptions prevent the policy from providing an acceptable amount of coverage is always a difficult question.

For example, an exception (Special exception 1) to the lien for future year taxes will seldom be a problem. The exception for mechanic lien claims (General exception B) is standard in an owner's policy but in South Carolina will rarely be acceptable in a mortgage policy. Some exceptions may or may not be acceptable depending on the risk an owner is willing to assume. For example, owners may feel familiar enough with the condition of the property that they do not feel the need for a current survey. Thus, special exception 4 may be acceptable although a current survey could reveal potential adverse claims, encroachments or other matters that would limit the utility and value of the property.

Other exceptions may be acceptable for a particular use and not acceptable if the property is used for a different purpose. In this Policy, special exception 6 states:

This policy insures only the specific easements listed in Schedule A; it does not purport to insure that there are valid, recorded easements for the entire length of the railroad line.

If an owner is intending to sell the insured property piecemeal, such an exception might be acceptable. If the intent is to use some or all of the different parcels for a common use, then to be acceptable, exception 8 would need to be deleted. In addition, the property should be described as one whole tract

or as groups of contiguous parcels as appropriate. As written, this Policy provides no assurance that any of the individual parcels listed in Exhibit A are contiguous. Thus, if the property is to be used for a rail line, exception 6 clearly is unacceptable.

Equally objectionable are exceptions 2 and 3 in Schedule B of the Policy. In South Carolina, both in statutory grants and in individual deeds to railroads, it is very common to have provisions that limit the use of the property to railroad purposes coupled with a potential reversion if the property is used for a different purpose or its use for railroad purposes is abandoned. Many of the deeds listed in Exhibit A to the Policy contain language imposing conditions and limitations or and creating the possibility of a future failure of title if property is not used for railroad purposes. As a practical matter, this is the most important issue that needs to be addressed in the title policy if the insured land or easements rights are to be used in connection with something other than a railroad.

Exceptions 7 and 8 exclude coverage for any problems resulting from rights granted to others and exception 9 refers to contractual obligations the owner may be required to perform. It is not necessarily objectionable that these matters are excluded from coverage. The problem is that no attempt has been made to list the recorded documents creating these rights or obligations. The title issue is not what these documents might require even if they resulted in significant limitation on use of the property. Rather, the question is whether the owner knows about the requirements. This policy does not tell us whether there are just a few such documents or hundreds or none. If a document is within the recorded chain of title, the owner is presumed to have notice. One function of the exceptions in a title insurance policy to make sure the owner has actual notice. These would first be shown in a title insurance binder so a purchaser will have the opportunity to review the documents before buying the property. In contrast to exceptions 7-9, exceptions 10-14 direct the owner's attention to specific documents and where they can be found on the public record.

The premium for a title insurance policy does not change whether the interest insured is easement

or fee simple. The number of exceptions that are included or deleted also do not affect the premium. The one thing that does vary is the attorney fees charge for the legal opinion on which the title policy is based. The exceptions in this policy raise many difficult legal and factual issues. In my opinion, exceptions 2, 3, 6, 7, 8, and 9 should not be considered acceptable. The Policy asks the right questions but provides no answers.

In the end, what is an acceptable title to property is a business decision. There is no such thing as a perfect title and eliminating the exceptions would require a great deal of effort. How many exceptions a title insurance company will be willing to delete depends largely on the thoroughness and expertise of the attorney certifying the title. The price of the property, its intended use and whether the property must be used as collateral for a loan all will affect the determination of what exceptions are or are not acceptable.

Railroad titles are particularly difficult to research and frequently raise issues that are beyond the experience of many title attorneys. Because the deeds in the chain of title may be very old and the railroad and/or its successors may have been in business for many years, there are many recorded documents that must be reviewed besides the instruments that originally created the interest to be insured. In my experience, having knowledge of local history and the history of the particular railroad is also helpful.

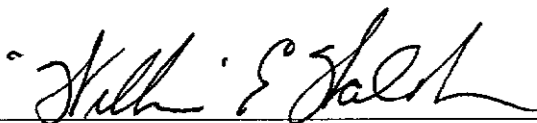
Most railroads in South Carolina were chartered by special legislation that included legislative grants of easements. Many railroads in this area were initially chartered before the Civil War and then re-chartered one or more times before construction was completed. Over long periods the everyday landmarks we use to orient ourselves in the community can change dramatically. For the railroads, land that is now part of a dense urban environment was often a farm 100 years ago. As a result the road intersections and prominent buildings we use to orient ourselves today may not even have existed.

The problems of distance in time are compounded by the fact that the format of deeds and other instruments of conveyance have changed a great deal. The original state charters may contain special

procedures or legislatively granted rights of way. During the acquisition and construction of the right of way, the name of the railroad may have changed several times. During the life of the railroad, the location of the rails within the right of way may have changed from time to time. These factors may not be particularly significant when you are examining the title to a small and confined portion of a right of way. When several miles of right of way are at issue, the difficulty in verifying the true state of the title is almost overwhelming.

The combination of the broad nature of the exceptions in the title policy do more to create doubt about the quality of the title than to provide assurances. It is the title insurance equivalent of a hazard insurance policy that excludes damage from fire, wind and rain. Without more, it is impossible to make any firm conclusions about the overall quality of the title to property described in the Policy.

I, William E. Walsh, declare under penalty of perjury that this statement is factual, true and correct.


William E. Walsh

March 24, 2006

I hereby certify that on this 25th day of March 2006, a copy of the foregoing document was served by:

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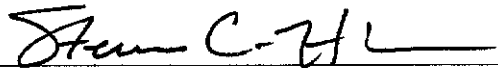
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