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A T T O R N E Y S

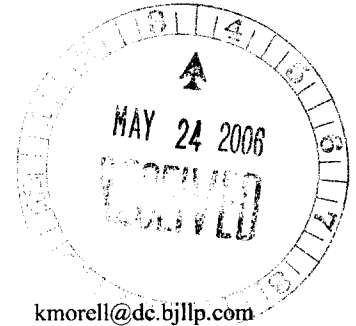
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KARL MORELL



May 24, 2006

BY HAND DELIVERY

The Honorable Vernon Williams  
Surface Transportation Board  
1925 K Street NW  
Suite 715  
Washington, DC 20423-001

Office of the Secretary

216611

Part of  
Public Record

Re: Docket No. AB-389 (Sub-No. 1X), Georgia Great Southern  
Division, South Carolina Central Railroad Co., Inc. --  
Abandonment and Discontinuance Exemption -- Between Albany  
and Dawson, In Terrel, Lee And Dougherty Counties, GA

Dear Secretary Williams:

This is in response to the request filed with the Surface Transportation Board ("Board") on May 24, 2006, by South Georgia Rails to Trails, Inc. ("SGRT") for the issuance of an interim trail use ("NITU"), under the National Trails System Act, 16 U.S.C. § 1247(d), for the rail line located between milepost 86.5, at Albany, and milepost 77.8, at Sasser, Georgia (the "Line").

Georgia Southwestern Railroad, Inc. ("GSWR") hereby notifies the Board that GSWR has not consummated the abandonment of the Line and is willing to negotiate for trail use with SGRT.

By way of background, in May 1994, Georgia Great Southern Division, South Carolina Central Railroad Co., Inc. ("GCS"), filed a petition seeking an exemption from the prior approval requirements of then 49 U.S.C. §§ 10903-06 to abandon GGS's 13.62-mile rail line located between milepost 86.5, at Albany, and milepost 72.88, near Sasser (the "13.62-mile Line"), and to discontinue service over its 5.38-mile rail line between Sasser and Dawson, GA. By decision and NITU served August 16, 1996, the Board exempted the abandonment and discontinuance from its prior approval requirements. In addition, the NITU authorized GGS and Chehaw Park Authority ("Chehaw") to negotiate an interim trail use/rail banking agreement for the 13.62-mile Line. By decision served October 25, 1996, the Rails to Trails Conservancy ("RTC")

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was substituted for Chehaw as the negotiating party. In October 1997, the parties reached an interim trail use agreement.

While GGS's abandonment petition was pending, GGS's parent, RailTex, Inc. ("RailTex"), filed a notice of exemption under 49 C.F.R. 1180.2(d)(3), to transfer various rail lines, including the 13.62-mile Line, from South Carolina Central Railroad Co., Inc. ("SCCR"), to GSWR. See Finance Docket No. 32682, *RailTex, Inc. – Corporate Family Transaction Exemption – Georgia and Alabama Lines, South Carolina Central Railroad Co., Inc. and Georgia Southwestern Railroad, Inc.* (not printed), served April 20, 1995.<sup>1</sup> Subsequently, RailTex and its railroad subsidiaries, including GSWR and SCCR, were acquired by RailAmerica, Inc. ("RailAmerica"). See STB Finance Docket No. 33813, *RailAmerica, Inc. – Control Exemption – RailTex, Inc.* (not printed), served January 10, 2000.

On December 21, 2001, GSWR and SCCR, now subsidiaries of RailAmerica, filed a notice of exemption under 49 C.F.R. 1180.2(d)(3) for SCCR to acquire GSWR's rail lines and for SCCR to lease those rail lines back to GSWR. The purpose of the transaction was to facilitate the acquisition of the assets of the rail lines owned and operated by GSWR by the State of Georgia, Department of Transportation ("GDOT").<sup>2</sup> See STB Finance Docket No. 34057, *State of Georgia, Department of Transportation – Acquisition Exemption – South Carolina Central Railroad, Inc.* (not printed), served April 30, 2002. Out of an abundance of caution and to insure that GSWR held the exclusive right to reactivate rail service on the 13.62-mile Line, GSWR acquired from SCCR any and all rights SCCR might have had at that time in the 13.62-mile Line. See STB Finance Docket No. 34144, *Georgia Southwestern Railroad, Inc. – Sale and Lease Exemption Within a Corporate Family Transaction – South Carolina Central Railroad, Inc.* (not printed), served January 18, 2002. In March 2002, RailAmerica sold all of the stock of GSWR to its current owners.

On March 5, 2003, GSWR filed a petition to vacate the NITU on the 13.62-mile Line. By Decision served May 16, 2003, the Board reopened this proceeding and vacated the NITU. See STB Docket No. AB-389 (Sub-No. 1X), *Georgia Great Southern Division, South Carolina Central Railroad Co., Inc. – Abandonment and Discontinuance Exemption – Between Albany and Dawson, In Terrell, Lee, and Dougherty Counties, GA* (not printed), served May 16, 2003, partial reconsideration denied by decision served

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<sup>1</sup> The transaction in Finance Docket No. 32682 was consummated after the abandonment exemption was granted but before the agreement with RTC was reached. Consequently, the rail banking agreement was entered into by GSWR and RTC.

<sup>2</sup> GSWR's interest in the 13.62-mile Line was not transferred to SCCR, since the 13.62-mile Line was not part of the transaction with GDOT.

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February 2, 2004.

Because the Board left unanswered the question of whether GSWR was required to compensation the trail manager before GSWR restores rail service on the 13.62-mile Line, the parties have attempted to negotiate a settlement during the past two years. During that time period, the need for rail freight service along the entire 13.62-mile Line has changed. At this time, GSWR no longer needs access to Albany over the 13.62-mile Line and the development along the corridor between mileposts 86.5 and 77.8 has changed in a manner so as to make it unlikely that any rail freight service will be required in the foreseeable future. At this time GSWR only needs access to milepost 77.8 to serve new rail customers. With these changes in the need for rail service, the parties were able to reach a compromise. GSWR has agreed to once again rail-banking the portion of the corridor between mileposts 86.5 and 77.8 in return for RTC and SGRT not seeking any compensation for the reactivation of rail service on the portion of the corridor between milepost 77.8 and 72.88.

The mandatory notice of consummation requirements set forth at 49 C.F.R. §1152.29(e)(2) apply only to abandonment proceedings filed after January 23, 1997. *See Aban. And Discon. Of R. Lines And Transp. Under 49 U.S.C. 10903, 2 S.T.B. 311, 317 (1997).* Because the petition for abandonment in this proceeding was filed in 1994, the mandatory consummation notice does not apply and, consequently, GSWR's abandonment authority did not expire one year after the Board vacated the NITU. In addition, GSWR has not reinstated rail service on the Line. Consequently, no new abandonment authority is required for the rail-banking of the Line.

Please time and date stamp the extra copy of this letter and return it with our messenger.

If you have any questions, please call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Karl Morell". The signature is fluid and cursive, with the first name "Karl" and last name "Morell" clearly distinguishable.

Karl Morell  
Attorney for Georgia Southwestern  
Railroad, Inc.