

216901

Attachment A

CVR Reply Comments in F.D. 34865

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July 6, 2004

VIA FACSIMILE - (202) 289-1330

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Washington, DC 20006

Re: Caddo Valley Railroad and International Paper

Dear Mr. Streeter:

International Paper remains very concerned about the service difficulties it has been having at its Gurdon, Arkansas facility, particularly since it sees little reason to be optimistic that the Caddo Valley Railroad (CVRR) has the ability to resolve the problems and provide reasonable service. Your best intentions and the CVRR's assurances notwithstanding, IP has little basis to believe that CVRR is now, or likely to be in the future, able to provide the type or quantity of cars or the level of service to which IP is entitled and to which the CVRR committed to provide when it sought approval to acquire this line from the Arkansas Midland Railroad (AKMD).

As you now know, the CVRR completely reneged on its commitments to acquire at least the same number and type of cars that AKMD had used to service IP. This resulted in a situation where the CVRR's ability to provide service deteriorated so badly that IP was compelled to move substantial volumes of its product out of the Gurdon mill out via transload service to AKMD's facility at Jones Mill, Arkansas. In addition, IP has been compelled to pay extra switching charges to CVRR and has been threatened with substantial demurrage costs, all of which is directly attributable to CVRR's inadequate service. Parenthetically, I have asked IP to provide additional information these issues and will be submitting a claim for refund of the extra switching and the transload charges to the CVRR in the near future.



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But the main purpose of this letter is to address IP's concerns about the CVRR's ability to ameliorate this situation. Without IP's knowledge or consent, it now appears that the CVRR entered into something called a joint marketing agreement (JMA) with the UP by which CVRR became obliged to obtain cars solely and exclusively from the Union Pacific Railway Company (UP). Whatever CVRR's motivation may have been to enter into such an agreement with UP, the result has been that CVRR has essentially abdicated its responsibilities to IP, which has always been the major shipper on this line, in derogation of its common carrier obligations and of its management's commitments to IP and the STB when it forced the AKMD to sell the line.

IP appreciates the fact that, with your intervention on this issue, the CVRR is finally taking steps in an attempt to obtain cars so that it can attempt to provide reasonable service. However, IP is concerned that CVRR's efforts to obtain UP's approval to lease cars will not provide any meaningful remedy to what has become a critical problem.

For example, we understand that UP has conditioned its waiver of the JMA restrictions against CVRR obtaining its own cars by insisting, among other things, that the cars are to be leased on a short-term basis only, that the approval will expire on January 31, 2005 and that CVRR must agree to pool the equipment with UP. We question, first, whether it is likely that CVRR will be able to obtain the needed cars on such a short-term basis, particularly in view of the current market situation for rail cars. Moreover, to the extent that UP would be able to utilize these cars to service other traffic moving to locations where it is currently facing severe car shortages (the Pacific Northwest, currently), the cars would not be available to service IP; hence the Gurdon mill would continue to suffer inadequate service since the CVRR would not be able provide cars.

As you are aware, your client represented that, if it obtained permission to acquire the line previously owned by the AKMD, it would either acquire the cars that AKMD used to service IP or would lease an alternative number sufficient to service IP. Based upon those representations, IP did not oppose the takeover. The STB then specifically noted, in the August 12, 1999 decision approving the feeder line application, that the owners of the Caddo Antoine and Little Missouri Railroad Company (the predecessor to the CVRR) had committed to continuing to provide service to IP and accordingly concluded that there was then no basis to conclude that service to IP would be materially affected if the application was approved.

Consequently, IP now must insist that CVRR promptly resolve the situation and take such steps as are necessary to honor the past commitments and its statutory obligation to provide reasonable service. The current situation is unacceptable and IP is unwilling to have this continued due either to the vagaries and limitations of the JMA or UP's service difficulties that are, in any event, clearly unrelated to this mill. We hope that the CVRR will quickly take the necessary steps to resolve the situation;

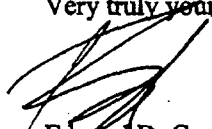
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July 6, 2004
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otherwise, IP will consider taking the steps necessary to obtain the service to which it is entitled via alternative means.

I look forward to hearing from you at your earliest convenience.

Very truly yours,



Edward D. Greenberg

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July 23, 2004

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RE: Caddo Valley Railroad and International Paper

Dear Mr. Greenberg:

Please excuse my delay in responding to your letter of July 6, 2004. I have taken the liberty of sharing your letter with the Caddo Valley Railroad ("CVR") and wish to respond to what appears to be several inadvertent errors and misunderstandings. Before focusing on your letter, I will note that the car shortage problem is not limited to International Paper at Gurdon, Arkansas. Instead, the current shortage of centerbeams and boxcars is a nationwide problem.

You claim that IP is concerned about the service difficulties that it has been having at its Gurdon, Arkansas facility and that it sees little reason to be optimistic that the CVR has the ability "to resolve the problems and provide reasonable service." I strongly urge you and your client to view the perceived problems in light of the current nationwide shortage of boxcars and centerbeams. I have been advised by the Union Pacific that although they have ordered several hundred centerbeams, there are no cars available at the present time. This has been confirmed by Bill Thompson at CVR who has been diligently searching for cars for the past couple of months. During that time he has contacted over twenty leasing companies with the same result, there are no cars available. Although cars are being manufactured, CVR has been told that the backlog of orders means that no new cars will be available until February 2005 at the earliest.

CVR rejects the unsubstantiated comment that CVR is unable "to provide the type or quantity of cars or the level of service to which IP is entitled and to which the CVRR committed to provide when it sought approval to acquire this line from the Arkansas Midland Railroad (AKMD)." My client has told me that until very recently, IP has had no complaints about the service that CVR has diligently performed on its behalf. At present, CVR is doing its best to provide IP with reasonably adequate service, especially given the recent increase in traffic volumes. There is nothing to suggest that it will not do so in the future.

You also claim that "CVRR completely reneged on its commitments to acquire at least the same number and type of cars that AKMD had used to service IP." That is untrue. I am aware that you have previously referred to a "promise" that was allegedly made on behalf of

Edward D. Greenberg, Esq.
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CVR in 1999. As IP has been informed, and as you are also aware from our conversations, CVR did not exist in 1999. More importantly, not only did the unanticipated Cooperative Marketing Agreement ("CMA") that CVA was subsequently required to enter into with the Union Pacific Railroad ("UP") supercede any alleged promises made by GS Roofing Products Company and Bean Lumber, but the ownership of the shortline railroad changed between January 1999 and the date that CVR acquired the ownership of the Norman Branch Line.

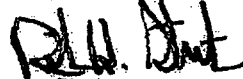
You also claim that the CMA was entered into without "IP's knowledge or consent." I know of nothing that would have required CVR to obtain IP's consent. In addition, by entering into the CMA, CVR did not abdicate its responsibilities to IP "in derogation of its common carrier obligations" and "commitments to IP and the STB when it forced AKMD to sell the line." Instead, it made it possible to render service for IP. That rail service has continued without interruption since the date that CVR commenced operations after taking over the Norman Branch Line from AKMD.

I must also remind you that IP was not and is not the only shipper on the line. Indeed, the STB, as required by the statute, determined that AKMD was not providing adequate service to a majority of the shippers on the line. Of course, if IP had affirmatively joined with the other shippers in supporting the feeder case, it might have prompted the ICC and the STB to grant the feeder application in a timely fashion. Had that been done, the line would be in far better shape than it is today, which would have benefited all concerned. In any event, CVR has never faulted IP for failing to support the feeder application. Instead, it has for several years conscientiously provided service to IP and the other shippers on the line with only a minimal amount of problems prior to the onset of the national car shortage, which is a matter that is beyond CVR's control.

As you are aware, UP has agreed, at least temporarily, to waive the provision that prevented CVR from leasing cars. Subsequent to the date of your letter, UP has agreed to work with CVR regarding the time limitations that were originally imposed when UP agreed to a waiver in order to secure additional equipment with which to provide even more service to IP during this peak period. I can assure you that CVR is doing everything within its power to locate cars with which to augment the fleet of cars that it and UP have provided to IP. Any assistance that IP can give in locating cars and ensuring that CVR will not realize a financial loss by having to pay an exorbitant charge for leased cars would be appreciated.

Finally, IP is unjustifiably withholding payment of CVR's lawfully imposed charges. I strongly urge you to take immediate steps to secure payment of CVR's past due invoices.

Very truly yours,



Richard H. Streeter

RHS:rs

cc: Bill Thompson, CVR

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August 31, 2004

VIA FACSIMILE - (202) 289-1330

Richard H. Streeter, Esq.
Barnes & Thornburg LLP
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Re: **Caddo Valley Railroad and International Paper**

Dear Mr. Streeter:

I must take issue with your letter to me of July 23, 2004, which advanced your client's perception of the service it is providing to International Paper's ("IP") facility at Gurdon, Arkansas. Our view is rather different, as IP believes that the Caddo Valley Railroad ("CVRR") has for several years been unable to provide the type or quantity of cars or a level of service to which IP is entitled.

As I have explained previously, the service has been so substandard that IP has often been forced to divert traffic to truck or transload product to the AKMD (which does have rail cars and is willing to provide rail service). And, on numerous occasions when CVRR does provide cars, IP has been compelled to absorb additional switching charges that are attributable to your client's inefficiencies.

My client's frustration with the current situation is particularly understandable when it sees empty cars sitting in the UP/CVRR switching yard that CVRR will not, or cannot, make available to IP. For example, on August 27, IP noted three empty centerbeam cars in that location that



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simply sat, forcing IP to ship 20 trucks of outboard product to an AKMD transload site at Jones Mill. This is not an isolated situation, but it is unacceptable.

We are aware that the car shortage in the West is a problem being experienced at present by a number of carriers. The fact remains, however, the CVRR elected not to invest in rail equipment, notwithstanding the obligation it has to provide cars to service the needs of its shippers. Whether or not CVRR is technically the same corporate entity that originally purchased the line, its principal investor was fully aware of and endorsed the commitments made when it -- in conjunction with the parties you represented at that time -- solicited IP's support in not opposing the takeover of the line from AKMD. Even if relevant to its service obligations (which is not the case), CVRR's current disavowal of the commitments that were originally made to add at least the same number of cars as had AKMD is misguided and unfortunate. While CVRR is a different corporate entity from the company that forced the sale of the line from AKMD, its principal investor had a similar role with the Caddo Antoine & Little Missouri Railroad ("CALM"), was fully aware of its service commitments to IP and cannot properly pretend that this is all a new issue. In not opposing the CALM's acquisition, IP relied on the representations that it would make the necessary investment in cars so that rail service would not be jeopardized. As far as we are aware, neither the CALM or the CVRR has invested any funds to honor that commitment.

Your letter of July 23 suggests that IP is somehow responsible for the situation by not having "affirmatively joined with the other shippers" in supporting the takeover of the line from the AKMD. Completely aside from its total lack of relevance, the statement is also categorically untrue. If IP had challenged CALM's application, it would now have direct access to a rail carrier that invested in an adequate supply of rail cars and that is committed to providing service rather than talking about it. And, of course, if CVRR had obtained cars to handle IP's traffic, it -- rather than trucks or the AKMD -- would have realized substantial additional revenues.

Nor can CVRR now properly seek to avoid its obligations by hiding behind the Cooperative Marketing Agreement ("CMA") it entered into with the Union Pacific. To the contrary, IP regards that agreement as substantially tying CVRR's hands, essentially relegating it to the role of a local switching carrier and leaving IP to the vagaries of some other railroad's goodwill. As Union Pacific's service and assets have been, to use a charitable term, "stretched" for the last ten years, CVRR's reliance on that carrier for car supply is tantamount to an abdication of its own responsibility.

From IP's perspective, it is paramount that CVRR invest in and obtain its own source of rail cars, as neither your client nor its customers should be dependent on another carrier as the source of such equipment. CVRR, not Union Pacific, has the obligation to provide service to IP

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and it is to CVRR that IP is entitled to look. And, CVRR cannot avoid its responsibilities by raising the issue of the CMA. In any event, AKMD was in the same situation as CVRR and it was able to obtain sufficient equipment to service its customers; IP expects no less from CVRR.

Finally, we do not understand why CVRR needs IP to tell it how to go about locating and acquiring cars. CVRR is supposedly interested in being a rail carrier and as such, should be aware of the companies that manufacture or lease this type of equipment. Nonetheless, I have listed below the names of companies and individuals who are in the business of selling and/or leasing rail cars. Since you have indicated that CVRR has been doing everything within its power to locate cars, this list may be unnecessary as these are well-known sources to whom people in this industry will generally turn when cars are needed.

1. Bill Ratcliff -- Trinity Industries -- (281) 890-0433
2. Craig Rehders -- ARI, a Division of ACF Industries - (281) 364-0190
3. Susan Thornton -- GE -- (312) 853-5255
4. Todd Moore -- GATX -- (678) 624-1513
5. Jim Weaver -- Greenbriar -- (800) 204-9943

We expect that CVRR will obtain the necessary waivers from Union Pacific that would make it possible to obtain sufficient equipment on a long-term basis. We similarly expect your client to make the financial commitments necessary to provide a reasonable level of rail service to IP.

I look forward to hearing from you concerning your client's intentions.

Very truly yours,



Edward D. Greenberg

EDG:kmd.

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September 10, 2004

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RE: Caddo Valley Railroad and International Paper

Dear Mr. Greenberg:

Thank you for providing the information this morning regarding the possibility of obtaining some center beam cars (other than tank cars). I have forwarded the information to my client, the Caddo Valley Railroad Company ("CVRR") and we are in the process of reviewing it this afternoon.

I have reviewed your letter of August 31, 2004 with my client and we find it to be very disturbing. If your client, International Paper, truly "believes that the Caddo Valley Railroad ("CVRR") has for several years been unable to provide the type or quantity of cars or a level of service to which IP is entitled," why did it fail to speak up at any time prior to the onset of the recent rail crisis that prompted the Surface Transportation Board ("STB") to request the major trunk lines to submit operational strategies to meet the peak demand. I am advised by my client that CVRR has no record of ever receiving any formal complaints about the level of service that it has diligently provided to IP since assuming responsibility for operations over the Norman Branch.

You also claim that "IP noted three empty centerbeam cars" sitting in the UP/CVRR switching yard on August 27. You then claim that because those cars were not delivered immediately to IP that it was forced "to ship 20 trucks of outbound product to an AKMD transload site at Jones Mill." In response, my client has informed me that after IP personnel advised them that the cars were sitting in the yard that they immediately took steps to determine whether the cars were intended to be delivered to IP. As they discovered, the cars were not supposed to be delivered to IP. Nevertheless, CVRR took steps to pick up the cars and delivered them to IP. I believe the information from my client disproves the false allegation that CVRR would not, or could not, make those cars available to IP.

You have also ought to leave the impression that CVRR is responsible for IP having to ship via truck. Please be advised that IP supervisory personnel have heretofore advised my client that trucking was their first alternative and that CVRR was only the second alternative. That

Edward D. Greenberg
September 10, 2004
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being the case, I must demand strict proof that CVRR's alleged failure to provide sufficient equipment caused IP to turn to trucks. Such allegations are seriously misleading.

I also question your contention that if IP had challenged CALM's application, it would now have direct access to a rail carrier that invested in an adequate supply of rail cars and that is committed to providing service rather than talking about it." I suggest that anyone who carefully reads the series of Eighth Circuit decisions would be compelled to disagree with your various unfounded contentions. As the record in that case made clear, AKMD was not committed to providing service to a majority of shippers on the line. Although it may have favored IP at the expense of the other shippers on the line, the feeder statute is designed to protect the majority of shippers on a line, not the narrow interests of one large shipper who is provided discriminatorily favorable treatment.

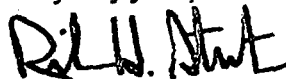
Your interpretation of the Cooperative Marketing Agreement ("CMA") is also wide of the mark. Keep in mind that CVRR has no alternative line-haul carrier with which it may interchange traffic, it has UP alone. As a result, when it signed that agreement, CVRR was faced with an ultimatum that it was in no position to resist. "Either you sign it, or else." In order to provide any rail service to IP and the other shippers on the Norman Branch line, CVRR signed the agreement. Based on my knowledge of the STB and its jurisdiction, I do not believe that CVRR had any options.

In addition, it is our understanding that prior to the UP/SP merger, UP did not require shortlines to enter into CMA's. However, following that merger, UP apparently adopted the SP method of dealing with the shortlines. Hence, you are in error when you state without any supporting evidence that "AKMD was in the same situation as CVRR and it was able to obtain sufficient equipment to service its customers."

The truth of the matter is that CVRR has been treated far differently than AKMD. In particular, it is our understanding that the original MP/AKMD sales contract, by which AKMD acquired the Norman Branch, required AKMD to furnish freight cars to the shippers. As such, it is the polar opposite of the CMA that CVRR was required to sign after the forced sale of the line.

In closing, we are reviewing the material that you forwarded this morning and will try to get back with you by the close of business.

Very truly yours,



Richard H. Streeter

RHS:rs

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October 11, 2004

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RE: Caddo Valley Railroad and International Paper

Dear Mr. Greenberg:

In response to your prior correspondence, my client, the Caddo Valley Railroad, has spoken with several entities about the possibility of leasing center-beam flatcars for use by International Paper ("IP") at Gurdon, Arkansas. I am advised that my client is willing to enter into a long-term lease with one of the car suppliers, provided that it would break even and not suffer any financial losses associated with the leased cars. Unfortunately, it appears that the cars, based on the rentals that are now being demanded, will not earn enough, computed either on time or mileage, to cover the cost of the lease. As a result, if my client were to lease equipment, it would incur a deficit that it cannot afford.

Therefore, my client would be forced to impose a surcharge to cover the anticipated financial deficit that would be caused by entering into a lease at this particular time. I can assure you that it does not intend to seek to return a profit on these leases, but merely to break even. Caddo Valley will provide financial data which shows how it computed the surcharge amount. If payment of a surcharge is satisfactory to IP, Caddo Valley will enter into a lease, which would guarantee delivery of the cars in late December or early January 2005.

Please understand that it now appears that the shortage may be coming to an end. Today, there were 33 empty cars at the yard in Gurdon, while another 6 cars were spotted at IP to be loaded. If this trend continues, there will be no need for additional leased equipment.

Very truly yours,



Richard H. Streeter

RHS:rs

cc: Bill Thompson, Caddo Valley Railroad

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