

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037
TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849

William A. Mullins

Direct Dial: (202) 663-7823

E-Mail: wmullins@bakerandmiller.com

October 12, 2007

VIA ELECTRONIC FILING

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

**RE: *The Kansas City Southern Railway Company – Abandonment Petition for
Exemption – Line in Warren County, MS,
Docket No. AB-103 (Sub-No. 21X)***

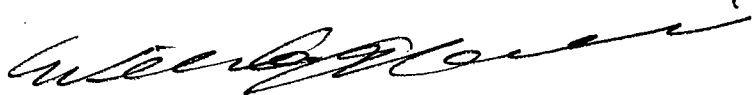
***Vicksburg Southern Railroad, Inc. – Discontinuance of Service Petition for
Exemption – Line in Warren County, MS,
Docket No. AB-1016X***

Dear Secretary Williams:

On October 2, 2007, The Kansas City Southern Railway Company ("KCSR") and the Vicksburg Southern Railroad, Inc. ("VSOR") (collectively, "Petitioners") filed in the above-captioned proceedings a joint "Response To Comments Of Foam Packaging, Inc." ("Joint Response"). On page five of their Joint Response, Petitioners referred to, and generally described, newspaper articles published by the Vicksburg Post on April 7 and May 31, 2007, respectively. Copies of those articles taken from the Vicksburg Post's website were to be attached to the Joint Response as Exhibit A. This Exhibit, however, was inadvertently omitted from the Joint Response. Attached hereto is Exhibit A to the Joint Response, which Petitioners respectfully request the Board to accept and incorporate into the Joint Response filing.

If there are any questions about this matter, please contact me directly, either by telephone: (202) 663-7823 or by email: wmullins@bakerandmiller.com.

Respectfully submitted,



William A. Mullins

Enclosures
cc: All parties of record

**STB DOCKET NO. AB-103
(SUB-NO. 21X)**

**THE KANSAS CITY SOUTHERN RAILWAY COMPANY
-- ABANDONMENT PETITION FOR EXEMPTION --
LINE IN WARREN COUNTY, MS**

STB DOCKET NO. AB-1016X

**VICKSBURG SOUTHERN RAILROAD, INC.
-- DISCONTINUANCE OF SERVICE PETITION FOR EXEMPTION --
LINE IN WARREN COUNTY, MS**

EXHIBIT A

The Vicksburg Post.

SINCE 1863 - EVERYTHING A HOMETOWN NEWSPAPER SHOULD BE

[Print Page](#)

MONDAY SEPTEMBER 24, 2007 Last modified: Saturday, April 7, 2007 12:25 AM CDT



Steve English, a quality control manager with Foam Packaging Inc., stands near one of the rail cars that delivers plastic granules to the company off U.S. 61 South. (Joshua Corban • The Vicksburg Post)

Foam Packaging 'fighting a losing battle' for rail lines

By Danny Barrett Jr.

[04/07/07]Deborah Isaacs has left the plastics business founded by her father a time or two before.

"I've worked for Fortune 500 companies and come back," Isaacs said, hoping the next time Foam Packaging Inc. isn't part of her life hasn't already arrived.

Since 1971, the company has converted polystyrene into plastic food containers and foam materials for home construction at its facility just off U.S. 61 South.

The raw materials for its operation, the polystyrene pellets, are delivered to the plant via rail cars, at a dropoff point down a narrow roadway behind Cooper Lighting, a half-mile south.

That process is jeopardized, company officials say, by the sale of 155 acres of railroad-owned right-of-way to the City of Vicksburg to help land a casino.

In a deal approved by the city board Thursday, the city purchased the acreage from Kansas City Southern Railway using money deposited into an escrow account by Lakes Entertainment, developers of a proposed casino between U.S. 61 South and the Mississippi River.

Mayor Laurence Leyens said Friday the Minnesota-based company would put up \$70,000 of the total price of about \$1 million immediately, then has two years to come up with the balance of the money and develop their gaming site.

Else, according to terms of the agreement, the land reverts back to the city and would be considered for a Rails-to-Trails bicycle path.

Of particular interest to both the city and the casino development is about 65 acres that will either become part of Lakes' plans or become public property.

Either way, it means the end of rail service to any industry wanting to use the mode of transportation for unloading their freight.

Isaacs said the cost of having their materials trucked in as opposed to rolled in on the railroad would increase 40 to 50 percent.

"That's huge," Isaacs said. "There's only so much plastic you can fit on a rail car, too."

Steve English, who manages the company's quality control and production area, said freight associated with Foam Packaging's business would have to be done "way across the other side of the county" to stay profitable.

"I think we're fighting a losing battle," he said.

The deal to facilitate the casino's process of obtaining a license hit snags with the railroad, as Lakes needed an easement across KCS-owned property to access their site, which would include more than 200 acres if they develop the newly secured acreage.

Talks between the city and Foam Packaging had been ongoing for more than a year and involved convincing the railroad to upgrade the decades-old rail line running south of the city.

It failed, Leyens said, when KCS "made it clear" they would not invest the money required to bring the infrastructure up to standards.

"I think they said \$1 million a mile," Leyens said. "They said they were abandoning the lines anyway and didn't want to run trains on a degraded rail system."

Leyens also said efforts to lobby the federal government to fund improvements to the rail line fell on deaf ears.

Isaacs said the company talked with the railroad about building a rail spur off the rail line to service their property, an idea she said proved "very costly."

Both Isaacs, whose father, Jesse Davenport, co-founded the business with English's father, Ray, claim city officials kept too many details of the plan's progress over the past year, despite all parties having general knowledge.

"A main issue we have is we were not advised of this," Isaacs said, adding South Ward Alderman Sid Beauman talked with her about it once in the past year, but the plan "seemed to die down about a year ago."

Beauman did not attend a special called meeting Thursday to approve the action. It passed on a 2-0 vote of Leyens and North Ward Alderman Michael Mayfield.

Reached Friday, Beauman, said he spoke with company officials once "seven or eight months ago."

"She was upset, but she knew about the casino," he said, adding he felt it he "had to make a decision for what was best for the community."

Close Window [x]

The Vicksburg Post.

SINCE 1863 - EVERYTHING A HOMETOWN NEWSPAPER SHOULD BE

[Print Page](#)

MONDAY SEPTEMBER 24, 2007 Last modified: Thursday, May 31, 2007 12:23 PM CDT

Deal to transfer rail property gets OK with city resolution

By Paul Bryant

[05/31/07]A three-way, \$1 million deal to transfer 156 acres of railroad property for the development of a Lakes Entertainment resort casino is complete after Vicksburg officials approved a resolution Wednesday.

Separately, a different casino development will break ground for construction next week.

In the land deal, Lakes gets 104 acres of Kansas City Southern right-of-way, and the city takes 52 acres of KCS property to convert it to a Rails-to-Trails project, part of a nationwide network of converted rail lines administered by a Washington, D.C.-based conservancy.

In April, Mayor Laurence Leyens and North Ward Alderman Michael Mayfield agreed to act as a conduit to transfer the land between U.S. 61 South and the Mississippi River. Leyens said Wednesday city officials must now wait to see if Lakes secures financing for its overall \$200 million casino resort project.

"We're waiting until August for them to get their financing approved," he said. "Today, this was simply a land transfer between the railroad, Lakes, and the city. Lakes is getting an easement for their driveway, basically."

The city has spent nothing, Leyens said, in the deal.

"It's their money to do the transaction. If they don't perform, the land reverts back to the city, unless they determine the project is not feasible. If it's not, they will be able to keep the property and sell it."

Additionally, the deal marks the end of rail service to Foam Packaging, a local industry on the rail spur. Leyens has said KCS wanted to abandon the line and had not been maintaining it.

Negotiations started when the Minnesota-based company needed an easement across railroad property to reach its proposed site on the Mississippi near the old town of Warrenton. The company since expanded the scope of its casino-hotel project, but still didn't need all the land KCS reportedly offered as an all-or-nothing deal.

In February, Lakes was given an extended deadline by the Mississippi Gaming Commission to present a financial package to the three-member panel. The financing phase is the third and usually the lengthiest step in obtaining a gaming license in Mississippi.

At the time, Lakes' vice president of development and Vicksburg project manager Richard Bienapfl confirmed the city was working with the railroad to purchase land for the casino's benefit. Special legislative permission was needed and was approved in this year's session.

As proposed, the casino will be built on pilings on the Mississippi River. When originally approved by the MGC, the project was to cover 160 acres but could cover more than 200 if the city deems the company's development efforts on the land acceptable. Bienapfl has said the complex will employ 1,800 people and have space for 1,500 slot machines.

Lakes' plans have been in the development stage the longest of the three pending projects, but is also the most expensive.

The \$42 million Riverwalk Casino and Hotel plans to break ground Wednesday on its proposed site next to Rainbow Casino, a day after it is to appear before the Vicksburg Board of Zoning Appeals to amend the special exception it won from the panel in 2005 dealing with parking.

The configuration of its lots was an issue when the project, originally named Magnolia Hills and Pot of Gold Casino, was first presented to city authorities for zoning approval. Developers John R. Barrett Jr. and Lee Seippel agreed to a redesign that moved patron parking to the casino and hotel and away from homes on Warrenton Road.

Riverwalk in April was given a green light to begin construction when its finances were approved by the MGC.

The project started out smallest in scope of Vicksburg's other three proposed casinos, but officials have said construction costs have placed the casino's overall cost at \$100 million.

A group headed by Chicago real estate magnate Neil Bluhm was added as a secondary partner earlier in the year to help its financing. The firm, High River Gaming, will own 70 percent of the project, company executives have said.

Riverwalk will feature 80 rooms and 800 slot machines, smaller than both the 232-room, 1,500-slot Mississippi Bluffs development, planned barely a mile north on Warrenton Road, and the similarly sized casino and resort Lakes plans to build a few miles south.

Developers of Mississippi Bluffs plan an 18-hole golf course by the design firm of golf legend Hale Irwin, plus retail space and possibly a restaurant.

Bluffs and Lakes developments have been granted extensions by state regulators, with each needing to present a financing package to MGC. Bluffs' deadline to do so is Jan. 18, 2008, and Lakes' is Feb. 15, 2009.

Both will sit on pilings atop the Mississippi River, instead of floating inside it, allowed by state laws passed two years ago.

Ameristar Casino, the market share leader in Vicksburg, began raising its vessel onto a concrete foundation in November and is expected to be completed in June, part of a \$158 million expansion including more parking and amenities.

Vicksburg's casino market will become home to seven gaming facilities if all three proposed casinos are seen to completion. The existing four opened in an 11-month span in 1993 and 1994, beginning with Isle of Capri, which sold to Legends Gaming in 2006 and renamed DiamondJacks.

Horizon Casino was renamed when its parent company, Columbia-Sussex, purchased it from Harrah's Entertainment in 2003.

Rainbow has been listed for sale since October by its parent company, Bally Technologies.

Close Window [x]