



November 7, 2007

FOAM PACKAGING, INC.

P O BOX 1075 -:- HIGHWAY 61 SOUTH
VICKSBURG, MISSISSIPPI 39181
PHONE (601) 638-4871

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 F 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

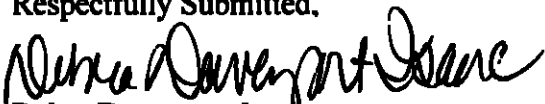
Dear Secretary Williams:

220661

Enclosed please find the Affidavit of J. B. Davenport. Also enclosed is Exhibit A- Letter to Mr. Davenport from William A. Mullins, Baker & Miller PPLC representing The Kansas City Southern Railway Company in the above matter.

If there are any questions regarding the items enclosed, please contact Mr. Davenport or me by telephone at 601-638-4871.

Respectfully Submitted,


Debra Davenport Isaac
Foam Packaging, Inc.

Enclosures

Cc: Parties of Record

ENTERED
Office of Proceedings

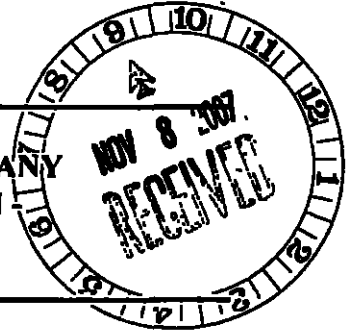
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Part of
Public Record

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

**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**

AFFIDAVIT OF J.B. DAVENPORT

STATE OF MISSISSIPPI

COUNTY OF WARREN

J.B. Davenport, being first duly sworn says:

1. My name is J.B. Davenport. I am over 18 years old. I understand the nature of an oath and I am otherwise competent to testify to the matters stated in this affidavit. This affidavit is based on my personal knowledge.

2. I am a founding co-owner, and current Treasurer, of Foam Packaging, Inc., in Vicksburg, Mississippi. Foam Packaging, Inc. is the sole business still receiving shipments along a rail line upon which The Kansas City Southern Railway Company and the Vicksburg Southern Railroad, Inc. have now filed a petition for permission to abandon.

3. The railroads have now filed a Response to Foam Packaging, Inc.'s letter in opposition to the abandonment proceedings. In addition, the railroads have sent a personal letter to me accusing me of lying and fraud. A copy of this letter is attached as Exhibit A.

4. Both the railroads' formal Response, and the personal letter to me claim that a statement in Foam Packaging's opposition was false and misleading. Specifically, Foam Packaging pointed out to the Board that Mr. Mike Haverty – on behalf of the railroads – personally assured me that the rail line to the Foam Packaging plant would not be abandoned. The railroads now assert this statement was false.

5. The railroads claim that because Mr. Haverty cannot find any record of the promise in his "file notes, appointment calendars, phone logs, emails, and other letter logs," that the statement is a lie. *See Exhibit A.*

6. The railroads' attempt to turn this proceeding into a derogatory campaign is reprehensible. However, I will respond to these blatant accusations with the true facts as stated below.

7. On behalf of Foam Packaging, Inc., I attended a meeting with a group of Vicksburg area business representatives that conducted business with the railroads. The Kansas City Southern Railway Company was having difficulty delivering to the Vicksburg customers and having problems getting trains through Vicksburg.

8. Mr. Mike Haverty was present at the meeting. Haverty had come to Vicksburg to personally address the business representatives regarding our rail car delivery.

9. After Mr. Haverty addressed the group, a buffet meal was provided. By chance, Mr. Haverty and I sat at the same table. Mr. Haverty and I struck up conversation.

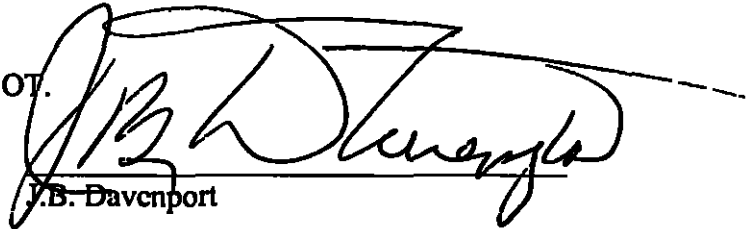
10. At the end of the meal, we shook hands and Mr. Haverty told me if I ever needed any assistance to give him a phone call. Mr. Haverty gave me his business card. The phone numbers in my records for Mr. Haverty are 816-556-0359, 816-983-1303, and 816-983-1729.

11. At a later date I called Mr. Haverty because a representative of the railroad called me and asked me to unload railcars for Foam Packaging, Inc. at the Vicksburg Chemical Rail Spur. The Kansas City Southern Railway Company representative told me that the track was in need of repair. I told the representative that David Duke and I had just walked the rail track North of Old 61 Highway. I informed him that the trussel over the creek had been recently repaired and the only thing I could find wrong was where a rail was $\frac{3}{4}$ of inch lower on the south side than it was on the north side.

12 In response to the representative's call, I called Mr. Haverty in Kansas City, Missouri in his office. I told him that the railroad wanted me to unload Foam Packaging, Inc. railcars at the Vicksburg Chemical site. Mr. Haverty assured me that The Kansas City Southern Railway Company was not going to abandon the south track and that I would be able to continue receiving rail cars at the Westinghouse South Spur. Foam Packaging, Inc. has continued to receive railcars at this spur.

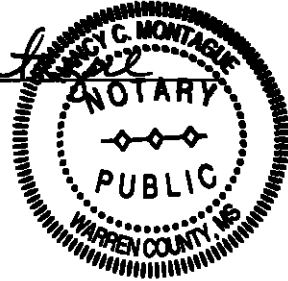
13. On two other occasions when I experienced a problem with rail delivery, I called Mr. Haverty's office and spoke with his secretary. In my notes the names of the secretaries were Martha, Lee Ann and/or Linda. Each time, the secretary referred me to other individuals for assistance.

FURTHER AFFIANT SAYETH NOT.


J.B. Davenport

SWORN TO AND SUBSCRIBED BEFORE ME, this 2nd day of November, 2007


NOTARY PUBLIC



My Commission Expires

NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE
MY COMMISSION EXPIRES: Sept 15, 2010
BONDED THRU' NOTARY PUBLIC UNDERWRITERS

BAKER & MILLER PLLC

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October 4, 2007

VIA FIRST CLASS MAIL AND FACSIMILE

Mr. J.B. Davenport
Treasurer
Foam Packaging, Inc.
P O. Box 1075
Vicksburg, MS 39181

**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 Mr. Davenport:

On September 12, 2007, Foam Packaging, Inc. ("Foam") submitted a letter to the Surface Transportation Board ("STB") opposing the plans of The Kansas City Southern Railway Company ("KCS") and the Vicksburg Southern Railroad, Inc. ("VSOR") for VSOR to discontinue service and for KCS to abandon the line that connects to the spur used in Foam's transload operation. On October 2, 2007, KCS and VSOR formally responded to Foam's opposition comments.

In Foam's September 12 letter comments, which you signed, there is a paragraph that in part states:

Mr. J.B. Davenport, Treasurer of Foam Packing, Inc., visited in person and conversed by phone with Mr. Mike Haverty on several occasions in the past. Mr. Haverty is Chairman and CEO of Kansas City Southern Railway Company. Mr. Haverty assured Mr. Davenport that the line serving the spur utilized by Foam Packaging would not be abandoned by Kansas City Southern Railway Company.

Mr. J.B. Davenport
October 4, 2007
Page 2 of 2

Mr. Haverty and his staff have reviewed file notes, appointment calendars, phone logs, e-mails, and letter logs, and have consulted with numerous KCS personnel to assess the validity of the above-quoted statement. Based upon this extensive review, KCS can state that there is no oral or written record of any such meeting or conversation between Mr. Haverty and you. Mr. Haverty does not recall meeting you, speaking with you, or otherwise making the assurance that you attribute to him. KCS's investigation supports Mr. Haverty's view.

As result, it appears that your statement was false and was made in a deliberate attempt to mislead the STB. I note that Foam's September 12 letter was not verified, as is required by the STB's rules to qualify as factual evidence for purposes of the record, and as such, no party can rely upon the factual validity of the statements asserted therein. One must ask why, if you believed that the factual assertions in the September 12 letter were accurate, you did not verify the letter as required by 49 CFR § 1104.4(b)(3)?

If you have evidence to substantiate the statement attributed to you in Foam's September 12 letter, then I ask that you promptly produce it for the record. If you have no such evidence, then I request that you withdraw that portion of the September 12 letter. If you do not, then KCS will move to strike Foam's September 12 letter and request the Board to examine whether the statement violates the regulation against making knowing and willful misstatements. 49 CFR §1104.5(c).

Respectfully,

A handwritten signature in black ink, appearing to read "William A. Muhlin", written in a cursive style.

William A. Muhlin

cc: Secretary Vernon A. Williams
Parties of Record