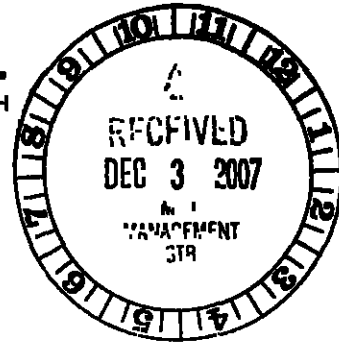


**FOAM PACKAGING, INC.**

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



November 28, 2007

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)*

220863

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

220864

Dear Secretary Williams:

Enclosed, please find an original and eleven copies Supplement to Reply to Petitioner's  
Request to be Exempt from 49 U.S.C. 10904.

Respectfully Submitted,

*Ray B. English*  
Raymond B. English

ENTERED  
Office of Proceedings

DEC 03 2007

Part of  
Public Record

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



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

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**KANSAS CITY SOUTHERN RAILWAY COMPANY  
ABANDONMENT EXEMPTION  
LINE IN WARREN COUNTY, MS**

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**STB DOCKET NO. AB-1016 (Sub- No. 0 X)**

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

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**SUPPLEMENT TO  
REPLY TO PETITIONER'S REQUEST TO BE EXEMPT FROM 49 U.S.C. §10904  
(OFFERS OF FINANCIAL ASSISTANCE)**

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1. Raymond B. English ("English"), herewith files this **Supplement to his Reply** to Petitioner's Request to be Exempt From 49 U.S.C. §10904 (Offers of Financial Assistance), and herewith requests the Board **deny** Kansas City Southern Railway Company's ("KCSR") request to be exempt from the provisions of 49 U.S.C. §10904, and for reasons states:

**1. BACKGROUND INFORMATION**

2. On **October 2, 2007**, English filed his Reply to Petitioner's Request to be Exempt From 49 U.S.C. §10904 (Offers of Financial Assistance) in the above entitled case.

3. On **November 23, 2007**, the Board served its decision in *Dallas, Garland & Northeastern Railroad Company – Discontinuance of Service Exemption – In Dallas County, TX*, STB

Docket No. AB-585 (Sub-No. 2X), Served November 23, 2007 ("Dallas").

**REQUEST FOR LEAVE TO SUPPLEMENT ENGLISH'S  
REPLY TO PETITIONER'S REQUEST TO BE EXEMPT FROM 49 U.S.C. §10904**

4. The Board's decision in the *Dallas* case is highly relevant to English's objection to KCSR's request to be exempt from the Board's OFA procedures. Since the *Dallas* decision was served after English filed his Reply to KCSR's Request to be Exempt from the OFA procedures, English could not make reference to it. English would now ask the Board for leave to supplement his Reply to Petitioner's Request to be Exempt From 49 U.S.C. §10904, by quoting from the *Dallas* case.

**SUPPLEMENT TO ENGLISH'S  
REPLY TO PETITIONER'S REQUEST TO BE EXEMPT FROM 49 U.S.C. §10904**

5. Please add the following new ¶¶ 10 B and 10 C to English's Reply to Petitioner's Request to be Exempt From 49 U.S.C. §10904:

6. **New ¶ 10 B.** In *Dallas, Garland & Northeastern Railroad Company – Discontinuance of Service Exemption – In Dallas County, TX*, STB Docket No. AB-585 (Sub-No. 2X), Served November 23, 2007 (7 weeks after English filed his Reply to Petitioner's Request to be Exempt From 49 U.S.C. §10904), at p. 4, the Board stated:

"The parties should note that operation of the public use procedures could be delayed, or even foreclosed, by the financial assistance process under 49 U.S.C. 10904. As stated in *Trails*, 2 I.C.C. 2d at 608, offers of financial assistance (OFA) to acquire rail lines for continued rail service or to subsidize rail operations take priority over public use. Accordingly, if an OFA is timely filed under 49 CFR 1152.27(c)(1), the effective date of this decision will be postponed beyond the effective date indicated here. See 49 CFR 1152.27(e)(2). In addition, the effective date may be further postponed at later stages in the OFA process. See 1152.27(f). Finally, if the line is sold under the OFA procedures, the petition for abandonment exemption will be dismissed and public use precluded." (Emphasis added.)

7. **New ¶ 10 C.** In *Rail Abandonments – Use of Rights-of-Way as Trails*, 2 I.C.C. 2d 591 at

608, the Commission stated:

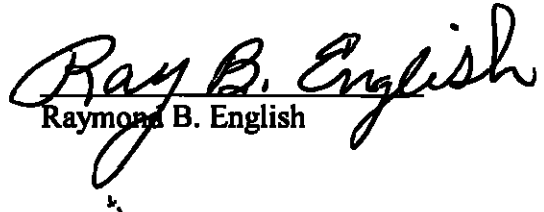
**"b. Sections 10905 and 10906 [now 10904 and 10905]. – Offers of financial assistance to acquire rail lines or subsidize rail operations under section 10905 [now 10904] take priority over both interim trail use and public use conditions because retention of existing rail service is mandatory under section 10905 [now 10904] (where agreement is reached or where the offeror accepts the terms and conditions fixed by the Commission), whereas section 10906 [now 10905] public use conditions and section 1247(d) trail use are voluntary."**

Respectfully submitted,

Raymond B. English

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 27<sup>th</sup> day of November, 2007, a copy of the foregoing Supplement to Reply to Petitioner's Request to be Exempt From 49 U.S.C. §10904, was served by first class mail, postage prepaid, upon **William A. Mullins, Baker & Miller PLLC**, Ste 300, 2401 Pennsylvania Ave, N.W., Washington, DC 20037, attorney for Kansas City Southern Railway Company, and was served by first class mail, postage prepaid, upon **Craig Richey**, 315 W. 3<sup>rd</sup> Street, Pittsburg, KS 66762, attorney for Vicksburg Southern Railroad, Inc.

  
Raymond B. English