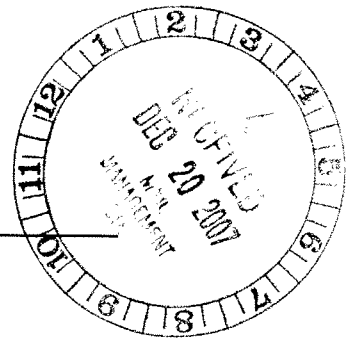


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**BEFORE THE
SURFACE TRANSPORTATION BOARD**



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

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

**RAYMOND B. ENGLISH
OFFER OF FINANCIAL ASSISTANCE**

ENGLISH
Office of Proceedings

DEC 20 2007

Part of
Public Record

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DEC 20 2007

**Raymond B. English
Foam Packaging, Inc.
P.O. Box 1075
Vicksburg, MS 39181**

December 20, 2007

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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

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

**RAYMOND B. ENGLISH
OFFER OF FINANCIAL ASSISTANCE**

1. Raymond B. English (“English”), in his individual capacity, herewith files this Offer of Financial Assistance (“OFA”), pursuant to 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase a **portion** of a rail line owned by the Kansas City Southern Railway Company (“KCSR”) which rail line is the subject of the above-captioned abandonment proceeding. According to KCSR’s Petition for Exemption, the subject line is alternatively known as the Vicksburg Industrial Lead, the South Redwood Branch, or the Redwood Branch. The portion of the line that is the subject of the above Abandonment Exemption, extends from Milepost 225.6 to Milepost 229.85, a distance of 4.25 miles, and is situated in Warren County, Mississippi (“Line”).

2. The portion of the Line that English offers to buy, extends **from MP 225.6 to approximately MP 227.5**, a distance of approximately **1.9 miles**, or to the end of the track that is presently on the ground, which track ends a few hundred feet past a spur track which Foam Packaging, Inc. uses to offload inbound cars containing polystyrene.

3. For this portion of the Line, the underlying right-of-way, which consists of about 23 acres (1.9 miles = 10,032 linear feet; at 100 feet wide = 100,320 SF or approximately 23 acres), all the track material, bridges, and any and all other items on, appurtenant to, or associated with, the Line, including any and all interests, legal or equitable, that KCSR may have in, or which is associated with, the Line, including all licensing and any other agreements associated with the Line, free of all liens and encumbrances, settlement costs to be split, English offers **\$ 51,000.00**.

4. In a separate filing, accompanied by a Motion for Protective Order, English is sending to the Board a Personal Financial Statement, which will establish that English is a financially responsible person, and that his offer to purchase the Line is *bona fide* and reasonable.

5. Under 1152.27(c)(1)(ii), an offeror must:

A. Identify the line in question, which English did in ¶ 1, *supra*.

B. Demonstrate that the offeror is financially responsible, that is, that the offeror has, or within a reasonable time will have, the financial resources to fulfill its proposed contractual obligations. As stated in ¶ 4, *supra*, English has filed with the Board a separate filing containing his Personal Financial Statement, which demonstrates English has the financial resources to fulfill his contractual obligations.

C. Explain the disparity between the offeror's proposed purchase price, if less than the abandoning carrier's estimate, and explain how the offer of purchase is calculated. This is explained in the paragraphs below.

6. While an offeror must meet these criteria, an OFA need not be overly detailed. See *Illinois Central Railroad Co. – Abandonment – Between Aberdeen Junction and Kosciusko, in Holmes and Attala Counties*, STB Docket No. AB-43 (Sub-No. 163) STB served January 31, 1997.

7. English's offer is *bona fide*. Foam Packaging, Inc., is an existing shipper on the Line. English is the president of Foam Packaging, Inc., and owns 50% of the controlling stock. As president of Foam Packaging, Inc., and as half-owner of Foam Packaging, Inc., English is resolved to preserve the Line to ensure Foam Packaging, Inc. will continue to have access to freight rail service, and to ensure that any other shippers on the Line, have access to freight rail service.

PRICE TO BE PAID FOR THE LINE

8. **Real Estate:** English proposes to purchase that portion of the Line which is between **MP 225.6 and MP 227.5**, a distance of approximately **1.9 miles**, or to the end of the track that is presently on the ground, which track ends a few hundred feet past a spur track which Foam Packaging, Inc. uses to offload inbound cars containing polystyrene. According to information English has been able to obtain (copies of deeds, information provided by KCSR), the right-of-way is generally 100-foot wide between MP 225.6 and MP 227.5. 1.9 miles at 5,280 feet per mile equals 10,032 linear feet. A strip of dirt that is 10,032 feet long and 100 feet wide, will contain 1,003,200 SF, which at 43,560 SF per acre, equates to 23.03 acres, or 23 acres. The deeds English consulted, indicated about half of the line was held in fee simple, and half of the line was reversionary (KCSR only has an easement, which will self-extinguish if the Line is not used as a line of railroad). Board precedent has held that real estate that is subject to a reversionary interest, has no legally cognizable value in an OFA proceeding.

9. The City of Vicksburg, MS and KCSR entered into a Purchase and Sale Agreement (“PSA”), dated April 5, 2007, wherein the City of Vicksburg offered to purchase the Line for \$4,500.00 per acre (see ¶2 PSA), whether KCSR’s interest was reversionary or fee simple. Paragraph 1 of the PSA further stated “The conveyance of the Entire Property from Seller to Buyer shall include any and all appurtenances thereto, any and all improvements located thereon, and any and all easements, right-of-ways and rights of ingress and egress related thereto, with the exception of any rail, ties, or other track material.” Paragraph 8 of the PSA stated at or prior to closing, “Seller, at its sole cost and expense, shall (i) pay all prior year(s) ad valorem taxes (including any interest and penalties) assessed upon the Entire property, and (ii) ... cause the satisfaction, cancellation and termination of record of any monetary liens or encumbrances affecting the Entire Property” including any “non-permitted encumbrances.” Paragraph 14 of the PSA stated “all closing costs associated with this transaction shall be divided equally between Buyer and Seller,” and further stated that “All other items customarily apportioned in connection with the sale of similar properties similarly located ... shall be prorated.”

10. In *1411 Corporation – Abandonment Exemption – In Lancaster County, PA*, STB FD No. AB 581 (Sub-No. X), Served April 12, 2002, the Board stated, on p. 4:

“... the parties will be directed to proceed with the sale of the line under terms and conditions comparable to those terms and conditions stipulated in the Shawnee / Colonial Purchase Contract, except where a provision in the Shawnee / Colonial Purchase Contract plainly is inapplicable.”

11. Since the PSA stipulated KCSR was willing to sell the Line to the City of Vicksburg for \$4,500.00 per acre, whether reversionary or fee simple, and since the Board has previously stated the sell of a line via the OFA process will be under the same conditions as are found in a Purchase Agreement, English will offer to purchase the 23 acres of the Line between MP 225.6 and MP 227.5 for **\$103,500.00**. [23 acres at \$4,500 / acre = \$103,500.]

12. **Track material – RAILS:** The PSA stated KCSR was retaining title to the track material, providing KCSR removed the track material within 90 days of closing. Track maps provided to English by KCSR indicated the line is composed of 112 lb / yard and 115 lb / yard welded rail. While the track maps did not specify precisely how many yards of each rail was on the Line, it appeared to English that the Line was roughly 50% 112 lb rail and 50% 115 lb rail. For purposes of computing the weight of the rail, English used an average of 113.5 lb / yard of rail. 1.9 miles = 10,032 feet, or 3,344 yards. 3,344 linear yards with 2 yards of rail / yard equates to 6,688 yards of rail, which at an average weight of 113.5 lbs / yard, equates to **759,088 pounds** of rail.

13. **Track material – TIE PLATES:** With ties spaced at an average of 21 inches on center (typical wood tie spacing), a line 3,344 yards in length would contain **5,733 ties**. [3,344 yards divided by 21 inches times 36 inches / yard = 5732.57]. With two tie plates per tie, 1.9 miles of line would contain 11,466 tie plates. Single shoulder tie plates weigh approximately 11.28 lbs each. 11,466 tie plates at 11.28 lbs each, would weigh **129,337 lbs**.

14. **Track material – SPIKES:** Each tie plate typically contains 2 spikes. 11,466 tie plates would have 22,932 spikes in them. Spikes weigh approximately 0.76 lbs each. 22,932 spikes at 0.76 lbs each would weigh **17,428 lbs**.

15. **Track material – SPLICE BARS AND BOLTS:** The line is all welded rail, so it contains NO splice bars or bolts.

16. **Track material – TURNOUTS:** The Line contains 3 turn outs. Turn outs typically weigh approximately 4,000 lbs each. Three turn outs at 4,000 lbs each equals **12,000 lbs.**

17. Track material – SUMMARY:	Rails:	759,088 lbs
	Tie plates:	129,337 lbs
	Spikes:	17,428 lbs
	Turnouts:	<u>12,000 lbs</u>
	Weight, if new:	917,853 lbs
	Minus 15% for wear:	<u>(137,678) lbs</u>
	NET WEIGHT:	780,175 pounds
	At 2,000 lbs / short ton:	390 short tons

[Scrap metal pricing in Vicksburg: Low = \$95 / ton;
High = \$120 / ton, fob scrap buyer]: High Price: \$120 / short ton
\$46,800.00

18. **Cost to remove track:** In *Delaware and Hudson Railway Company, Inc. d/b/a Canadian Pacific Railway Company – Abandonment Exemption – in Albany County, NY*, STB Docket No. AB 156 (Sub-No. 26X), in an OFA filed on November 30, 2007, which OFA was prepared by Baker & Miller PLLC, which is the same law firm that represents KCSR in this proceeding, in attachment 7 (which is incorporated by reference herein as if fully stated herein), of the OFA, Indus-Rail Co., a recognized expert in the field of railroad building and demolition, on November 19, 2007, stated the Canadian Pacific Railroad Company's cost to remove track is \$4.55 per track foot, and the cost to retire rail crossings is \$3,000.00 per crossing. The Line contains 10,032 track feet. At \$4.55 per track foot, it is estimated the **cost to remove the track material would be \$45,646.** [10,032 feet at \$4.55 / foot = \$45,646.] The record in this proceeding indicates there are five at-grade crossings on the Line. At \$3,000 per crossing, it would cost **\$15,000 to retire the five crossings.** The scrap dealer who quoted the lowest price, indicated he would pay \$95 per ton fob his site, or \$90 / ton, fob along the rail Line, which would indicate the scrap dealer estimated the cost to transport the scrap track material from the Line to that scrap dealer would be \$5 per ton. English would estimate the **cost to transport 390 short tons** of scrap material from the Line to the scrap dealer would be **\$1,950.00.**

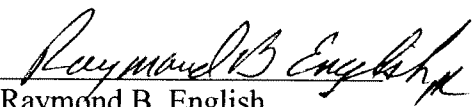
19. Railroad ties are considered hazardous waste because the creosote used in treating ties is a known carcinogen. While there may be a few relay quality ties in place, the majority of the ties would need to be removed, bundled, placed on a truck, then hauled to a hazardous waste disposal site. [The record, plus material provided to English, indicates the track is excepted track, which means it contains fewer than 5 good ties per 39 feet, or perhaps 500 relay-quality ties.] As calculated in ¶ 13, *supra*, the Line contains approximately 5,733 ties, of which approximately 5,200 ties would have to be disposed of in a hazardous waste disposal site. Typically, hazardous waste disposal sites charge \$5 per tie (\$65 / ton) to dispose of railroad ties. It costs \$3 per mile to truck 22 tons / truck-load. The nearest hazardous waste disposal site is in Alabama, which is approximately 200 miles from Vicksburg, MS. At \$3 per mile, it would cost \$600 per truck load (22 tons or 290 ties at 150 lbs per used tie) to transport the used ties to a hazardous waste disposal facility in Alabama, or about \$2.06 per tie. Disposing of 5,200 ties would cost \$26,000 in disposal costs, plus \$10,700 in trucking costs, for a total **disposal cost of approximately \$36,700.**

20. Calculation of Offer:

Revenue:	Land: 23 acres at \$4,500 / acre:	\$103,500	
	Scrap metal: 390 tons at \$120 / ton:	<u>46,800</u>	
	Total revenue:	\$150,300	\$150,300
Expenses:			
	Cost to remove track material:	\$ 45,646	
	Cost to retire the five crossings:	15,000	
	Cost to transport 390 short tons to the scrap dealer:	1,950	
	Cost to dispose of ties:	<u>36,700</u>	
		\$99,296	<u>99,300</u>
Net Liquidation Value:			\$ 51,000

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December, 2007, a copy of the foregoing Offer of Financial Assistance, 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 upon **Craig Richey**, 315 W. 3rd Street, Pittsburg, KS 66762, attorney for Vicksburg Southern Railroad, Inc.


Raymond B. English



TRI-MISS SERVICES

416 West Woodrow Wilson
Jackson, Mississippi 39213

Phone (601) 352-5027

Fax (601) 354-7812

December 13, 2007

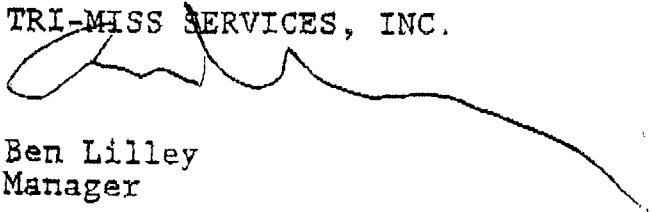
Foam Packaging
Vicksburg, MS

ATTN: Ray English

We wish to bid \$90.00 per ton (2000#) for Rail picked up your facility or \$95.00 per ton delivered to our facility in Vicksburg, MS.

Sincerely

TRI-MISS SERVICES, INC.



Ben Lilley
Manager

BL/cm

KEYES RECYCLING CENTER, INC.

P. O. Box 1344
Vicksburg, Ms. 39181
601-636-8545

December 14, 2007

Foam Packaging
35 Stennis Road
Vicksburg, MS. 39180

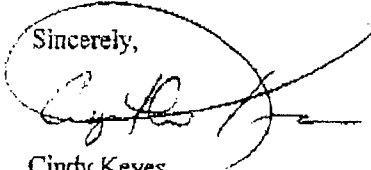
Attn: Ray English

Dear Ray,

Keyes Recycling Center, Inc. is pleased to quote on your scrap metal needs. We can offer \$120.00 per net ton for you scrap metal, delivered to our yard, Vicksburg, Ms. If you would like a quote picked up please do not hesitate to give us a call.

Thank you for the opportunity to quote on you scrap metal.

Sincerely,



Cindy Keyes
Keyes Recycling Center, Inc.