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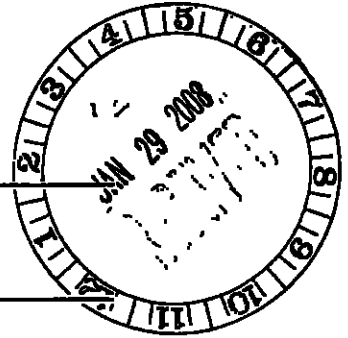
ENTERED
Office of Proceedings

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

JAN 30 2008

STB DOCKET NO. AB-55 (Sub- No. 659X)

Part of
Public Record



**CSX TRANSPORTATION, INC.
ABANDONMENT EXEMPTION -
IN ALLEGANY COUNTY, MARYLAND**

**OPPOSITION TO ALLEGANY COUNTY'S
LATE FILED NOTICE TO PARTICIPATE AS A PARTY OF RECORD**

Now comes James Riffin ("Riffin"), who herewith files this Opposition to Allegany County's Late Filed Notice to Participate as a Party of Record in the above entitled proceeding, and for reasons states

BACKGROUND INFORMATION

1 On **August 25, 2005**, CSX filed to abandon 8.54 miles of line known as the Georges Creek Subdivision, located in Allegany County, Maryland ("Line"), which abandonment was the subject of the above entitled proceeding

2 On **June 14, 2006**, a Motion to Substitute Purchaser was filed with the Board, asking the Board to make a finding that Riffin was financially responsible, and asking the Board to grant Riffin authority to acquire and operate the Georges Creek Line.

3 On **June 30, 2006**, Allegany County, Maryland, filed a Motion seeking an extension of the time within which to reply to the Motion to Substitute Purchaser. Allegany County **did NOT** file the requisite 49 CFR 1152.25(a)(1) PROTEST, together with the requisite 49 CFR 1152.25(a)(1)(ii) thru (iv) information, in order to Participate as a Party of Record.

4. On July 5, 2006, the Board granted Allegany County's request for an extension of time to file comments, extending the filing deadline until July 17, 2006. In its decision granting the extension of time, the Board stated the extension "should not unreasonably burden WMS or Mr. Riffin." Little did the Board know just how burdensome this seemingly reasonable extension of time to file, would become.

5. On July 17, 2006, Allegany County, Maryland, filed its comments, which comments had no probative value. And once again, Allegany County **failed to file the requisite PROTEST in order to Participate as a Party of Record.**

6. On August 18, 2006, the Board served a decision wherein it found Riffin, in his individual capacity, to be "financially responsible," and further granted Riffin, in his individual capacity, authority to acquire and operate the Line.

7. On July 13, 2006, CSX sent a letter to the Board stating it had consummated the sale of the Line to Riffin.

8. On January 14, 2008, Riffin filed a Motion to Compel CSX to issue a deed to the Line to Riffin.

9. On January 17, 2008, Allegany County **late-filed** a request to participate as a party of record.

ARGUMENT

10. 49 CFR 1152.25(a)(1) states in pertinent part:

"(a) Public participation (1) Protests and comments Interested persons may become parties to an abandonment proceeding by filing written comments or protests with the Board. . . . Persons who may oppose the abandonment . . . , but who **do not** wish to participate fully in the process . . . , should file **comments**. . . . Persons opposing the proposed abandonment . . . that **do wish to participate actively and fully in the process** should file a **PROTEST**. Protests **SHALL include all evidence and argument in support of protestant's position** Protests **MUST contain the following information:**

- (i) Protestant's name, address and business. [This information was provided.]
- (ii) A statement describing protestant's interest in the proceeding including:
 - (A) A description of protestant's use of the line; [not provided].
 - (B) If protestant does not use the line, information concerning the group or public interest it represents [provided]; and ...
- (iii) Specific reasons why protestant **opposes the APPLICATION including information regarding protestant's reliance on the involved service (this information MUST be supported by affidavits of persons with personal knowledge of the facts(s))** [not provided].
- (iv) Any rebuttal of material submitted by applicant [not provided] (Emphasis added.)

11. When, on **June 30, 2006**, Allegany County filed its Motion seeking an extension of the time within which to reply to the Motion to Substitute Purchaser, Allegany County **did not file the requisite 49 CFR 1152.25(a)(1) PROTEST, together with the requisite 49 CFR 1152.25(a)(1)(ii) thru (iv) information, in order to Participate as a Party of Record.** Allegany County merely filed **Comments**, which per 49 CFR 1152.25 (a)(1), **does NOT** give Allegany County the right to participate as a party of record.

12. Riffin would argue Allegany County failed to comply with the requirements specified in 49 CFR 11 1152.25(a)(1), in order to participate as a party of record. Allegany County merely filed comments, which per 49 CFR 1152.25(a)(1), **does not** grant Allegany County the right to participate fully as a party of record.

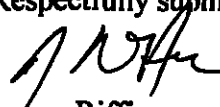
13. Riffin would further argue that this abandonment proceeding is over. CSX has notified the Board that it has received full payment for the Line. The only thing left to do, is to compel CSX to issue to Riffin a deed for the Line, which deed must be in Riffin's name. Any further comments by Allegany County would be totally irrelevant, would waste Riffin's and CSX's time in reading, then responding, to those comments, and would waste the Board's resources by compelling the Board to read Allegany County's comments, reading CSX's and Riffin's responses to those comments, then addressing those comments in a Board decision.

14. Riffin would remind the Board, that but for Allegany County's insistence on filing comments with no probative value, this present proceeding would not be necessary, for had Allegany County **timely** filed a notice indicating it desired to participate in this proceeding, the

Board never would have delayed serving its decision granting Riffin authority to acquire and operate the Line in Riffin's individual capacity, and CSX would have issued a deed to Riffin, rather than to WMS LLC.

15. WHEREFORE, for the foregoing reasons, Riffin would respectfully request the Board DENY Allegany County's request to participate as a party of record, and DENY Allegany County's request to file comments regarding Riffin's Motion to Compel. [The party is over. We do not need a gate crasher seeking to disrupt the clean-up process.]

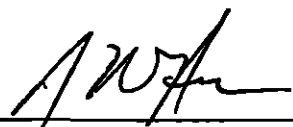
Respectfully submitted,



James Riffin

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of January, 2008, a copy of the foregoing Opposition to Allegany County's Late Filed Notice to Participate as a Party of Record, was served by first class mail, postage prepaid, upon Louis E. Gitomer, Esq., Ball Janik LLP, Suite 225, 1455 F St. NW, Washington, DC 20005, counsel for CSX, and upon Charles A. Spitulnik, Kaplan Kirsch Rockwell, Ste 905, 1001 Connecticut Ave., N.W., Washington, DC 20036, counsel for Allegany County, Maryland.



James Riffin