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July 16, 2008

Via Hand Delivery

The Honorable Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

ENTERED
Office of Proceedings

JUL 17 2008

Part of
Public Record

RE Finance Docket No. 34943
Beaufort Railroad Company, Inc.'s - Modified Rail Certificate

Dear Ms. Quinlan:

Enclosed for filing in the above-referenced docket please find one (1) original and ten (10) copies of Beaufort Railroad Company, Inc.'s ("BRC") Notice of Intent to Terminate Service pursuant to 49 C.F.R. §1150.24 and a joint Request for Issuance of a Notice of Interim Trail Use ("NITU")/Rail Banking. The BRC, a subsidiary of the South Carolina Division of Public Railways, the South Carolina State Ports Authority, and the Beaufort-Jasper Water and Sewer Authority (collectively referred to herein as the "Parties") all join in requesting the issuance of a NITU pursuant to the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29 of the Surface Transportation Board's ("Board") regulations. The Parties request issuance of the NITU, no later than 60 days from July 16, 2008.

In accordance with 49 C.F.R. §1002.2(f), enclosed please find a fee of \$200 payable to the Board for the filing of the joint Request for Issuance of a NITU.

Kindly date stamp the additional copy of this letter and Notice of Intent to Terminate/Notice of Interim Trail Use/Rail Banking and return the same to our courier.

If you have any questions regarding the enclosed, please contact me at the telephone number listed above.

Very truly yours,


DEREK F. DEAN

Enclosures



BEFORE THE
SURFACE TRANSPORTATION BOARD

Modified Certificate of Public Convenience and
Necessity of Beaufort Railroad Company, Inc., a
subsidiary of the South Carolina Division of
Public Railways

Finance Docket 34943

NOTICE OF INTENT TO TERMINATE SERVICE AND REQUEST FOR
ISSUANCE OF NOTICE OF INTERIM TRAIL USE/RAIL BANKING

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Company, Inc., a subsidiary of
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Counsel for the South
Carolina State Ports
Authority

Raymond H. Williams
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Beaufort, SC 29901-1027

Counsel for the Beaufort-
Jasper Water and Sewer
Authority

July 16, 2008

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Modified Certificate of Public Convenience and Necessity of Beaufort Railroad Company, Inc., a subsidiary of the South Carolina Division of Public Railways

Finance Docket: 34943

**NOTICE OF INTENT TO TERMINATE SERVICE AND REQUEST FOR
ISSUANCE OF NOTICE OF INTERIM TRAIL USE/RAIL BANKING**

Beaufort Railroad Company, Inc , ("BRC" or "Operator"), a subsidiary of the South Carolina Division of Public Railways ("SCDPR"),¹ is the operator of the Port Royal Railroad, a line of railroad from Yemassee, South Carolina (milepost AMJ-443.26) to Port Royal, South Carolina (milepost AMJ-468.31)(hereinafter known and described as the "Line"), and holds a Modified Certificate of Public Convenience and Necessity (the "Modified Certificate"), under 49 C.F.R. §1150.21 through 1150.24, which was served in this Docket on December 28, 2006. See Attachment 1. The right-of-way upon which the Line is situated is owned by the South Carolina State Ports Authority ("SCSPA")²

Pursuant to 49 C.F.R. §1150.24, BRC hereby gives Notice of its Intent to Terminate Service over the Line sixty (60) days from the date of this filing. In addition, the BRC, SCDPR, SCSPA and the Beaufort-Jasper Water and Sewer Authority ("BJWSA" or the proposed "Interim

¹ South Carolina Division of Public Railways, a Division of the South Carolina Department of Commerce, is organized and exists under the laws of the State of South Carolina. See S.C. Code §§ 1-30-25

² South Carolina State Ports Authority is an instrumentality of the State of South Carolina and is organized and exists under the laws of the State of South Carolina. See S.C. Code §§ 54-3-10, 54-3-130. Collectively, the BRC and SCSPA have been referred in this docket as the "South Carolina State Parties."

Trail User")³ (collectively the BRC, SCDPR, SCSPA and BJWSA are referred to herein as the "Parties") jointly file this request for issuance of a Notice of Interim Trail Use ("NITU") to rail bank the Line between Mile Marker AMJ-443.37 near Yemassee, South Carolina, and the southern boundary of Ribaut Road, Beaufort and Port Royal, South Carolina, near Mile Marker AMJ-467, pursuant to the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29 of the Surface Transportation Board's ("Board") regulations. In accordance with 49 C.F.R. §1152.29, the BJWSA has executed a *Statement of Willingness to Assume Financial Responsibility*, attached hereto at Attachment 2, and the SCSPA and BJWSA have entered into an interim trail use/rail banking agreement (the "Agreement"). The effectiveness of BRC's Notice of Intent to Terminate Service and the Agreement is contingent upon the Board's issuance of the NITU.

The South Carolina State Parties reaffirm their interest in preserving the Line, which they are entitled to do. Notwithstanding that clear interest, various private landowners have questioned the "bona fides" of the State Parties. Those questions were resolved by the Board's order dated March 19, 2008, but they have since been reasserted by those Landowners apparently because there was no shipper interest in service over the Line. There is nothing in the statutes or regulations administered by the Board that requires actual operations without a shipper's cargo to carry, and the parties are required to obtain a modified rail certificate

³ Beaufort-Jasper Water and Sewer Authority is a special purpose district created by the South Carolina Legislature

("MRC") before that service can be offered to shippers.⁴ The Landowners' misunderstandings of the regulatory regime, however profound it may be, are not legitimate grounds for questioning the "bona fides" of the State Parties

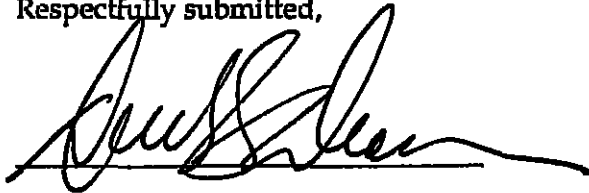
The Board has determined that it has jurisdiction to issue a NITU in a proceeding where a notice is filed under 49 C.F.R. §1150.24 to terminate operations under a modified certificate and where the parties have met the requirements of 49 C.F.R. §1152.29. See Sammamish Transportation Company – Notice of Interim Trail Use and Termination of Modified Certificate, STB Finance Docket No. 33398 (Sub-No. 1), dated February 20, 1998. Therefore, since the Parties meet these requirements, the Parties jointly request that the Board issue the Notice of Interim Trail Use no later than 60 days from the filing of this Notice of Intent to Terminate Service/Notice of Interim Trail Use/Rail Banking

By signature below, BRC certifies service upon all persons using the Line in the past six months (none), and upon the State of South Carolina, South Carolina Department of Transportation, South Carolina Department of Commerce, South Carolina Division of Public Railways, and South Carolina Public Service Commission.⁵

⁴ *Napa-Platte Regional Railroad Authority – Modified Rail Certificate*, 72 Fed. Reg. 33559 (June 18, 2007), *Minnesota Prairie Line, Inc. – Modified Rail Certificate*, 67 Fed. Reg. 65185 (Oct. 23, 2002)

⁵ The Parties are all instrumentalities of the State of South Carolina. Nevertheless, this certification is made in an abundance of caution to ensure compliance with 49 C.F.R. §1150.24

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Derek F. Dean', written over a horizontal line.

Derek F. Dean
Law Offices of
Simons & Dean
147 Wappoo Creek Drive
Suite 604
Charleston, SC 29412
Tel.: 843-762-9132
Fax : 843-406-9913

Counsel for Beaufort Railroad
Company, Inc., a subsidiary of
the South Carolina Division of
Public Railways

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Counsel for the South
Carolina State Ports
Authority

Raymond H. Williams
P.O. Box 1027
Beaufort, SC 29901-1027

Counsel for the Beaufort-
Jasper Water and Sewer
Authority

ATTACHMENT 1

37620

SERVICE DATE – DECEMBER 28, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34943]

Beaufort Railroad Company, Inc.—Modified Rail Certificate

On December 1, 2006, Beaufort Railroad Company, Inc. (BRC), a subsidiary of the South Carolina Division of Public Railways (SCDPR), filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, Modified Certificate of Public Convenience and Necessity, to operate approximately 25.05 miles of rail line extending from milepost AMJ-443.26, in Yemassee, to milepost AMJ-468.31, in Port Royal, SC.

BRC states that the line was formerly owned by the Seaboard System Railroad, Inc., and was authorized for abandonment by the Interstate Commerce Commission in Seaboard System Railroad, Inc.—Abandonment—in Beaufort County, SC, Docket No. AB-55 (Sub-No. 110) (ICC served Aug. 23, 1984). Although authorized for abandonment, the line was subsequently acquired by the South Carolina State Ports Authority (SCSPA) and leased to the South Carolina Public Railways Commission (SCPRC), which is now under SCDPR.¹ Tangent Transportation Company, Inc., a

¹ According to BRC, SCDPR is a division of the South Carolina Department of Commerce, and SCSPA is also an instrumentality of the State of South Carolina.

wholly owned subsidiary of SCPRC, operated the line until 2003. Since then, SCSPA has maintained the right-of-way (ROW).

As operator of the line, BRC will provide freight services on an “as required basis,” pursuant to an operating agreement with SCSPA and SCDPR.² Under the agreement, BRC and SCSPA agree to a 1-year period for operation, commencing from October 12, 2006, and continuing from year to year thereafter, until terminated in accordance with the operating agreement and Board regulations. According to BRC, it does not expect to make any interchange or interline connections with any connecting railroads.

The rail segment qualifies for a modified certificate of public convenience and necessity. See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions, Finance Docket No. 28990F (ICC served July 16, 1981).

BRC indicates that commencement of operations will be contingent upon shippers entering into binding written commitments for a sufficient volume of carloads per year (an amount judged adequate to cover all costs associated with maintenance, track materials, and operations of the line).

BRC states that SCSPA will maintain third party liability insurance coverage in an amount of not less than \$5,000,000 to cover any and all claims arising solely from the existence of hazards presented by the rail line or the property upon which the rail line is located. BRC also states that, prior to commencement of railroad operations, it will

² According to BRC, both SCSPA and SCDPR intend to maintain the ROW, with SCDPR providing service through BRC.

acquire and maintain third party liability insurance coverage in an amount of not less than \$5,000,000 to cover any and all claims arising solely from its acts, works, and operations with respect to the rail line and the property upon which the rail line is located.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F Street, N.W., Washington, DC 20001; and on the American Short Line and Regional Railroad Association: American Short Line and Regional Railroad Association, 50 F Street, N.W., Suite 7020, Washington, DC 20001.

**Board decisions and notices are available on our website at
“WWW.STB.DOT GOV.”**

Decided: December 20, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

ATTACHMENT 2

BEFORE THE
SURFACE TRANSPORTATION BOARD

Modified Certificate of Public Convenience and
Necessity of Beaufort Railroad Company, Inc , a
subsidiary of the South Carolina Division of Public
Railways

Finance Docket 34943

Statement of Willingness To Assume Financial Responsibility

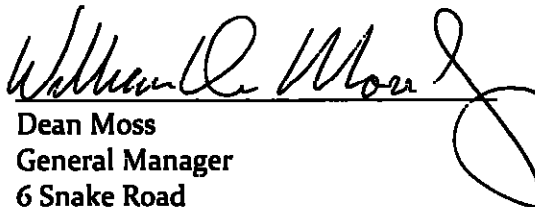
In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, the Beaufort-Jasper Water and Sewer Authority ("BJWSA" or "Interim Trail User") is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by the South Carolina State Ports Authority ("SCSPA") and operated by the Beaufort Railroad Company, Inc., ("BRC"), a subsidiary of the South Carolina Division of Public Railways ("SCDPR"). The property, known as the Port Royal Railroad Line, extends from railroad milepost AMJ-443.37 near Yemassee, South Carolina, to the southern boundary of Ribaut Road, Beaufort and Port Royal, South Carolina, near railroad milepost AMJ-467 near Port Royal, South Carolina, a distance of 25 miles in the County of Beaufort, South Carolina. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. AB-55 (Sub-No. 110).

A map of the property depicting the right-of-way is attached.

BJWSA acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the Board.

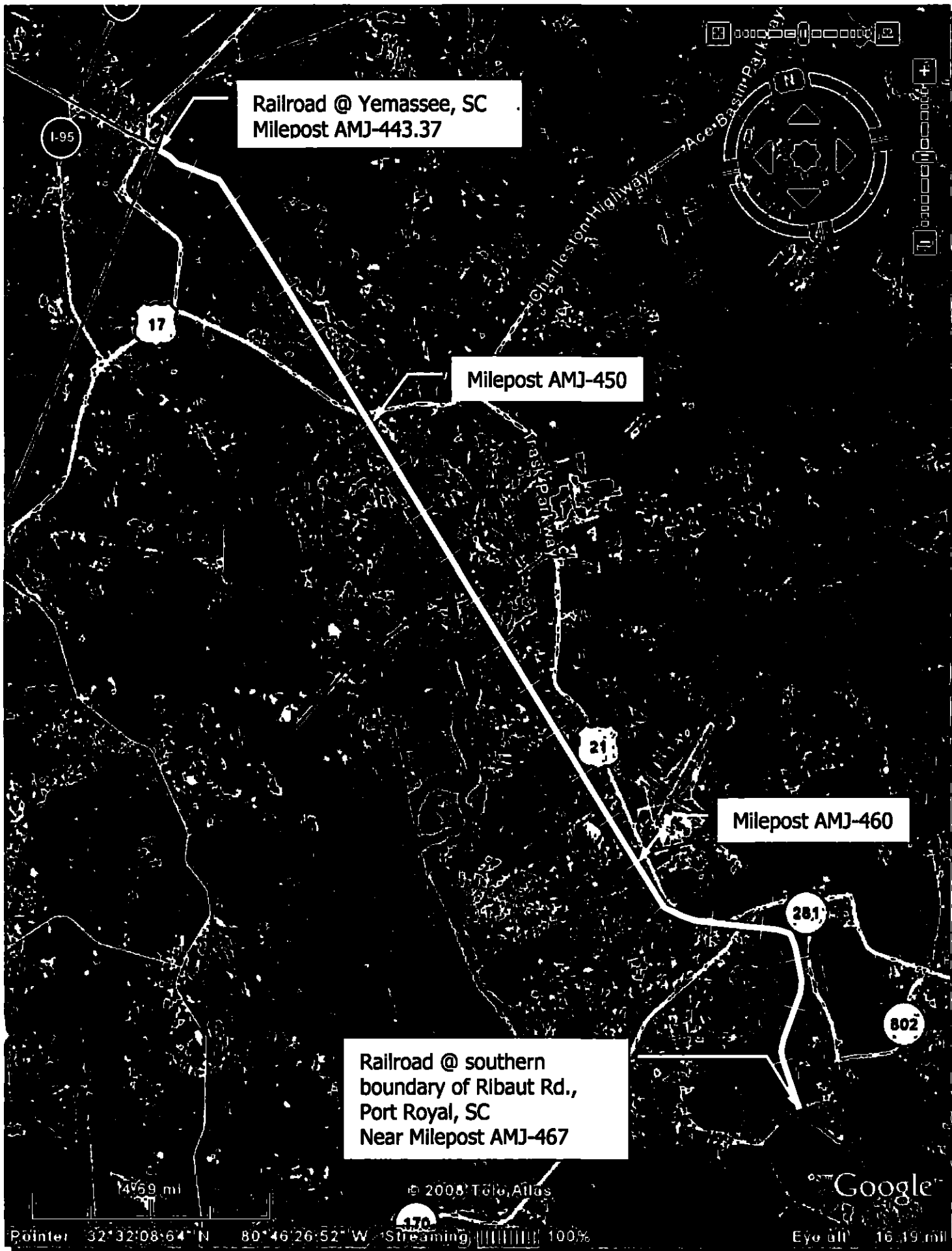
Beaufort-Jasper Water and Sewer Authority

By



Dean Moss
General Manager
6 Snake Road
Okatie, SC 29909-9258
(843) 987-9210
(843) 987-9258 (F)

July 15, 2008



Railroad @ Yemassee, SC
Milepost AMJ-443.37

Milepost AMJ-450

Milepost AMJ-460

Railroad @ southern
boundary of Ribaut Rd.,
Port Royal, SC
Near Milepost AMJ-467

Certificate of Service

I hereby certify that on July 16, 2008, I served the foregoing Notice of Intent to Terminate Service and joint Request for Issuance of a Notice of Interim Trail Use/Rail Banking on the following individuals by either U.S. First Class Mail or FedEx Overnight Mail as indicated

The Honorable Mark Sanford
Office of the Governor
P O Box 12267
Columbia, SC 29211
(via First Class Mail)

Elizabeth S Mabry
South Carolina Department of Transportation
955 Park Street
P.O. Box 191
Columbia, SC 29202-091
(via First Class Mail)

Joe E. Taylor, Jr
Secretary of Commerce
South Carolina Department of Commerce
1201 Main Street
Suite 1600
P.O. Box 927
Columbia, SC 29201-3200
Tel 803-737-6400
Fax 803-737-0418
(via First Class Mail)

Jeffrey McWhorter
South Carolina Division of Public Railways
540 East Bay Street
Charleston, SC 29403
Tel: 843-727-2067
Fax 843-727-2005
(via First Class Mail)

Joseph Melchers
Chief Counsel
South Carolina Public Service Commission
101 Executive Center Drive
Suite 100
Columbia, SC 29210
Tel. 803-896-5100
(via First Class Mail)

Cody L. Partin
Dow Lohnes LLC
Six Concourse Parkway
Suite 1800
Atlanta, GA 30328
Tel 770-901-8800
Fax: 770-901-8874
(via FedEx Overnight Mail)

Thomas F. McFarland
Thomas F. McFarland, P C.
208 South LaSalle Street – Suite 1890
Chicago, IL 60604-1112
Tel 312-236-0204
Fax 312-201-9695
(via FedEx Overnight Mail)

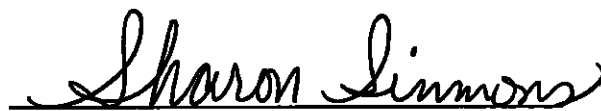
M Robert Carr
Dow Lohnes PLLC
1200 New Hampshire Avenue, N.W
Suite 800
Washington, DC 20036
Tel 202-776-2000
Fax. 202-776-2222
(via FedEx Overnight Mail)

John L. Richardson
John L. Richardson, P.L.L.C.
555 13th Street, N.W.
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Washington, DC 20004
Tel: 202-371-2258
Fax: 202-828-0158
(via FedEx Overnight Mail)

Edward R. Hamberger, President
Association of American Railroads
50 F Street, N.W.
Washington, DC 20001-1564
(via First Class Mail)

Scott Y. Barnes
Warren & Sinkler, L.L.P.
171 Church Street
Suite 340
Charleston, SC 29402
Tel: 843-577-0660
Fax: 843-577-6843
(via FedEx Overnight Mail)

Richard F. Timmons, President & Treasurer
American Short Line and Regional Railroad
Association
50 F Street, N.W.
Suite 7020
Washington, DC 20001
Fax: 202-628-6430
(via First Class Mail)


Sharon Simmons