

225356

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THOMAS F. MCFARLAND

July 9, 2009

By UPS overnight mail

Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

ENTERED
Office of Proceedings
JUL 10 2009
Part of
Public Record



Re: Docket No. AB-1022 (Sub-No. 1X), *Arizona & California Railroad Company --
Abandonment Exemption -- in San Bernadino and Riverside Counties, CA*

Dear Ms. Quinlan:

Enclosed please find an original and 10 copies of Offer of Financial Assistance, for filing with the Board in the above referenced matter.

Also enclosed is a check in the amount of \$1,800 for the filing fee.

FEE RECEIVED

JUL 10 2009

**SURFACE
TRANSPORTATION BOARD**

Very truly yours,

Tom McFarland

Thomas F. McFarland
Attorney for Offeror

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FILED

JUL 10 2009

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

225356

ARIZONA & CALIFORNIA RAILROAD)
COMPANY -- ABANDONMENT) DOCKET NO. AB-1022
EXEMPTION -- IN SAN BERNADINO) (SUB-NO. 1X)
AND RIVERSIDE COUNTIES, CA)



OFFER OF FINANCIAL ASSISTANCE

FILED
JUL 10 2009
SURFACE
TRANSPORTATION BOARD

BG&CM RAILROAD, INC.
P.O. Box 1759
Orofino, ID 83544

Offeror

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FEE RECEIVED
JUL 10 2009
SURFACE
TRANSPORTATION BOARD

THOMAS F. McFARLAND
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208 South LaSalle Street, Suite 1890
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(312) 236-0204
(312) 201-9695 (fax)
mcfarland@aol.com

Attorney for Offeror

DUE DATE: July 10, 2009

BEFORE THE
SURFACE TRANSPORTATION BOARD

ARIZONA & CALIFORNIA RAILROAD	)	
COMPANY -- ABANDONMENT	)	DOCKET NO. AB-1035
EXEMPTION -- IN SAN BERNADINO	)	(SUB-NO. 1X)
AND RIVERSIDE COUNTIES, CA	)	



OFFER OF FINANCIAL ASSISTANCE

Pursuant to 49 U.S.C. § 10904(c) and 49 C.F.R. § 1152.27(c)(2)(iii), BG&CM RAILROAD, INC. (BG&CM) hereby offers financial assistance in the form of purchase of the entire rail line involved in the above proceeding, i.e., between Milepost 0.0 at Rice and Milepost 49.4 at Ripley, a distance of 49.4 miles in San Bernadino and Riverside Counties, California (the rail line). BG&CM hereby offers to pay \$1,830,000 for the rail line. BG&CM submits the following in support of its offer.

**THERE IS A REASONABLE EXPLANATION FOR THE DISPARITY
BETWEEN THE AMOUNT OFFERED AND THE OWNER'S
VALUATION OF THE RAIL LINE**

In accordance with 49 U.S.C. § 10904(c), BG&CM hereby explains the disparity between the amount it has offered to purchase the rail line and the rail carrier's valuation (asking price) for the line.

Arizona & California Railroad Company (ARZC) apparently values the rail line at \$3,850,480 (decision served June 20, 2009 at 6). That value is the sum of the alleged net salvage value of \$2,149,480 for the track materials in the line and \$1,701,000 for land in the rail line right-of-way. *Id.*

ARZC has not provided adequate support nor explanation for its claimed land value. As a result, in the abandonment decision the Board valued the land for NLV purposes at zero. (Decision served June 30, 2009, at 5-6). Likewise, BG&CM has valued the land at zero.

The amount offered by BG&CM is based entirely on the net salvage value of the track materials in the rail line. That amount is \$319,480 less than the net salvage value claimed by ARZC primarily because the unit values applied by BG&CM are somewhat lower than the unit values applied by ARZC. The unit values applied by BG&CM are based on current values as experienced by BG&CM.

BG&CM IS FINANCIALLY RESPONSIBLE

BG&CM is financially capable of paying the purchase price of \$1,830,000 that is has offered for the rail line, and of paying at least two years of expenses of operating that line.

BG&CM is owned by the same individual who owns Railroad Materials Salvage, Inc. (RMS). Attached to this Offer as Appendix 1 is a letter from Mr. Casey Whitaker, Vice President of Landmark Bank, P.O. Box 306, Willow Springs, MO, (417) 469-2343, dated July 8, 2009, attesting that RMS has in excess of \$2 million of time deposits in that Bank as of that date. The individual who owns both RMS and BG&CM has committed unequivocally to cause funds equal to the purchase price of the rail line to be transferred from RMS to BG&CM to pay that purchase price. BG&CM has reason to believe that operation of the rail line during the first two years will produce sufficient revenues to more than offset corresponding operating costs. However, if such revenues were to be insufficient to do so, the individual who owns RMS and BG&CM has committed unequivocally to cause funds equal to any operating shortfall to be transferred from RMS to BG&CM to pay for that shortfall.

In that manner, ARZC can be assured of receiving the purchase price, and shippers on the line can be assured that operating expenses will be paid for at least two years.

**THERE IS A DEMONSTRABLE COMMERCIAL NEED AND
COMMUNITY SUPPORT FOR RAIL SERVICE**

A person filing an offer of financial assistance (OFA) is required to demonstrate one or more of the following: (1) there is a demonstrable commercial need for rail service, as manifested by support from shippers or receivers on the line or as manifested by other evidence of immediate and significant commercial need; (2) there is community support for rail service; and/or (3) rail service is operationally feasible. *Consolidated Rail Corp. - Aband. Exempt. - in Hudson County, NJ*, 2009 STB LEXIS 219 at *4 (Docket No. AB-167 [Sub-No. 1189X], decision served May 26, 2009).

Shippers on the rail line and the community of Blythe, California actively opposed abandonment of the rail line through an ad hoc organization known as the Committee for Preservation of the Rice-Blythe-Ripely Rail Line. *See* decision served June 30, 2009 at 1. BG&CM has been in contact with those shippers and the City, who have expressed strong support for the OFA being filed in behalf of BG&CM. That can be verified by reference to an active shipper member of that Committee, Ms. Diane Gray of Compton Ag Service, (760) 668-5066.

BG&CM is an experienced rail operator, having operated approximately 126 miles of rail line in Idaho for a number of years. Affiliates of BG&CM operate rail lines in Iowa and Missouri.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, the Board should find that BG&CM is a financially responsible person who has offered financial assistance to permit rail service to be continued on the rail line. Based on that finding, the Board should postpone the effectiveness of the exemption for abandonment of that rail line pending further proceedings under 49 U.S.C. § 10904.

Respectfully submitted,

BG&CM RAILROAD, INC.
P.O. Box 1759
Orofino, ID 83544

Offeror



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mcfarland@aol.com

Attorney for Offeror

DUE DATE: July 10, 2009



July 8, 2009

To Whom It May Concern:

Railroad Materials Salvage, Inc is currently a customer at Landmark Bank. The company has in excess of \$2,000,000.00 of time deposits.

Railroad Materials Salvage, Inc and BG & CM Railroad are owned by the same individual.

Thank you,

A handwritten signature in black ink, appearing to read 'Casey Whitaker'.

Casey Whitaker
Vice President
Willow Springs

CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2009, I served the foregoing document, Offer of Financial Assistance, by overnight mail, on the attorney for ARZC, Louis E. Gitomer, Esq., 600 Baltimore Avenue, Suite 301, The Adams Building, Towson, MD 21204-4022

Thomas F. McFarland

Thomas F. McFarland