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November 12, 2013

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Office of Proceedings  
November 12, 2013  
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*By e-filing*

Ms. Cynthia T. Brown, Chief  
Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20024

Re: STB Docket No. NOR 42138, *Horry County, South Carolina, et al. v. Baltimore and Annapolis Railroad Company, d.b.a. Carolina Southern Railroad Company*

Dear Ms. Brown:

On November 5, 2013, the undersigned counsel for Complainants and Thomas C. Brittain, counsel for Defendant, conferred by telephone in regard to discovery and procedural matters, as required by 49 C.F.R. § 1111.10(a). This constitutes Complainants' separate Report under that regulation setting forth a proposed procedural schedule to govern future activities and deadlines in the case.

### **BACKGROUND**

Counsel for Complainants and Defendant have not reached agreement. Counsel for Complainants requested that Defendant provide limited information and documentation voluntarily in lieu of formal discovery. As an accommodation to Defendant, Counsel for Complainants also proposed a procedural schedule for filing evidence and argument in which the filing dates allowed for more time than the usual 30-day-30-day-15-day procedural schedule for complainants' opening statement, defendant's reply statement, and complainants' rebuttal statement under modified procedure.

Defendant did not agree to those proposals, apparently on the ground that it desired to have even more time to explore a sale of the involved rail line for continued rail operation. Defendant did not submit a proposal of its own in regard to discovery or procedure.

Complainants refused to agree to a delay in adoption of procedures for discovery and filing of evidence and argument because of the lengthy period of time during which the involved

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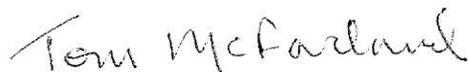
rail line has already been out of service. Defendant has not provided service over the rail line since August 24, 2011, more than two years ago. The embargo of rail service over the line is in its second year. Additional delay would be unreasonable on its face. There is no reason that sale of the rail line cannot continue to be sought while the Complaint is being processed.

**REQUESTED PROCEDURAL SCHEDULE**

Accordingly, Complainants respectfully request that the Board adopt the following procedural schedule:

- Discovery Cut-Off Date - 15 days after the filing of this Procedural Report, i.e., November 27, 2013
- Filing of Responses to Discovery - 15 days after receipt of requests for discovery
- Filing of Complainants' Opening Statement - 30 days after receipt of Defendant's Responses to Discovery
- Filing of Defendant's Reply Statement - 30 days after the filing of Complainants' Opening Statement
- Filing of Complainants' Rebuttal Statement - 15 days after the filing of Defendants' Reply Statement

Respectfully submitted,



Thomas F. McFarland  
*Attorney for Complainants*

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cc: *(by e-mail)*  
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