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BEFORE THE  
SURFACE TRANSPORTATION BOARD

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STB Docket No. AB – 1071

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STEWARTSTOWN RAILROAD COMPANY  
ADVERSE ABANDONMENT  
YORK COUNTY, PA

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**PROTEST/STATEMENT OF OPPOSITION OF  
STEWARTSTOWN RAILROAD COMPANY**

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STEWARTSTOWN RAILROAD COMPANY  
P. O. Box 155  
Stewartstown, PA 17363

Replicant

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August 22, 2011

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

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STB Docket No. AB – 1071

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**PROTEST/STATEMENT OF OPPOSITION OF  
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**I. INTRODUCTION**

Pursuant to 49 C.F.R. 1152.25(a)(1), Stewartstown Railroad Company (“SRC” or the “Railroad”) protests the application for authority for an adverse abandonment of the entire line of the Railroad filed with the Surface Transportation Board (the “Board”) on July 7, 2011 by the Estate of George M. Hart (the “Estate”). The Board should deny the application because the Estate has failed to demonstrate that the public convenience and necessity require or permit the proposed adverse abandonment.

**II. REQUIRED INFORMATION**

Pursuant to the requirements of 49 C.F.R. 1152.25(a)(1), SRC submits the following information.

- (i) Name and address:

Stewartstown Railroad Company  
P.O. Box 155, Stewartstown, Pa. 17363

(ii) Nature of Company's business

The SRC is a short line freight and excursion railroad.

(iii) Summarize why opposing abandonment

The SRC opposes abandonment because (1) it is a viable railroad business that is in the process of restoring itself to operation, (2) it has a link to the interstate commerce system through an adjoining railroad, (3) it has identified at least one definite freight customer and multiple prospective freight customers that intend to use the line upon its return to service, (4) its presence as a freight transporter is important to the local rural economy of southern York County, and (5) there is no discernable public interest or legitimate private interest favoring its abandonment.

### **III. FACTUAL BACKGROUND**

In the Background section of its application, the Estate has resorted to mocking the SRC's business prospects, its volunteer network, and its Board of Directors. This inflated rhetoric must not be taken at face value. Rather, the Estate has mischaracterizes several material facts. The SRC will respond to each of these misstatements in turn, and also references the more detailed responses and background information included in the verified statements of Directors Williamson, Bickleman, Reter, Bitten, and former director Kenneth Bitten, which are attached hereto as Attachments 1, 2, 3, 4 and 5, respectively.

First, the Estate maintains that the SRC cannot be brought into operating condition. To the contrary, although hampered by the actions of Mr. Hart and Mr. Bushman during Hart's leadership, the SRC has been performing repairs and following a plan to revitalize the line so that it is fit for freight service. Further, the Railroad has accumulated the necessary heavy

equipment and volunteer network needed to restore the line to operation. These efforts are detailed at length in the verified statement of Railroad President David Williamson, Attachment 1.

Second, the Estate rests much of its argument on the allegation the SRC has no freight prospects. In response, the SRC references the protest letter from a potential freight customer, Pen Mar scrap and recycling facility, which directly contradicts this assertion. Further, the SRC has identified additional locations and businesses along its line that offer the promise of future business. Like many short line railroads throughout the United States, the SRC services a rural area that is not lined with hundreds of customers. Nevertheless, the protest filed by Pen Mar and the potential business sources indentified through the efforts of the Railroad indicate that there is a continued need for the SRC's services in southern York County.

Third, the Estate suggests that it has been forced to seek adverse abandonment of the SRC to satisfy the Railroad's obligation. Yet the Estate and its residuary beneficiary have failed to give serious consideration to the SRC's offer of a lien on Railroad assets and a viable repayment plan. The Estate's decision to discount this legitimate offer in favor of a lengthy and costly legal proceeding is questionable at best. Regardless, the Estate's clear purpose in pursuing abandonment is simply to secure a speedier repayment of the Hart obligation. This purely private motivation must not be confused with a public interest favoring abandonment.

Fourth, the Estate maintains that the SRC has made no attempts to make any payments on the obligation. Yet the Estate fails to mention that it has stated to the Railroad that it will only accept immediate and full payment of the obligation. Further, the Estate ignores the fact that its

decision to refuse to enter into a repayment agreement has seriously compromised the SRC's efforts to raise funds and attract investors. In this way, the Estate has only worked against its own interests by taking a hard-line stance.

Fifth, the Estate unfairly and misleadingly characterizes the present Railroad's Board of Directors as incompetent and incapable of operating a freight business. Yet as detailed in the statements of several of the Directors, the present Board is comprised of individuals with extensive experience in operating short line railroads for freight service. Moreover, the SRC Board not only has the machinery, knowledge and interest to make the necessary repairs to the Railroad line, it has taken extraordinary efforts since Hart's death to restore the SRC to viability. These accomplishments are outlined in detail in the statement of Railroad President David Williamson, Attachment 1. The efforts and abilities of the current SRC Board must be contrasted with Railroad's management during the Hart regime. It was Hart, and not the present Directors, who caused the SRC's current financial problems through gross mismanagement and the quest for personal gain at the expense of the Railroad. Hart is now gone, and the Railroad is under management by a dedicated group of individuals with the knowledge and resources to restore it to operation. The Estate has deliberately failed to recognize this distinction.

#### **IV. ARGUMENT**

##### **A. Overview**

Presently, the Board is called upon to determine whether the public convenience and necessity warrants the dismantling of the SRC to satisfy a private obligation to the estate of a former director, George Hart. The SRC submits that the public convenience and necessity does

not support the Estate's abandonment application. While the SRC has seen difficult times during the past decade (largely due to the mismanagement of Mr. Hart himself), it remains a viable business with a link to the national rail system through an adjoining railroad owned by York County, Pennsylvania. Under its current leadership--which includes Directors with significant personal experience in operating short line railroads--the SRC has made significant progress in restoring its line to operating condition. Further, the SRC has identified a definite freight customer that has committed to using the Railroad when it is restored to operation, and has diligently pursued other business. In addition, as explained in the protests filed by the York County Planning Commission, the York County Commissioners, U.S. Congressman Todd Platts, Pennsylvania State Senator Michael Waugh, Pennsylvania State Representative Stan Saylor, the Borough of Stewartstown, Pennsylvania, the Maryland & Pennsylvania Railroad Preservation Society and others, the SRC is a vital component of southern York County's transportation network.

On the other hand, there is no public benefit to granting the Estate's abandonment application. Rather, the Estate seeks to dismantle the Railroad to satisfy a private obligation. It has rejected an affirmative offer by the Railroad to satisfy the Hart Lien through installment payments over five years--a window that would give the Railroad time to restore itself to operation and resume freight and passenger business. The Estate's interest would at all times be secured by a lien on the Railroad's assets. The Estate candidly admits that it has acted aggressively to file the present application--spending \$22,000 on the filing fee alone--with the

principle goal of completing the Estate's administration more quickly. The Estate's interest in speeding the administration process, however, does not constitute a public interest.

Presently, the SRC does not ask the Board to determine whether the obligation to Mr. Hart should be repaid. Rather, the SRC respectfully requests that the Estate's application be denied so that the Railroad will have time to rebuild itself for the public benefit and pay off Mr. Hart in a manner that will not force it out of operation.

**B. Legal Standards for Abandonment Proceedings**

Pursuant to 49 U.S.C. 10903(d), the standard governing any application for authority to abandon a line of railroad is whether the present or future public convenience and necessity ("PC & N") require or permit the proposed abandonment. In applying this standard to an adverse abandonment case, the Board must consider whether there is a present or future need for rail service over the subject line and whether that need is outweighed by other interests. NY Cross Harbor RR v. STB, 374 F.3d 1177 (D.C. Cir. 2004). The Board has exclusive and plenary jurisdiction over railroad abandonments to protect the public from an unnecessary discontinuance, cessation, interruption or obstruction of available rail service. Modern Handcraft, Inc.—Abandonment, 363 I.C.C. 969, 972 (I.C.C. 1981). Accordingly, the Board has made clear that it will protect and promote continued rail service where a carrier has expressed a desire to continue operations and has taken reasonable steps to acquire traffic. Chelsea Property Owners—Abandonment—Portion of the Consolidated Rail Corp.'s W. 30th St. Secondary Track in N.Y., 8 I.C.C. 2d 773, 779 (I.C.C. 1992).

**C. Jurisdiction of the STB.**

As a threshold matter, the SRC questions whether the Board is, in fact, the proper body before which to bring this matter. The SRC submits that the present dispute over the Hart lien is a private matter that would be best resolved in a civil court proceeding. The Board and the Interstate Commerce Commission (“ICC”) have long held that commercial disputes are outside the agency’s expertise and jurisdiction. Cf. Canadian Pac. Ltd, et al.-Purchase and Trackage Rights-Del. & Hudson Ry Co., 7 I.C.C. 2d 95, n.25 (I.C.C. 1990 ) (noting that “[i]t is inappropriate for this agency to interpose itself among the parties in what is essentially a private contractual dispute.”). As such, the SRC respectfully requests that the Estate’s abandonment application be denied.

**D. The public convenience and necessity does not warrant abandonment of the SRC.**

Assuming, *arguendo*, that the present matter is properly before the Board, the PC & N does not support the abandonment of the SRC line. In applying the PC & N test, the Board must balance (1) the public interest of preserving and protecting future rail service in a rural community by a railroad that is in the process of restoring itself to operation with (2) the private pecuniary interest of the estate of a former director in obtaining repayment of an obligation as quickly as possible. By protesting the Estate’s Adverse Abandonment Application, the SRC does not ask that the Board allow it to avoid its obligations to creditors. Rather, the SRC submits that the strong public interest in favor of maintaining its rail line intact should outweigh the Estate’s interest in choosing a more favorable repayment option.

The STB has repeatedly confirmed that it will not grant an adverse abandonment if a railroad has the potential for developing future freight service. Specifically, the Board has stated that, “[w]e have historically denied adverse abandonment applications if there is a potential for continued operations and the carrier has taken reasonable steps to attract traffic.” Salt Lake City Corp.—Abandonment—in Salt Lake City, Utah, STB Docket No. AB-33 (Sub-No. 183), slip op. at 8 (STB served Mar., 8, 2002). The Board has applied this principle even where the railroad at question is inoperable, and even if there is a clear public interest at stake. For example, in Denver & Rio Grande Hist. Found.—Abandonment in Mineral County, Colo., STB Docket No. AB-1014 (STB served May 21, 2008), the Board explained, “[b]ut the lack of current freight operations alone is not grounds for granting an adverse abandonment application. Under the PC & N test, the Board must consider the potential for future freight rail traffic.”

These principles are illustrated in Seminole Gulf Ry, LP—Abandonment—in Lee County, Fla., STB Docket No. AB-400 (STB served November 17, 2004) (“Seminole”), which has many striking similarities to the present case. In Seminole, Lee County, Florida, filed an adverse abandonment application requesting that the Board determine that the PC & N warranted the abandonment of a portion of Seminole’s line. Seminole had one freight customer over the portion of the line at issue, and that customer was in the process of relocating its facility later that year. The Board noted that another business, Florida Power & Light, had a facility located along the spur and that it used the rail line several times in a year to ship heavy equipment.

Lee County sought the abandonment because it was in the process of widening a heavily traveled road that connected two other highways. The County argued that, by granting the

adverse abandonment, the Board would allow it to avoid expending significant public funds to construct a grade crossing for the rail line. The cost to the taxpayers of that crossing would exceed \$1 million.

As the Estate has done at present, Lee County argued that the public interest in favor of maintaining the line was low because no existing shippers would be affected by the time the line was abandoned and owners adjacent to the line had no plans to use it in the future. The County also argued that the railroad would not suffer, as it could benefit from the salvage value of the line and save on future maintenance costs. Further, the County noted that Florida Power & Light could ship its equipment via roadway. Finally, the County argued that there was no reasonable prospect of future freight service on the line following the departure of the existing shipper.

Seminole responded that it had several potential future customers, including a circus. Further, the line would be used for future engagements and shipping materials. The railroad argued that the prospective future use of the line for freight service would continue to make a significant financial contribution to the local economy.

Applying the PC & N standard, the Board denied the County's adverse abandonment application. The Board noted that Seminole was making significant attempts to attract new business for the line and had presented evidence of potential new shippers. On the other hand, the Board acknowledged that Lee County certainly had an interest in completing its projects for the lowest possible price. There was clearly a public interest in saving the taxpayers of the County over \$1 million for the rail crossing. This interest, however, did not outweigh the public

interest in maintaining rail service over the subject portion of the line, even if that rail service was speculative. The Board specifically acknowledged that:

We are mindful of the effect that this decision will have on a public agency, Lee County, specifically that this decision will increase the cost that the taxpayers of that region must pay for a public improvement to a highway there. However, under the Interstate Commerce Act as interpreted by this agency and the courts, we may grant adverse abandonments only in limited circumstances.

Id. The Board also voiced its concern that abandonments such as the one sought by the County would cause a “chipping away pieces of the nation’s rail system and threatening short lines.” Id.

The Board reached a similar conclusion in Yakima Interurban Lines Ass’n-Adverse Abandonment, Yakima County, Wash., STB Docket No. AB-600 (STB served Nov. 19, 2004) (“Yakima”), where the railroad at issue was not in operation, but only a private interest favored the abandonment. In Yakima, the Board considered whether to grant the adverse abandonment application of a private party, Kershaw, Inc., which sought the abandonment because a portion of the rail line crossed its property. As in the present case, the subject railroad had been out of operation for nearly a decade, though it had not even managed minimal vegetation control. As a result, the line was choked with vegetation that cause serious problems for the properties that it crossed, including Kershaw’s. Further, Kershaw raised concerns with the railroad’s management and its ability to bring the rail line back into operation. As the rail line was inoperable, there were no current shippers. At least one shipper, however, stated that it would use the line for freight shipping if service was re-established. Moreover, as in the present case, the railroad was connected to interstate commerce through another railroad.

Applying the PC & N test, the Board concluded that Kershaw had not established that the PC & N justified abandonment of the section of Yakima's line. The Board acknowledged that the railroad had serious problems, that it was not in operation, and that there may have been issues with its management. Notably, however, it placed special emphasis on the fact that a potential freight customer had come forward and that there were other opportunities for use of the line in the future. The Board also expressly acknowledged that Kershaw had a legitimate private interest in seeking the abandonment. This interest, however, was not sufficient to outweigh the public interest in preserving even the potential for future freight service. In reaching this decision, the Board noted, "[g]iven the evidence before us, we cannot find that the prospect for continued rail service, or the need for that service, is as negligible as Kershaw would have us find, and we cannot find that the relief Kershaw seeks outweighs the public interest in rail service on this line." Notably, the Board stressed that Kershaw would be free to re-file its abandonment proceeding if the rail service could not be established within a reasonable period of time. In this way, the Board granted the railroad at least the chance to make its line operable.

In other decisions, the Board has confirmed the important role that short line railroads play as part of the national rail system. See CSX Corp.—Control and Operating Leases/Agreements—Conrail, STB Finance Docket No. 33388, Decision No. 89 (STB served July 23, 1998). Further, when a railroad expresses confidence in the possibility of future traffic and submits evidence in support of that confidence, the Board should be reluctant to substitute its judgment for that of the railroad. Wis. Dept. of Transp.—Abandonment Exemption, 1988 ICC LEXIS 359, \*11-12 (I.C.C. 1988).

With these principles in mind, the Board should deny the Estate's application for adverse abandonment of the SRC. The Estate has failed to demonstrate that (1) the Railroad's line is a burden on interstate commerce and (2) that the harm to the public interests of the SRC, shippers and the community resulting from a forced abandonment is outweighed by the Estate's claimed need for an immediate repayment of a private obligation through the liquidation of the Railroad's assets. The Estate has a duty to establish not only that its private pecuniary interests should be satisfied immediately by sacrificing the SRC's rail line, but why the public interest favors the abandonment of the line and the permanent loss of passenger and freight service to the rural community that it serves. In deciding the present Application, the Board must not simply accept the Estate's claims that its private pecuniary interests justify adverse abandonment of SRC's rail line. Rather, the Board must balance at least four interests, those of "(1) the railroad; (2) the owner and/or the public; (3) the shippers, and (4) interstate commerce and the rail system in general." N.Y. Cross Harbor Ry vs. STB, 374 F.3d 1177 (D.C.Cir. 2004). In considering these interests, the Board must continue to recognize that it has "a statutory duty to preserve and promote continued rail service where the carrier has expressed a desire to continue operation and has taken reasonable steps to acquire traffic." Salt Lake City Corp. - Adverse Abandonment, STB Docket No. AB-33 (Sub-No. 183), (STB served Mar. 6, 2002).

**1. Adverse Effect of Adverse Abandonment SRC's Operations.**

If the Board grants the requested adverse abandonment application, the SRC will be forced out of business as a rail carrier. The SRC has been in nearly continuous operation over its rail line from Stewartstown to its original connection with the national rail network at New

Freedom since its construction in 1884. From 1923 through 1935, SRC assumed ownership and operation of the connecting New Park & Fawn Grove Railroad. The Railroad temporarily ceased service in 1972 initially due to the effects of Hurricane Agnes and later lengthened by the bankruptcy of the Penn Central and formation of Conrail. Thereafter, the SRC restored service to its own line and a portion of the connecting Northern Central line (USRA Line 145 – acquired by the Pennsylvania Dept. of Transportation in 1973) from New Freedom to a connection with the national rail network at York in 1985. The SRC operated that line through 1992. Since its inception over 100 years ago, the SRC has been a valuable local rail transportation link to many businesses in rural southern York County and the Railroad respectfully asserts that the Board should allow it to continue in that role today.

The Estate has incorrectly asserted that the SRC “lacks a viable connection to the balance of the interstate rail network. There is no practical possibility that the line could be reactivated for through common carrier service.” In this matter, the Estate is either unaware or has chosen to deliberately ignore the fact that the SRC will very shortly possess a restored connection to the national rail network. York County, owner of the connecting Northern Central rail line, has executed a lease agreement with the non-profit group Steam Into History (“SIH”) to operate the line for excursion service. SIH has committed to restoring the Northern Central to a minimum of FRA Class 1 track conditions for its excursion operations, which will also be suitable for freight operations. Representatives of SIH have confirmed that SIH is committed to facilitating freight operations over the Northern Central line in conjunction with its own excursion operation. This commitment, in turn, will allow a restored connection with York Railway (YRC) at York and

connections with both Norfolk Southern and CSXT. The SIH has filed a protest to the present application.

In addition, when York County acquired the Northern Central line (USRA Line 145) from the Pennsylvania Department of Transportation in 1990, it assumed the continuing obligation to provide common carrier rail freight service over the line upon request. The presence of this obligation further ensures that SRC will, in fact, have a connection to the national rail network.

The Railroad's current Board of Directors has also made significant progress in restoring the line to operation. Like many rural businesses, the SRC has seen difficult times during the past years. As explained in detail in the attached statements of the SRC's Directors, the Railroad's current difficulties stem primarily from the gross mismanagement of the business by George Hart and his decision to effectively block any efforts to repair the line. Yet the current Board possesses both the knowledge and wherewithal to restore the line to active freight service. The Board has developed multiple revenue sources such as rail car storage, rental for "speeder cars," and a licensing agreement with Shrewsbury Township. The Railroad has also sold available material for scrap. Further, the Board has developed a system of volunteers to regularly work on the line and it benefits from a non-profit corporation dedicated to raising funds for the Railroad's operation and repair. As outlined in detail in the verified statement of Railroad President David Williamson, the SRC and its supporters have completed the following repairs to the line during the past years:

- Extensive brush-cutting of heavy vegetation along the line;

- Multiple applications of herbicide to clear the track of growing vegetation for inspection and repair work;
- Inserted additional culvert pipe at Waltemyer School Road Crossing #3 and repaired track washout;
- Repaired failed concrete wing wall at the culvert under the High Trestle Fill;
- Repaired eroded track roadbed west of the Iron Bridge Road crossing with large quantity of limestone rip rap and ballast;
- Filled in eroded track bed at Tolna;
- Completed spot tie replacement along entire length of line where needed to hold gauge and cross level. Began major replacement of ties from Engine house west to MP 6 to bring track up to FRA Class I;
- Replaced switch ties in Stewartstown yard and at the interchange switches with the Northern Central Line;
- Cleared drainage ditches and opened up clogged culverts;
- Replaced crossing signs and cleared vegetation from crossings to improve sight distances;
- Repaired the roofs on the Stewartstown Station, the Hungerford Station and the Stewartstown Engine house;
- Replaced joint bars, nuts bolts and washers on track joints where necessary;
- Installed gauge rods to correct wide gauge where necessary;

- Repaired locomotives;
- Completed additional extensive work as detailed in the verified statement of President Williamson, Attachment 1, in the Accomplishments of Stewartstown Railroad document that is attached to Williamson's statement as G.

The SRC has also accumulated the necessary equipment to make these repairs including a diesel motorcar with air brakes, several all-steel flatcars, an eight ton bottom dump ballast cars, a diesel powered hydraulic tie crane, and various air-powered and hydraulic-powered tools. Further, the SRC has developed relationships with various contractors that have additional heavy railroad equipment needed to complete the necessary repairs. As Williamson has noted, the Railroad can now install more ties in two to three days than it could have installed with previous equipment in a year.

In sum, the Estate has chosen to ridicule the SRC, its Directors, its efforts, and its prospects. Yet the SRC has a long history, a reinvigorated Board of Directors led by experienced professional railroaders, a connection to the national rail system, and a group of volunteers dedicated to making the necessary repairs. Even with its current financial limitations, the Railroad has the capability of restoring itself to its previous vitality as a local freight carrier within a short period of time. What it needs is that time. To date, however, the SRC has demonstrated its legitimacy as a railroad and a business through the list of extensive repairs that have been completed since Hart relinquished control upon his death. The Railroad submits that its status as a legitimate and improving business should not be summarily dismissed, as the

Estate would have it. Rather, there is a strong public interest in favor of preserving the SRC as a viable and proven rail business.

## **2. Adverse Effect on the Community.**

Pursuant to 49 U.S.C. 10903(d), Congress directed the Board to consider whether an abandonment “will have a serious, adverse impact on rural and community economic development.” Ga. Pub. Serv. Comm’n v. U.S. and I.C.C., 704 F.2d 538, 542 (11th Cir. 1983). By specifying this criterion in the statute, Congress “attached more than a passing importance to this factor.” Id. The SRC submits that there is a strong public interest in preserving the Railroad as a freight and passenger carrier in the rural community that it serves. On the other hand, the adverse abandonment of the SRC would impact the surrounding rural communities by depriving them of an environmentally responsible engine of economic growth as they struggle to overcome the effects of the current economic recession.

U.S. Congressman Todd Platts, Pennsylvania State Representative Stan Saylor, Pennsylvania Senator Michael Waugh, and the Borough of Stewartstown, Pennsylvania, have recognized the value of the SRC’s rail line to the industrial infrastructure and business community of the region and have filed protests in opposition to this adverse abandonment. The York County Planning Commission and the York County Commissioners have also indicated their continued support of the Railroad and its importance to the local community.

Moreover, in addition to depriving the region of an engine of economic growth, the abandonment of the SRC line would deny the surrounding region of the economic benefits of passenger excursion operations. The Board has stated, “[a]lthough we have never had an adverse

abandonment proceeding where potential passenger service was cited as a reason to keep the line in the national rail system, passenger service could factor into the PC & N analysis if revenue from existing or potential passenger service on a line might make more than a de minimis amount of rail freight service feasible.” Denver & Rio Grande Hist. Found.–Adverse Abandonment in Mineral County, Colo., STB Docket No. AB-1014 (STB served May 21, 2008). Further, in Trinidad Ry, Inc.–Abandonment Exemption–in Las Animas County, Colo., STB Docket No. AB-573X, *et al.*, slip op. at 10 (STB served Aug. 13, 2001), the Board stated that:

In determining whether there are sufficient traffic prospects to enable (the prospective carrier) to operate the line ..., we consider all potential income resulting from the operation of the rail line. In this case, that includes income from passenger operations .... Thus rail freight need not provide all of the income that would be needed to cover the cost of owning, maintaining and operating the line.

Id. With these principles in mind, the SRC asserts that restored passenger service on its line can both support and facilitate freight operations.

In sum, the Board must consider the significant negative impact that a forced abandonment of the SRC would have on the local community of southern York County. The SRC submits that there is a strong public benefit to the community of allowing the Railroad to operate as a freight and passenger operator in the region.

### **3. Adverse Affect on Shippers.**

Throughout its filings, the Estate has suggested that the SRC has no current prospects for future freight service. This allegation, which is central to the Estate’s claim, is both inaccurate and misleading.

The SRC has worked vigorously to develop future freight business for its line. As indicated in its Protest letter, the Maryland Recycle Company operates the Pen Mar Scrap metal recycling facility (“Pen Mar”) located adjacent to the tracks of the SRC. Pen Mar has indicated that it will need direct rail service for its business within the next two years. SRC representatives have met with Pen Mar and discussed the terms of future freight service over the Railroad’s line. Pen Mar has indicated that it strongly opposes the Estate’s adverse abandonment application.

The Railroad has also shipped cars and material for the Maryland & Pennsylvania Railroad Preservation Society. The Maryland and Pennsylvania has likewise filed a protest to the Estate’s abandonment application.

New business opportunities have also been created by the closure of the Columbia Forest Products location formerly served by SRC at New Freedom. The rail siding and railcar dock are extant and a real estate developer is now marketing the property for light industrial use. Moreover, the Railroad has the potential for transload operations that would extend its reach to all of southern York County and northern Baltimore County, Maryland through the Columbia Forest Products location and others along the line.

In addition, the Mann & Parker Lumber Company in New Freedom is a former SRC shipper that has the potential to resume operations at a level requiring freight rail service. Should Mann and Parker cease operations, the property occupied by its facility would be available for development by a new entity requiring rail service.

Further eastward on the SRC line in the vicinity of Shrewsbury, the newly constructed I-83 Industrial Park has available industrial land with links to the interstate highway system. The

proximity of this Industrial Park to the SRC's line provides the opportunity for significant additional development of the Railroad's freight business.

In short, the Board has never sanctioned the dismantling of a railroad where it has demonstrated the potential to continue to operate freight rail service and has made reasonable efforts to pursue that business. At present, the SRC has identified at least one major customer-- Pen Mar--that desires to use the line in the future. In addition, the SRC has investigated additional potential freight customers along the line and has reason to believe that these relationships will be further developed when the line is back in operation. The SRC submits that there is a strong public interest in preserving the access of these businesses to the national rail system and interstate commerce.

**4. There are no Public Benefits to be had by this Action.**

The Estate has failed to demonstrate any public benefit that would result from the abandonment of the Railroad.

It is particularly notable that the Board has not been willing to grant the adverse abandonment of a railroad even where a notable *public* interest was at play, provided that the railroad at issue had some freight prospects and was making legitimate efforts to restore itself to operation. For example, in Seminole, the Board denied Lee County's application for adverse abandonment even while recognizing that its action would cost the County's taxpayers over \$1 million in additional costs. Not surprisingly, the Board has reached the same conclusion where only a private interest was at play. In Yakima, the Board acknowledged that the applicant had a legitimate interest in forcing the abandonment of a portion of a rail line that crossed its property.

The subject railroad had not been in operation for some time, and had not even been able to perform minimum maintenance and vegetation control on the line. Nevertheless, the Board concluded that the PC &N did not warrant the abandonment of the line to advance this private interest.

Presently, the Estate fully admits that the only interest in favor of abandonment is private. The Estate maintains that the abandonment must be granted so that the executor can fulfill his “mandate to wrap up the Estate as soon as possible.” Yet the SRC has offered a proposal to repay the debt to the Estate over a stated period so that the Railroad would not be forced out of operation. As noted above, the Estate has adequate security to ensure that the debt will be repaid in the form of its lien on Railroad assets. The SRC has offered to transfer this lien to the residuary beneficiary of the Estate so that the Estate can be closed. While summarily dismissing the Railroad’s offer as inadequate, the Estate concedes that the SRC’s assets exceed the amount of the debt. If the payments cannot be made under the Railroad’s repayment plan, the Estate and its beneficiary will still have sufficient resources to secure the obligation.

Further, the SRC has maintained that it cannot hope to raise funds from private lenders unless the Estate or its beneficiary agree to an affirmative repayment plan. The Estate chides the Railroad for failing to make any payments on the obligation. Yet the Estate has also refused to even negotiate any type of repayment other than payment in full of the entire obligation within a year. In short, the Estate has worked to defeat the same pecuniary interest that it now suggests to be predominate.

The SRC submits that the private interest of the Estate in concluding its administration promptly does not warrant the abandonment of the Railroad. If the abandonment is not granted, the Railroad commits to repaying the obligation on terms that will allow it to stay in operation. This proposal represents a reasonable compromise of the interests at stake and is consistent with the Board's duty of preserving and protecting rail service in a rural community. Furthermore, as in Yakima, the Board can deny the present application without prejudice so that the Estate can re-file for abandonment if the Railroad does not restore itself to operation within a reasonable time.



# **ATTACHMENT 1**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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STB DOCKET No. AB-1071

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STEWARTSTOWN RAILROAD COMPANY

--ADVERSE ABANDONMENT--

IN YORK COUNTY, PA

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VERIFIED STATEMENT

OF

DAVID M. WILLIAMSON

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

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STB Docket AB-1071

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STEWARTSTOWN RAILROAD COMPANY

-ADVERSE ABANDONMENT-

IN YORK COUNTY, PA

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VERIFIED STATEMENT OF DAVID M. WILLIAMSON

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My Name is David M. Williamson. My address is: 172 Countryside Lane, Johnstown, PA 15904. I am currently General Manager of Jigging Technologies, LLC, which specializes in the separation of bulk materials, and currently is engaged in the business of recovering ferro-manganese from the extant slag deposits created by the Cambria Iron Company and Bethlehem Steel in the Johnstown Region. I am a mining engineer and manager with extensive experience in the construction aggregates, industrial minerals, cement and metals industries. As part of my engineering education at The Pennsylvania State University, I was in the last class held by the University to study Railroad Engineering. I have been a member of the American Railway Engineering Association (now known as AREMA) since the early 1990's, and have been a long-standing member of Committee 18, Shortline and Industrial Railways. I have extensive railroad experience, having served for more than 10 years as Superintendent of Track for the Maryland & Pennsylvania Railroad Preservation Society, 4 years as Vice-President Operations for the Buckeye Central Scenic Railroad, and as an industrial rail operator managing, in large volumes and large number of carloadings, the loading, unloading and shipping of various minerals and aggregates such as granite, limestone, mica, feldspar, kaolin clay, silica sand and Portland cement. I have been closely associated with the Stewartstown Railroad Company (SRC) since 1983, when I worked on the track crew

as a summer job restoring the railroad to service. I have been a major shareholder, owning 19% of the Company since the mid-1980's, and have served as Director 1996-present, Vice-President 2000-2008, and I became President upon the death of George M. Hart in April of 2008. I am very familiar with the current circumstances of SRC, and the developments that have led to the current rail line abandonment proceeding before the Board.

I have reviewed the voluminous filings of the Estate, and I have found many errors and misrepresentations that I would like to take the opportunity to correct. I strongly object to the tone and direction of the Estate's filings, which paint the current management group as incompetent, unresponsive, and unable to satisfactorily manage the Company. The current Board and Officers have worked diligently and untiringly to clean-up the mess left by the administration of George M. Hart. As Mr. Hart aged, he withdrew into himself and refused to allow anyone to help or intercede on behalf of the railroad, except for his close circle of confidants, (which included Brad Haines and Herman Bushman). An example of this is the decline and death of Hart's longtime secretary/accountant, Angie Ayers. When Mrs. Ayers was no longer able to work, she was never replaced by Hart. The last official financial statement produced by the Company was in 1999, which coincided with her departure. Time and again this happened. As Directors, employees, and volunteers (there has been a Friends of the Stewartstown Railroad group since the 1980's which did yeoman volunteer work to keep the rail line running). As members of the track crew left, they were not replaced, and less work was done on the line and the track deteriorated. Hart also began to use contractors more, but even their use was limited. Hart conveyed a sense to those of the next generation younger than him that none were "worthy" of working on the railroad, and almost everyone except Haines and Matthews left due to Hart's poor treatment.

Upon the death of Hart, I inherited a non-functioning organization. Bills were not paid, the Company records were a mess, the roof of the station was leaking, the locomotives were not serviceable, the vegetation was reclaiming the right-of-way, *ad infinitum*. It took the remaining directors (ex-Director Haines resigned several days before the death of Hart, and Director McFadden was non-participatory) several months figure out where the Company was financially, locate revenue sources, catch up on bills, begin maintenance activities, and begin to rebuild the base of supporters. I am very angry that the Estate's Adverse Abandonment filing dwells on the condition of the railroad and essentially blames the current active people for it, when the current state of the railroad is due ENTIRELY to Hart's mismanagement of the finances, people, and maintenance of the line. Hart's long-term business plan did not work, he resisted all efforts to do anything different that may have had a positive effect on the railroad's fortunes and operations. Hart would never say "no" to anything, he would take ideas "under advisement" but then he would never respond or make a decision. It took him two years once to decide what kind of wood to use to repair the enclosure around the station restroom!

I wish to clearly explain that this situation did not occur overnight. Other directors and myself made several attempts to reinvigorate the Company. Numerous attempts were made to find a way to bring in new capital and new supporters to the help the Company. All of these attempts were rebuffed by Hart and his supporters, they were completely resistant to any suggestion of change. For example, Director Ray Reter made a comprehensive written proposal to refinance and recapitalize the Company. This report was dated May 19, 1992 and I have a copy of it in my files. Hart refused to consider this proposal, and according to my recollection, created such a negative atmosphere on the Board that other Directors told Reter that he had offended Hart and was no longer wanted. Rather than be forced off the Board by Hart, and being publicly chastised, Reter withdrew his name from nomination for that election cycle. This is illustrative of how Hart endeavored to control the Company. After I was elected a Director, I would receive notice of Director's meetings, make plans to attend, and then the meeting date would be

changed to another date summarily by Hart and Bushman so that I could not attend. It was difficult for me to change travel plans on short notice as I was working out of the area at that time. They changed the meeting dates because they knew that I was advocating change and asking questions. When Director Bitten started up the Northern Central Ry dinner train, he was likewise not re-nominated and was forced off the board. Other directors (Lytle, Parks, and Yost) come to mind, as they resigned or left due to the way they were treated and the impossibility of getting any changes made. Bitten has also stated that he was not informed of scheduled Board meetings and was unable to attend and participate.

As the years went on, and Hart aged, the Board met infrequently and in several years there were no annual shareholder meetings, as required by the by-laws. I have attached a table showing what meetings were held in the various years. This is attachment "A". For example, no annual shareholders meetings were held in 2000, 2001, 2003, 2004, 2005. This was the period during which the decline of the railroad accelerated, and Hart refused or was incapable of taking action. The few monthly meetings that were held were held only after I repeatedly requested them from Hart, and several times had to engage lawyers to pressure him to meet.

In the mid-1990's, I also had to have a lawyer threaten to sue Hart, because he refused to allow me to examine the shareholder records and learn who the other shareholders were. I eventually learned that this was because this was how Hart controlled the stock ownership. No one knew who the other shareholders were, and when a shareholder wanted to sell his or her stock, they had to come to Hart, who quietly bought it up. Hart only offered stock to "yes" men who would do his bidding on the Board (Directors McFadden and Haines are in this category) and Hart never created a market for the stock that would reflect its true fair market value. Hart was still doing this as late as 2006 or 2007. There was a shareholder named "Enterline" who had 182 shares, 15.1% of the company, a major holding. Other Directors and myself wished to purchase this stock for offering to other potential investors who wanted

to become involved in the Company at that time. Hart claimed that he did not know who this shareholder was. I inquired about this holding many times. Hart always ducked the inquiries. Then, during the last shareholders meeting where Hart was living, it was the 2007 meeting, when votes were tallied all of a sudden Hart's holdings had jumped from about 355 to 537. We were all astounded by this. To this date, we have never seen or found the cancelled Enterline share certificate to prove that this was a legitimate transaction. Even if it was found, the certificate would have been signed and dated by Hart. At the same meeting, Hart nominated Ray McFadden to be a Director, to offset my nominations of Reter and Bickleman. We contested this at the meeting, as McFadden did not meet the shareownership requirement, as specified in the by-laws. Mysteriously enough, all of a sudden McFadden had shares and Hart was flourishing a share certificate, signed and dated by himself, and stated that he had sold shares to Mcfadden. Once again, Hart was manipulating the stock for his own motives and did not create any market in the stock to benefit the other 50 or so shareholders. Director McFadden has attended one Director's meeting since 2008, and has contributed nothing to help reinvigorate the Company. He will not resign his seat either, and is being coached by Bushmann to hold the seat so that another active director cannot be appointed. Bushman's refusal to attend shareholders meetings or to tender a proxy so that his shares can be voted has essentially frozen the make-up of the Board. I do not believe that this action is consistent with Director Bushman's duties of care and responsibility towards the good of the Company, and not for his own personal gain or in advocacy of the Hart Estate, which is against the position of a majority of the Board of Directors.

After the derailment of the Easter Train in April of 2004, Hart basically gave up. He made no effort to repair the track. His track crew was essentially down to one or two part time people. Another example of Hart's inaction is that one night the Board was meeting in the station. I believe this was at the December 3, 2006 Board of Directors meeting. A tractor-trailer truck veered off the road, clipped the station roof, and caused several thousand dollars of damage. We flagged down the truck, got the drivers

insurance and license information, and gave it to Hart, who would follow up on the insurance claim to get the roof fixed. He never did, and would not let anyone else do it, either. By now those who were left were his several supporters, and a few of us die-hard Stewartstown railroaders who would not go away. The Company lost several thousand dollars worth of insurance claim money that could have been used to repair the damage and the roof in general.

In desperation, and unable to persuade Hart to take any action, I wrote a letter to shareowners on February 18, 2005 as Vice-President, asking for support to get the railroad back in operation (Attachment "B") This letter received no support. We tried several more times to get the Board meeting regularly and to have shareowners meetings. During this time Hart had lost his driving license and been diagnosed with early Alzheimer's and was spending less and less time at the railroad, and had to be driven by a paid chauffeur.

Finally, we were able to get a shareowner's meeting in January, 2006. At this time Hart attended with his Attorney, James Nanovic. At this meeting, the lein which is the cause of this adverse abandonment proceeding was presented. The lein was never completely read to the Board, only one copy was hastily circulated, and a vote was quickly held. There was not adequate time to consider the lein, or to bring in outside or individual council. In fact, the lein as presented contained two additional clauses. One was to have interest at the rate of 6% accrue from that date, the other was to automatically have any monies that Hart spent in addition to the amount specified rolled onto the 1999 amount. Unable to see any way that accruing interest could ever be paid, or to verify what Hart had spent in the time period 2000-2005, I moved that these clauses be stricken, and they were. I refused to vote for the lein if it contained these clauses. Therefore the amount that the lein was pegged to was the \$352,415 that was detailed in the last compiled, accountant's report. The Board also stated that if Hart spent additional money, or could document the 200-2005 amounts, that he could return to the Board and ask for another resolution to

have these amounts added. This he never did do up until his death. During the meeting, Hart was asked by Haines if he expected to be repaid, and Hart stated that he would like some of it back. Hart was asked what his plans for the railroad were, and he stated that he wanted to keep the line running. During this discussion, Attorney Nanovic repeatedly stated that the purpose of the lein was merely to "document and memorialize the debt" and he definitely led everyone to believe that the lein would never be acted upon. This issue had been a concern to all for many years. Hart had stated many times and to many people that he loved the railroad and would provide for its' continued operation in his will. Based on these repeated statements and assurances, heard by all the directors over the years, his record of dedication and service to the line, and the respect he had developed, the Board accepted the lein, minus the interest and additional monies clauses. Certainly I would not have voted for it had I known what was to come in the actual will. I don't think the majority of directors would have, either. We all expected the lein to be forgiven in the will and an endowment created to sustain the railroad. We also know that the will was changed after the lein was approved by the Board, but that is an issue for the civil court. I think that the question that needs to be asked is, "IF Hart wanted his money, why did he not take action to foreclose on the lein while he was still alive, President, and in a position to do so?" Hart was still making payments on the bills (with checks written by Haines from his hospice bed) as late as January, 2008, and still telling visitors that he wanted the railroad to continue on. Why would Hart put his long-time friend and executor, Mr. John Willever, up as the bad guy to do the collection? This is not fair to Mr. Willever, and Willever is only proceeding under threat of suit from the Bucks County Historical Society (BCHS) who is the residual beneficiary, if he does not collect all of the money.

During the mid-part of 2006, a group of concerned shareholders and Directors had been meeting, trying to figure a way out of the issues of what to do with the railroad and Hart. Hart's health was deteriorating and he was doing less and less, but still not letting go of the presidency. No one from this group had the heart to initiate legal action to have him declared incompetent, or was willing to front the

legal costs to do so. An attempt was made to get the railroad repaired and back in operation, with a letter I sent to shareholders and supporters, dated August 24, 2006. This letter is attachment "C" This letter was followed by a letter signed by George M. Hart, "attachment "D" though actually ghost-written by Herman Bushman. Hart was in such poor health that there was no way he could have written, typed and distributed such a letter to all of the shareowners. This letter forbid any work on the railroad, basically stating that any work or access by people not sanctioned by Hart, specifically Vice-President Williamson, was trespassing, that the proposed work day for September 16<sup>th</sup>, 2006 was forbidden, and no volunteer efforts would be tolerated. Soon after this letter, Hart changed the locks on the station to prevent access by other officers and directors. It is clear that this letter was written in the third person and not by Hart. On page two Bushman disparages the efforts made by the stockholders and directors to get the railroad going again as not a hobby organization or home for "rail orphans". Bushman uses similar language in his verified statement on page 6, stating that current management wants to "play with trains". Operating excursion trains, and gearing up to be able to haul freight once again, to support the railroad is no different under current management than it was during the period 1986 through 2004 under the Hart administration. After the September 16, 2006 letter, the SRC supporters were unable to do anything. It is also telling that Director Bushman, writing as Hart, states in the 2006 letter, "only George M. Hart, President, Stewartstown Railroad has authority to authorize work dates, coordinate repairs, deem people qualified to work, etc." This statement is paraphrased from paragraphs 1, 6, 7, and 8 of page two of the letter. However, now that I am President, that does not seem to hold true, as now Bushman feels that he is authorized to have outside third parties (Haines, who resigned as Director in 2008 and has not been around since) to trespass upon the railroad property to do an incomplete and unauthorized track inspections. In Haines report, he says that he walked around on Company property, and he was not authorized by the current President to do so. I request that the STB have Bushman's testimony and Haines' unauthorized and illegally completed track inspections stricken from the record,

as they were illegally obtained, in accordance with Hart's and Bushman's own writings (and the current policy and position of the majority of the SRC Board) as contained in the letter signed by Hart dated September 5, 2006. Bushman's reasoning has changed over the years, and he is clearly reversing his reasoning to reinforce his position. This is another example of where Bushman is aligned with the interest of the Estate, and the pecuniary gain he hopes to obtain from the liquidation of his stock, where his duty lies with the Company.

After several attempts, a shareholders meeting was finally held in March of 2007. At this time Hart was challenged about changing the locks on the doors. According to Attorney Nanovic, this was within the authority of the President, even though he was locking out duly elected and seated officers and directors. Hart repeatedly fell asleep during this meeting and could not speak clearly for much of the time.

Referring to the Estate's filing on page 3, the Estate states that SRC has not taken any steps to liquidate assets, and has "dragged its feet" on possible sales to a third party. The SRC has taken steps to liquidate assets, and has sold considerable quantities of scrap steel and surplus materials to interested parties. Unfortunately, the railroad has no assets that it can sell and still remain an operating railroad, which has been the decision of the Board of Directors and the active stockholders. While the Board did approve a resolution, (presented in Bushman's Statement as Attachment 3) signed by Renee Bitten, dated December 31, 2009, and stating an "invitation For Proposals to Purchase the Stewartstown Railroad" which was duly posted at the station and circulated upon the Internet and in various railroad industry publications, I have never seen the two page "Resolution Stewartstown Railroad Company To Be Sold" (also contained in Bushman's Statement, Attachment 3) and assert that such resolution was NEVER presented to, circulated or approved by the shareholders in the form given in the statement. Hart had circulated a "Reolution For Dissolution", dated in the year 2000, that is very similar to the document

that Bushman is supplying, but to my knowledge this document nor Bushman's were never formally presented to the Board for discussion or vote. The resolution approved by the Board, signed by Secretary Bitten and circulated to the public, specifically states that the railroad should be sold to entities for continued preservation and operation, and that it was not the intent of the Company or the Board to scrap the railroad or abandon it.

Since the death of Hart, Director Bushman has not attended Board meetings, not contributed anything constructive to try and help the Company other than to advocate the sale of the Company. Throughout my association with the Company, Bushman has been against any efforts to refinance the Company, sell stock, bring in additional investors or supporters. Over the years, Bushman has written various letters and documents ( the most recent is dated 6/30/2011 and is Attachment "E") castigating everyone who has tried to change anything. The most recent one was received by me in June of 2011, dated 6/30/2011, in which Bushman forbids anyone from doing anything to refinance the Company. Bushman also states in this letter that "the shareholders run the Company" and that the Board can do nothing with stock or refinancing of the Company, without shareholder approval. However, as in all corporations, large and small, the Officers of the Company run the Company, following the direction and policy of the Board of Directors. As Mr. Hart and Mr. Bushman have stated in the past, "all stockholders are equal, none get special treatment." If Mr, Bushman as a large shareholder does not like what the officers and Directors are doing, then he should attend a shareholders meeting, nominate and vote for a slate of Directors who will do what he wants. Mr. Bushman has not attended recent shareholders meetings nor voted his shares, which in essence prevents a quorum from being realized.

SRC has fielded and responded to a number of parties that made inquiries or proposals in response to the Board resolution advertising for proposals. These include meetings with:

- William Vance, Countryside Real Estate, who only wanted to purchase the station property, who had no interest in purchasing or operating the railroad, and who never submitted a verbal or written offer for the station property.
- Matthew Bubb, another real estate speculator who wanted the Stewartstown station, who, when touring the property, brought along a scrap dealer, and stated "this thing should be torn up and the property and equipment sold" Bupp clearly had no interest in preserving or operating the STRT. He never submitted any verbal or written offer for any of the SRC's properties.
- Nathan Kovalchick, of Koval chick Salvage Company, Indiana, PA, who wanted the entire railroad and its stock for the amount of the lein, which would have been less than 25% of the fair market values of the Company, using the Estate's own appraisal values.
- Tom Myles, CEO of the Myles Group, Exton, Pa., who also operates the Wellsboro and Corning Railroad, made inquiries and we sent him documentation on the railroad and had several lengthy telephone calls. He never made any verbal or written offers for the property.
- Don Kress of the Codorus Creek Railway, submitted a written proposal, and we had lengthy e-mail, and telephone call discussions with him. We met with him individually and invited him to present his proposal at the April, 2011 SRC Board of Directors meeting. His proposal was again just enough to cover the amount of the lein, and did not recognize the fair market value of the Company. When asked to provide some evidence of financial responsibility to even complete the transaction he was proposing, Kress was unable to do so. Kress has been rejected by the County of York in his efforts to purchase the Northern Central Railway. The Board determined that Kress's offer was not a valid one and not in the best interests of the Company.
- Various letters and inquiries have come in from various parties and we have responded to them in a prompt and professional manner. Most of them wanted us to give away the locomotives or

even the entire railroad to some individual or entity who had the opinion that “they wanted a chance to run the railroad” or “we can do better with it than you can” and these inquiries were rejected by the officers or Board of the SRC has having no substance or not enough cash to even begin to attempt to pay off the loan.

- In addition, numerous inquiries have been made directly to the Estate to purchase assets or more commonly donate assets to some group or other, and SRC has responded to these requests as well.

SRC also objects to the Estate’s statement that is “financially irresponsible” and “not creditworthy”.

Since the death of Hart, the SRC has operated within its income, has in fact made small profits, and has made significant investments in restoring the railroad to service. SRC notes that no financial statements were compiled and distributed by Hart for the periods 2000-2008, that Hart left uncashed checks lying around the station, and that Hart did not manage the financial affairs of the Company on a professional basis. For example, the SRC has a license agreement with Shrewsbury Township that brings a yearly fee to the railroad. Hart did not cash the annual checks for a number of years, and eventually the Township stopped sending checks . Only when we found one of these uncashed checks in the station paperwork were we able to follow through with this and receive payment of the back monies due. Hart did not pursue monies due the Company and other sources of income (such as car storage, contract repair work leasing of reporting marks, rental or leasing of the locomotives) and the lack of income and deteriorated condition of the physical properties is a results of the lack of efforts on Hart’s part and his limited business acumen.

On page 6 of the Estate’s filing, the Estate asserts that “the SRC has since examined the conveyance records under which SRC originally secured its right-of-way, and has concluded that these documents reflect that SRC most likely possesses a mere easement interest in the right-of-way” This

is incorrect, SRC has examined the original deeds, all of which are in our corporate archives, and the deeds all state that the right of way was "sold and conveyed to hold", which is really a fee simple ownership. There are no reversionary clauses in any of the deeds. (Sample deed for a property is attached as exhibit \_\_\_\_). Once again, all remaining properties with value, are essential to the continued operation of the railroad, and selling them would destroy any potential of operating the railroad as an ongoing entity. The exceptions to this are the LaMotte's lot at about \$15,000 and the Shrewsbury Station House at \$25,000. Even if the locomotives were sold, these assets amount to only \$74,428, only 20% of the value of the lein.

The Estate asserts on page 8 of its filing that the SRC has not made any payments to date to the Estate. On July 12, 2010, I sent a letter to John Willever, asking if the Estate would accept partial payments, as the Capital Campaign being managed by the Friends of the Stewartstown was having some success. This was bullet point #4 on page two of the letter. As recently as July 8, 2011, David Watson, Assistant Secretary of SRC, received an e-mail from James Gillotti, Attorney at Oliver, Price, and Rhodes, who is the Estate's attorney, stating, "**Must be payment IN FULL of the entire \$352,415.** Please do not make any offer that calls for payment of less than that amount, or which provides for a series of payments." The emphasis and bolding is Gilotti's. This e-mail is Attachment "F". We would be glad to begin making partial payments, as long as we had assurance from the Estate that they would not sell the lein to a third party for a smaller amount.

The Estate makes an assertion on page 21 of its filing that that SRC has "made little credible effort over the past few years to secure freight traffic" this is true, only because the connecting Northern Central Rail Line has been out of service. However, since the Steam Into History group is restoring the rail line, it has become realistic to begin soliciting freight business and for moving the restoration of the western end of the line to a higher priority. Steam Into History has only become

public within the last year, and our efforts to secure freight business resumed when we learned what they were doing. To say that our emphasis on resuming passenger excursions from the death of Hart until recently is indicative of a lack of interest in freight service is patently unfair. (page 13, note 25 of Estate filing) In the time period before SIH was created, it made perfect sense to begin concentrating repair work on the west end of the line as that is where the enginehouse and station are, and the majority of tools and supplies are stored. To say that this is evidence of no interest in freight service is ridiculous. The west end of the railroad will need repaired to be able to get the locomotives out of the enginehouse and service and fuel them at the fuel pump, located at the west end of the station. We have made extensive efforts to re-establish our freight business, calling on potential shippers in person, launching a new website, [www.stewartstown railroad company.com](http://www.stewartstownrailroadcompany.com), meeting with potential shippers and investors, meeting and negotiating with the principals at Steam Into History, and also with representatives of the connecting railroads at York Railways. Responding to the Estate's numerous and voluminous filings has seriously detracted from the time and energy that could be devoted to developing freight business in the last year.

The Estate takes many pages to denigrate the condition of the STRT railroad and the fact that the railroad is not currently suitable for freight service on at least FRA Class I track. The Estate uses this to insinuate that the railroad cannot be returned to operating condition in a reasonable time frame and also insinuates that this is somehow the fault of the current management group. The condition of the railroad was poor in 2004 when the Easter Train derailed in April near the Iron Bridge. The Hart administration did nothing to repair the railroad or do regular periodic maintenance in the period 2004-2008. The current management inherited the railroad in poor condition and should not be blamed for its condition. Quite to the contrary, we have gone to great efforts to begin the large task of restoring the railroad to service. We have a number of people with extensive track maintenance experience. We have bigger track crews now than when the railroad was operating.

We have better equipment now than in the pre-2004 years. During the whole operating history of the railroad from 1983 through 2008, the only track maintenance equipment the line had was a small gasoline motorcar, wood deck push car, and hand tools. We now have a large diesel motorcar with air brakes, several all-steel flatcars, an eight ton bottom dump ballast car, diesel powered, hydraulic tie crane, and a full compliment of all of the common air-powered and hydraulic –powered track tools. We also have supporters who are in the railroad contracting business who have diesel-hydraulic tie injectors, hydraulic spike drivers, tampers, and scarifiers. This equipment is available to us on a periodic basis at reasonable cost. We can now install more ties in two or three days than were installed in a year in the past. I have attached a document entitled “Accomplishments of the Stewartstown Railroad 2008-2010” which details many of the projects which we have undertaken. This is attachment “G”. We have the resources to rebuild the railroad. The Estate, on page 12 of their filing, goes to great lengths to assert that we have not completed year one of a sample five-year track rehabilitation plan which we provided the Estate in response to their discovery question. I do not know how they can assert this, as no valid track inspection of the railroad was done by a qualified and authorized inspector, and Haines states in his unauthorized and illegal partial inspection that he only walked around the Station yard a little and walked less than 1/5 mile of track. In essence, the plan was only a guide to get our track program going with some direction. In reality we have changed the plan to focus on repairing damaged spots on the roadbed that if left go would prevent operation of the railroad for maintenance purposes such as weed spraying, brush cutting, track inspection, and spot tie replacement. All of these deficient spots were evident prior to 2004, were not by trackman Haines in previous SRC Board discussions. Neither Hart as President and General Manager nor Haines, who was supposedly the competent person in charge of the track department, did any work to repair these spots prior to 2004 or from the time period 2004-2008. Since 2008, we have installed a new 24 inch culvert pipe at

just west of the Waltemyer Road #3 crossing, and filled in the area where the previous too-small culvert had washed out, replaced ties as necessary, and ballasted and tamped the track at this location. The Estate (page 13 of its filing) disparages volunteer workers as somehow being inefficient, incapable, and once again unworthy. However, a crew of volunteer workers hand dug the trench for the new culvert pipe, moved the pipe into place using bars and levers, placed rip rap at the outfall of the pipe, and completed the track repairs during three hot sunny June days. The work crew did a quality job, worked safely, and had a great time performing this repair. This location is now in Class I shape and safe to operate over. Likewise, we also repaired the outfall of another culvert (about 400 feet west of Iron Bridge Road) where the water was eating into the railroad embankment and had scoured the embankment to up under the ties. This spot was repaired with 23 tons of 24 inch to 36 inch limestone riprap, hauled to the site (which is far off the nearest road) by rail and placed by hand (and gravity) into the hole scoured around the culvert pipe. Once the hole was filled, the track was properly ballasted and raised back to proper level. I have attached one photograph of this work, Attachment "H", and we have many hundreds of photographs documenting the work done to-date. We would be glad to supply more photographic evidence should the Board wish documentation of the work done. We have also filled and ballasted numerous holes and low spots along the right of way. We have had an on-going program of spot tie replacement along the entire length of the railroad where low joints or wide gauge have been observed. Over 75 ties have been replaced at various spots over the length of the railroad. Apparently pseudo-inspector Haines did not observe this work during his incomplete inspection! We have replaced loose and missing joint bolts, broken joint bars, and installed gauge rods where on-going inspection has determined necessary. We are currently working on repairing an eroded stream bank near the town of Tolna, which will take approximately 29 cubic yards of riprap to fill, and some eventual tie replacement and ballasting. This material is already purchased and on hand.

This job will be complete by early September. When this job is done, we will begin to work on another culvert with an eroded outfall discharge area, this one is just east of the Mann & Parker Lumber Company loading track. This will be the last spot to repair where there is a significant deficient spot in the road bed. We can then focus entirely on tie replacement and drainage improvement. Director Bitten has loaned us their Ford backhoe for ditching work. Support for the railroad is growing, and we are now fielding the "Wednesday evening track crew" in addition to the regularly scheduled work days. This crew has been roving over the line, working on cutting back brush, and clearing culverts and ditches to enhance drainage. It has been years under the Hart administration since this work was done. Once the brush is adequately cut back, this crew will begin working on tie replacement as well.

On page 12 of the Estate's filing, note 20, the Estate criticizes the SRC for spending too little money per mile on track maintenance. On the table I developed in response to the Estate's discovery filing, see notes and comments, response #5, attachment "K", I note that much of the work done in 2008 and 2009 was done using up inventories of track materials on hand, there fore not much expenditure was needed. In 2010 we began to spend more on track maintenance, and since the discovery responses were due early in the season for 2011, not much had been spent as of the date of the response filing. As an example, of what the Estate is missing here I will describe some vegetation control work. JC Ehrlich, a nationally known vegetation control company, quotes the cost of \$1750 to spray the 7.4 miles of SRC's right-of-way. In 2010 and 2011, the right-of-way has been sprayed twice by a volunteer of has a hi-rail truck equipped with a spray rig, and he has donated his time and effort, and the chemicals, because he believes in the importance of SRC to the economy of the region.  $\$1750/7.4$  is another  $\$236.49$  /mile/year of track maintenance equivalent spending. If I were to continue to add up the cost of other donated materials (say 75 ties at  $\$30.00$ /tie plus trucking=  $\$304$ /mile/year) backhoe rental, equipment donations, and other items,

we will approach or exceed the \$3,000/mile that the Estate asserts is a reasonable number for maintenance cost per mile per year. We can see that we are making progress and that the property is in better shape after each workday!

In its filing on page 13, the Estate disparages the SRC for not completing a grade crossing repair at Bailey Springs Road. The Estate says that this repair has not been done due to lack of money on SRC's part, and cites a quote for the repair work we supplied in Discovery. We have other quotes from Allott Construction and Shiloh Paving as well, and frankly this work has not been done since Eric Bickleman and myself (we have been working together on this project) have spent much of our time the last few months responding to these voluminous, unnecessary and incorrect Estate filings! In this case, the Estate has no clue what they are talking about. In actuality, funds to repair the crossing are held in escrow by Stewartstown Boro, as was a condition of the installation of the crossing back about 1999. SRC is not paying for the repair, and therefore cost of the repair is not reflected in SRC's repair plans or budget. The Estate's filing is full of assertions and extrapolations designed to look bad when they do not have the full facts and understanding how to interpret the information they do have.

The Estate once again criticizes the SRC on page 13, this time over the condition of grade crossings. The grade crossing condition is at it was inherited under the many years of the Hart administrations deferred maintenance, and is not our fault. The documents supplied the Estate in discovery (request #20) that indicate search for funding and inspection and assessment of the crossings in fact indicate that we are aware of the condition of the crossings and are working in an organized and systematic process to improve them. We have cut vegetation back where necessary to improve sight distances, are working to replace missing crossbucks, and will install required signs and reflectorized tape as this work is done. We have considerable inventory of signs and posts in stock. As in the Bailey

Springs crossing repair described above, responding to the numerous Estate filings is taking time and effort away from the work of restoring the railroad. We should not be tarred with a bad brush by the Estate because this work is not complete. There is a lot of work to do on the railroad, it is a big project and will take some time to complete. However, we have the people, skills, tools, equipment and resources to complete this job, and are confident that we can rebuild the railroad once this debt issue is settled.

The Estate also addresses the SRC's locomotives in both Haines' comments and the "Trans Systems Report" specifically loco #10, our GE centercab. I would note that the Trans Systems inspection was done in August 2009. At this time, we were still reorganizing the Company and no work had been done to the locomotives. Since the report was made, we have removed the old batteries from loco #10 and cleaned the battery box. Loco #10 would be operable when new batteries are installed and the required FRA 92 day inspection is done. Loco #9 has had new battery installed, and is started and run on a regular basis for maintenance and testing purposes. It could easily be returned to FRA "blue-card" approved status upon completion of the 92-day inspection, and air brake valve update. This work can be done quickly and easily (within a week, I would estimate) once the locomotive is needed for revenue freight or passenger service. Loco #10 could easily be returned to service within a couple weeks when needed. Both locomotives have been kept safely and securely in the Stewartstown enginehouse and have been washed and lubricated periodically. A source for batteries for the 32-volt electrical system has been located, and they are readily available. We have had extensive discussions and negotiations with the principals at Steam Into History about renting and/or leasing locomotives to them for switching service or back-up motive power, this would provide additional revenue to SRC. Since SIH has no interest in hauling freight themselves, we have also had discussions with them about using SRC locomotives and qualified crews to move freight originating on the SRC line, or on the NC Ry line, to York to meet the

connecting railroad. This would be perfectly feasible for us to do as we operated and maintained the NC Ry line for the time period 1985-1992, and still have trained engineers and crew who have operated over both lines.

I have described and detailed many of the inaccuracies and fallacies in the Estate's filings. To refute every point would take many more pages. I am confident that the SRC has the ability to restore the railroad in a timely fashion, and once again make it an engine for growth for the entire southern York County region, creating jobs, taking trucks off the road, and moving goods and people between New Freedom and Stewartstown, as it was designed to do, and as it has done for the last 126 years. For the reasons described above, I believe the public convenience and necessity is clearly served best by keeping the SRC an operating and working railroad, and I urge the Board to deny the Estate's Adverse Abandonment request.

#### VERIFICATION

I, David M. Williamson, verify under penalty of perjury that the foregoing is true and correct.

Further, I state that I am qualified and authorized to file this Verified Statement.

Executed on ~~July 16<sup>th</sup>~~, 2011

Signed: David M. Williamson  
 PRESIDENT, STEWARTSTOWN RAILROAD COMPANY

Dated: AUGUST 16, 2011

# **EXHIBIT A**



# **EXHIBIT B**

# STEWARTSTOWN RAILROAD COMPANY

P.O. Box 155  
Stewartstown, PA 17363  
(717) 993-2936

Dear Shareholder:

February 18, 2005

The past year, 2004, posed many challenges for your company. As many of you know, a derailment of the Easter train in April damaged a length of the main track. While some repairs were done, the company was unable to complete the repair. The railroad was not operated for the rest of the year. In addition, there are several locations on the railroad where the track has been undermined, including a substantial spot on the west end of the railroad. The Stewartstown station roof is in poor condition, as is the Hungerford station roof.

On the positive side, the locomotives are in good operable condition, the engine house is sound, and considerable repairs have been made to the Stewartstown station roof. The line is still charming and appreciated by many people.

The Board of Directors held a meeting at the station building on January 29<sup>th</sup>, 2005. The Board spent several hours discussing and analyzing the situation. While no decisions have been made as to the long-term future of the company, numerous plans and options were and are being considered. In the short-term, the consensus of the Board is that we would like to operate the railroad on a limited basis in 2005. This will help prevent further deterioration of the line by conducting as much maintenance as we are able to do. Operations will bring in income to pay ongoing expenses, provide for some additional track repairs, and help to guard against encroachment upon and appropriation of our property and right-of-way. And, operation will also keep "the railroad that refused to die" living up to its name!

In order to make necessary repairs to the track, we have estimated that approximately \$2,000 in materials are needed. The Board is asking that each of you as a shareholder send us as much of a contribution to purchase the materials (ties, spikes, gauge rods, fuel) as you can. We plan to complete the repairs in March as soon as the weather permits using essentially a volunteer work crew. I believe that as a group we can get the railroad back in operation. Your support of this project I believe will at least be an indicator to the Board as to how much energy, enthusiasm and resources we are willing to devote to keeping the company alive. Please mail your contributions to the company at the above address as soon as possible. If you would like to help on the work crew or during the resumed operations, please contact Ken Bitten at (717) 993-3421.

We have tentatively scheduled an annual shareholder meeting to be held at the station on April 16<sup>th</sup>, 2005. Look for an official announcement and proxy statement in advance of that date. By then, we will have a feel as to our success in resuming limited operation and some more refinement of our ideas for moving forward in the future. In the meantime, I urge each and every one of you to send in a contribution, come out to work and help us get the railroad going again, and to contact any director, officer, or myself with any questions or suggestions you may have. The future of our company depends on our interest and activity this year and I sincerely encourage each of you to help out in whatever way you can. You can contact me by telephone at (989) 695-6881 or by e-mail at [fairmontdave@speednetllc.com](mailto:fairmontdave@speednetllc.com).

Sincerely,



David M. Williamson  
Vice-President

# **EXHIBIT C**

# STEWARTSTOWN RAILROAD COMPANY

P.O. Box 155  
Stewartstown, PA 17363  
(717) 993-2936

Dear Friends:

August 24, 2006

The past years have posed many challenges for the Stewartstown Railroad. As many of you know, a derailment of the Easter Train in April 2004 damaged a length of the main track. While some repairs were done, the Company was unable to complete the repair. The railroad has not been operated for public excursions since. In addition, there are several locations on the railroad where the track has been undermined, including a substantial spot on the west end of the railroad. The Stewartstown station roof is in poor condition, as is the Hungerford station roof.

On the positive side, the locomotives are in good operable condition, the engine house is sound, and considerable repairs have been made to the Stewartstown station roof. The line has been sprayed this summer for vegetation control. We have on hand all of the tools and equipment to operate and maintain the railroad and its properties. The line is still historic, charming and appreciated by many people. Every time I am working at the station or out on the line, people from the community stop by and comment that they are sad to see the state of things, wish they could ride again, and offer support.

A group of shareholders and supporters has been organizing the last few months to begin an effort to repair the track and right-of-way to resume limited operations. If we are successful, we can continue repairs to the buildings and track with an eventual hope for resumption of public operations on a regular basis. In essence, we are creating a new "Friends of the Stewartstown Railroad" group, which will operate with a mission of supporting the preservation, restoration, operation, and history of the railroad.

To do this, we need each of you to do several things:

- First, raise some money. We estimate that the initial repairs to the track and road bed will cost approximately \$2,000. We are asking you to make a **non-tax-deductible, non-debt incurring** gift to the group to help get things going. **You get nothing for this gift other than the satisfaction that you have helped save the railroad.** The group intends to seek 501(c)3 tax-exempt status, but that is a way off and we can't wait another year. Please send your gifts to the group care of Eric Bickleman at PO Box 66, Dallastown, PA 17313.
- Second, come out and help us work on the railroad. We are scheduling a work day for Saturday, September 16<sup>th</sup>, 2006 starting at 9:00 AM. Bring lunch, drinks, gloves and hard toe shoes if you have them. We will finish by 5:00 PM.
- Third, spread the word! We are building a computerized database of all of our friends, supporters and stakeholders. We need to mobilize all the supporters we have! If you have received this letter, you are already on the list. If you would like to be removed from the list let me know. Send names, addresses, telephone numbers, e-mail addresses of people you know who would be a friend of the railroad to me at [fairmontdave@speednetllc.com](mailto:fairmontdave@speednetllc.com), or phone me at 989.695.6881.
- Fourth, watch our website at [www.stewartstownrailroad.com](http://www.stewartstownrailroad.com). Eric Bickleman and John Eline are the webmasters and will be posting updates, requests for help, and schedules on the website.

No long-term decisions have been made as to the future of the Company, though everyone has to understand that it is much in doubt at this time. We have been considering many plans and options over the last two years. However, every day the weather continues to deteriorate the railroad, and we feel that we must take action to prevent further deterioration of the line by conducting as much maintenance as we are able to do. Operations will bring in some income to pay ongoing expenses, provide for additional track repairs, and help to guard against encroachment upon and appropriation of the railroad's property and right-of-way. Our plans right now include resumption of souvenir sales, some motorcar meets and possibly a caboose charter or two for the supporters group. These operations will help keep "the railroad that refused to die" living up to its name.

I think that this effort will be instrumental in helping us gauge how much support there really is among us and within the community. This will help the Board of Directors and Officers of the Company to decide on which course of action is appropriate for the future. Now is the time for you to show that support with money and help. The future may be too late. We need to start receiving contributions prior to the September 16<sup>th</sup> workday as we will need to purchase ties, ballast stone and rent a backhoe.

If you have any questions, please feel free to contact me at the number above. More details on all of these topics will be forthcoming in the near future.

Sincerely,

A handwritten signature in cursive script that reads "David M. Williamson".

David M. Williamson  
Vice-President  
Stewartstown Railroad Company  
9745 Buck Road  
Freeland, MI 48623  
989.695.6881  
fairmontdave @speednetllc.com

# **EXHIBIT D**

# STEWARTSTOWN RAILROAD COMPANY

P.O. Box 155

Stewartstown, Pennsylvania 17363

To: Members of the Board of Directors of Stewartstown Railroad,  
Shareholders of Stewartstown Railroad Company, and Parties of Interest

Subject: Letter distributed by David Williamson under Stewartstown Railroad  
Company letterhead dated August 24, 2006. Received 9/2/06

Subject letter was distributed without the authorization and approval of the President of Stewartstown Railroad, George M. Hart, and its Board of Directors. The contents are not authorized. In fact, the letter indicates an unwarranted assumption of authority by individuals not sanctioned by Stewartstown Railroad Company.

Stewartstown Railroad Company is a common carrier whose operations and maintenance must conform to all state and federal regulations.

Stewartstown Railroad Company is a shareholders corporation registered in the Commonwealth of Pennsylvania and governed by its by-laws. Outside groups of individuals have not been sanctioned to interfere in the administration, operations, and maintenance of the railroad.

Track inspections of the railroad are made regularly by Brad Haines, track foreman, and assisted by Don Matthews at the direction of George M. Hart. The report is made to him.

The unsatisfactory condition of the track is well known. It has been for several years due to lack of considerable funds for repairs. The track is unsafe for any rail operations. Stewartstown Railroad has had very limited annual income. Funds required for limited maintenance, paying insurance, utility bills etc. have been provided by George Hart.

Insurance and liability associated with the railroad is a primary concern. Stewartstown Railroad has fire insurance for the station and engine house. Accidents on its property are covered by limited liability insurance, locomotive operating insurance has expired; locomotives cannot be operated. Volunteers, such as working groups, are not covered by insurance. Stewartstown Railroad cannot accept the risk and liability particularly of volunteer workers, especially unauthorized personnel.

Unauthorized persons tampering with railroad property or unauthorized occupation of its property, including the station house, are considered TRESSPASSING on railroad property.

Stewartstown Railroad cannot accept responsibility in the operations or storage of equipment on its property, not owned by Stewartstown Railroad Company. Stewartstown Railroad has not been co- insured .

A new "friends of the Stewartstown Railroad" group is not sanctioned by Stewartstown Railroad. It is a group of individuals with their own individual interest-not beneficial to Stewartstown Railroad. Authorized volunteers are approved by the President for operation and maintenance as has been in the past.

Eric Bickleman has not been authorized to solicit money on behalf of Stewartstown Railroad by the President or its Board of Directors. Bickleman is a shareholder, but as any other shareholder, does not have the authority to act on behalf of Stewartstown Railroad.

Stewartstown Railroad has always been open to accept grants over the years, many requested from local and state: no money grants were made available. Two thousand dollars is not going to make the track safe for any operations; the risk is not acceptable. It may pay utility bills.

No work date for September 16<sup>th</sup> had been requested, approved, or authorized by George M. Hart, President, Stewartstown Railroad. It is not authorized. Further any repairs must be coordinated by the track foreman, Brad Haines, and authorized by George Hart. None of this was done. Brad Haines is fully aware of the conditions of the track. Volunteers are not authorized to work on the track; are not covered by insurance.

Repair work, properly arranged, work date scheduled, and coordinated with the track foreman and authorized by George Hart will be considered- If such work is beneficial to the advantage of the railroad. Qualified personnel will be determined. Such limited work does not necessarily meet safe track conditions for operations.

No authorization has been given to Bickleman to build a computerized base of "our friends, supporters, and stakeholders". This has not been discussed, not its purpose, or assumed commitment as to the interest of Stewartstown Railroad. Stewartstown Railroad is not a "hobby organization" or home for rail orphans.

Eric Bickleman has not been authorized to set up a "web site" using the name of Stewartstown Railroad. Bickleman can have his web site under his name but not under the official name Stewartstown Railroad Company. This web site should be removed – it has not been discussed.

John Eline did not authorize use of his web site or use of his name. He has removed his web site – and any connection to his name.

One should not make any false pretenses about operations or the railroad – "Motorcar meets, a caboose charter or two, and locomotive joy rides, for supporters groups"- the railroad in its current condition is not safe for any operations. George Hart has given consideration about a rail bus to generate some money – but again would it be safe and insurable? Many plans for the railroad have been discussed since 1985 upon resumption of rail operations. There has been very limited support from local communities and officials. There has been talk about sale of the railroad – this would help pay off debts of the railroad, overdue wages, and money loaned to the railroad.

Williamson's letter makes reference to use of the company telephone and the station; this phone is for use of official business of the Stewartstown Railroad Company, not individuals. If there are any questions you can contact me at (570-325-5205).

Sincerely,



George M. Hart  
September 5, 2006

Copies to:  
Board of Directors  
Mr. James Nanovic, Esq.  
Shareholders

# **EXHIBIT E**

David Williamson  
Vice President/Acting President STRT RR Co. Inc.

Subject: STRT RR Stock

In my view, the email between Reter and Williamson of June 9, 2011 is another attempt to manufacture/manipulate a means to obtain unauthorized shares that the previous Officers, Directors, Shareholders, legal Counselors (Solicitors) since September 10, 1885 never deemed were available for people/businesses that requested to buy shares in STRT RR Co. The reason was there was never "any authorized share for issue" beyond the 1400 shares authorized at par value of \$50.00 with 1205 shares issued to cover the actual proposed cost of the railroad constructed- the cost being between \$59,000 and \$60,000 recorded. The unissued 195 shares not required in the cost of construction were designated treasury stock, "property of the shareholders".

The 1400 shares were based on the projected, prospective capital stock of \$100,000 being at least \$10,000 per mile for the proposed construction of-"said railroad as near as may be, seven miles," (i.e. \$70,000 equivalent to 1400 shares) to be covered by 2000 shares of par value of \$50.00- i.e. the capital stock is \$100,000 being at least \$10,000 per mile. The key words are "projected and proposed", and "prospective". The word "authorized" was never used.

Thus in regard to the email, there are no additional shares or shares of treasury stock available to sell to prospective buyers that would be approved by the shareholders. It is well known among shareholders, Officers, and Directors, and observed that since 1992 both of you have been tempted to obtain additional shares of STRT RR- that were never authorized, i.e. phantom shares, treasury shares, for self serving purposes. Individuals don't make the corporate decisions; the majority of shareholders do-in STRT RR- in excess of 603 shareholder votes in a majority IAW the By Laws and Corporate laws of Pennsylvania.

As a reminder to all:

- a. STRT RR Co. is a "public corporation" not a private company or club.
- b. The "shareholders" own STRT RR CO. "Shares of a business corporation shall be deemed personal property, each share being equal to every other share" per 15 Pa. C.S.A. 1906.
- c. The "Shareholders", "Officers", and "Directors" are governed by the By Laws of the Company and in accordance with the corporate laws of the commonwealth of Pennsylvania (Officers, Dirs., and Shareholders- 15 P.A. C.S.A. § 1758)
- d. I have enclosed a copy of STRT RR CO. By Laws with sections YELLOW HIGHLIGHTED for your review to ensure Officers, Directors, Shareholders are expected to follow and comply. Individuals have been lax in total compliance.
- e. Noted: Reter states he needs "to have more access to the stock records." By law stock records are required to be kept locked and maintained in the principal office of the corporation by the Treasurer and/or Registrar. **THEY ARE NEVER TO BE REMOVED FROM THE PRINCIPAL OFFICE.** SHAREHOLDERS may request to review stock records under the supervision of the Treasurer in the PRINCIPAL OFFICE. McLaughlin as Treasurer took the stock records home overnight and was strongly criticized by Norman Olewiler, Esq. (Solicitor 1948 to 1992) at the Shareholders meeting for violating the law and jeopardizing

the shareholders stock records. "No one ever to do it again." So Reter can view the stock records under supervision of Treas.

In regards to the email, frankly I am surprised that once again, you are trying to create a sale of STRT RR stock that was never authorized for issue to shareholders. Numerous times after you became a Director in 1997, you raised the issue of "195 shares in Treasury stock" in an attempt to accumulate stock for your intentions. John Hope Anderson, Pres (1960-1999), and other Directors stated the early records did not make these shares available to individuals. You well knew there were no "authorized shares (600) available when you wrote a letter to Harold Ebaugh Treasurer STRT RR (Secr, Treas, 1959-1987) in late 1984 stating your intent to purchase shares and for Ebaugh to inform you of shares available (letter on file STRT). Ebaugh wrote you, as well as, informed you that no STRT RR sales were for sale, all shares were owned by shareholders (56). Shares could be purchased from shareholders-but you knew this when you started working for McLaughlin (shareholder 1970-1989) on STRT tracks in 1984 since McLaughlin was accumulating shares (225) from shareholders after Hurricane Agnes 1972.

When John Hope Anderson nominated me for Director in 1974, Norman Olewiler, Esq. (solicitor 1948-1992) informed me I needed to acquire 5 shares from a shareholder willing to sell since no shares were available. It was also the first time I heard only 1205 shares were issued and 195 shares in Treasury stock out of 1400 shares authorized to pay for the construction of the RR. The same information on shares was told to me by Vernon Yost, Treasurer at the time in 1975, when he offered me 100 of his 140 shares to have "more power" in decisions since he knew of my sincere interest in restoring the NCRY and STRT RR. He stated the only shares available were the original 1205 shares issued. I told him I was not interested in "power". I did not buy at \$58/share (Vernon Yost, freight lumber shipper V. Pres, Treas, 1950- Retired 1977).

Another example is when Mann and Parker Lumber Co. moved to New Freedom in 1970 and I was a Director of M&P. In 1970 M&P submitted a letter to STRT RR CO. requesting to buy 10% of available STRT RR CO. stock at book or fair market value. (M&P file). John Hope Anderson personally advised M&P President Robert Bushman there was no STRT RR stock available for sale, all stock available owned by shareholders. Also he expressed a desire for freight shippers to own stock. It was in the best interest of the STRT RR Co. M&P lost interest after Hurricane Agnes.

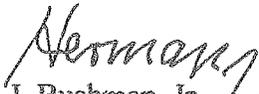
Dean Miller's father was in auto business with Joseph Anderson. Miller's family acquired original 50 of 1205 shares in 1895. Dean inherited 50 shares; (shareholder Director 1960-1994) and repeated all of the above- no shares beyond original 1205 issued and 195 shs Treas Stock of the only authorized 1400 shares. Miller was a defender of shares available. Miller related STRT RR paid a \$4 dividend/ sh until 1972.

None of the shareholders, Officers, Directors since 1885 as records would indicate, have ever accepted any "additional authorized shares" beyond the 1400 shares "proposed" to construct the RR at \$10,000/mile; resulting in 1205 shares issued to original share holders and the unissued 195 declared "Treasury stock", property of shareholders. So it

is about time both Reter and you stop interfering with the "personal property" of shareholders by attempting to create "bogus shares" never authorized which some would call fraudulent-like it or not, it is what the eye beholds. There are more above board, honest ways to raise money in a businesslike manner as once indicated to you by Don Yost, Esq., President of the Stewartstown Historical Society, which reflected obviously, the view in some quarters of Stewartstown Borough and surrounding communities. There was a lot of talk about raising money to pay off debts (2008-2011), raising money to repair 7 miles of track to Class 1 condition, over a period of three years, with very limited results. Also as Don Yost wrote, Friends of STRT RR non-profit organizations is a "flake", "Quite stretched" and only interferes in the business efforts of STRT RR CO. I've heard this expressed before by other businessmen. In sum, "various individuals made grandiose ideas to raise money and how to run/repair the STRT RR that have wings that would take off, but no landing gear."

I still maintain the best way to preserve the RR is to sell it to another operator who has enough money to properly maintain and operate a Class 1 railroad -not to buy it for its assets, install a Drive Thru Pub or a Starbucks on Station property in STRT, then sell the R-of-Way for a trail. It appears we have had about 3 individuals express interested in STRT RR assets for business purposes, no real interest in running or continuing excursions. Enough said. Let's think in the best interests of STRT RR and its shareholders. As the principal shareholder, I will continue to seek all means to sell the STRT RR as the majority of shareholders voted unanimously at the November 24, 2009 special Meeting of Shareholders. Shareholders are the ones who vote and approve to sell the Company- not the DIRECTORS!

Sincerely,

  
Herman J. Bushman, Jr.

6/30/11



Copied to: Renee Bitten, Don Matthews,  
Roy McFadden, Linda Miller,  
Selected Interested Shareholders

**Subject:** Fwd: Stewartstown Railroad (Investment)  
**From:** Kenbitten <kenbitten@verizon.net>  
**Date:** Wed, 15 Jun 2011 23:39:30 -0700 (PDT)  
**To:** Renee <wrenbitten@verizon.net>

Sent from Wren's phone

Begin forwarded message:

**From:** "RAYMOND RETER" <raymondreter@verizon.net>  
**Date:** June 9, 2011 10:11:45 PM EDT  
**To:** "Linda Miller" <lmiller2236@verizon.net>, "Ken & Renee Bitten" <kenbitten@verizon.net>, "Eric Bickleman" <ejb4433@comcast.net>, "Don Matthews" <DDonAnnie@aol.com>, "Dave Williamson \ (Home)" <fairmontdave@gmail.com>, "Dave Watson" <dmw280@gmail.com>  
**Subject:** Fw: Stewartstown Railroad (Investment)

Good evening, Dave

You are correct that the STRT is authorized to issue up to 2,000 shares of stock. Of these 2,000 shares, 1,400 have been issued--including the 195 shares that are classified as "treasury shares."

I need to have more access to the stock records to find out the source of these 195 treasury shares. I was told at one time that there was essentially a testamentary restriction on reissuing these shares, which flies in the face of the purpose of treasury shares, i.e., they should be liquid assets available to the corporation to sell whenever it deems necessary or appropriate. Also, there are 600 shares of stock that were never issued and are available to be issued whenever the corporation deems appropriate or necessary. So there are 795 shares of STRT stock available to issue to new or current investors.

As far as I remember, there was only one person who objected to issuing more shares: George M. Hart. This was for obvious reasons.

If the railroad is unable to borrow funds through traditional means, raising funds through equity investors cannot be ruled out. In fact, the Strasburg Rail Road amended its charter on a number of occasions since 1958 to greatly increase the number of authorized shares beyond the original 50 shares authorized in its charter to facilitate additional investment by its original 1958 investors and their descendants.

Regards,  
Ray

----- Original Message -----

**From:** David Williamson  
**To:** John Bennett  
**Cc:** RAYMOND RETER ; Don Mathews ; Eric Bickleman ; Renee ; Kenbitten ; Dave Watson ; Linda Miller  
**Sent:** Thursday, June 09, 2011 3:38 PM

## Stewartstown Railroad

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### INTRODUCTORY

The railroad of The Stewartstown Railroad Company, hereinafter called the carrier, is a single-track standard-gauge steam railroad, located in the southern part of Pennsylvania. The owned mileage extends in an easterly direction from New Freedom to Stewartstown, Pa., a distance of 7.343 miles. The carrier also owns yard and side tracks totaling 1.602 miles. Its road thus embraces 8.945 miles of all tracks owned.

### CORPORATE HISTORY

The carrier was organized on September 22, 1884, under the laws of Pennsylvania, but the articles of incorporation were not filed until March 31, 1901. The principal office is at Stewartstown.

*T.H. 15 P. 4. 5.*

### DEVELOPMENT OF FIXED PHYSICAL PROPERTY

The grading and masonry were done by contract and the remainder of the road was constructed by the carrier. The road was built between October 1, 1884, and September 10, 1885, and opened for operation on the latter date.

### TRAFFIC CONNECTIONS

The railroad of the carrier connects at New Freedom with the line of The Pennsylvania Railroad Company, and at Stewartstown with the line of The New Park and Fawn Grove Railroad.

### LEASED RAILWAY PROPERTY

The carrier has joint use of The Northern Central Railway Company's passenger station at New Freedom, Pa. For this use the carrier pays \$110 per month, which has been charged as operating expenses. The carrier's terminal facilities at Stewartstown are used jointly with The New Prk and Fawn Grove Railroad, for which use the latter pays \$50 per month, which has been taken into account as operating expenses.

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Original data source: Decisions of the Interstate Commerce Commission Vol. 106 pp 358-359, 363, 365  
Interstate Commerce Commission  
Washington, DC  
1926

Although published in 1926, the report is "...as of date of valuation" which was 30 June, 1916

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# Stewartstown Railroad Company

P.O. BOX 155

Stewartstown, Pennsylvania 17363

Captain Herman J. Bushman, Jr.  
8821 Lynnhurst Drive  
Fairfax, VA 22032

June 22, 2011

Hello, Herman:

We have some positive news in that we are working with a potential investor who seems to have sufficient resources to pay off the Hart Estate lein and also put a substantial sum towards returning the railroad to operation.

This investor will be attending the next Board of Directors meeting that is planned for Saturday, July 9<sup>th</sup> at 9:00 AM at the Stewartstown Station. I hope that you can attend and meet this fellow and ask any questions that you may have. If you cannot attend in person, you could also join the meeting by telephone.

While we have not yet come to any firm agreement on terms or structure, it is pretty clear this person could purchase the lein from the Estate. As for additional capital to put into the railroad infrastructure, we have been considering what we can offer him in return. It would be very positive if we could offer him a directorship and some stock.

*the principal*  
As ~~our largest~~ <sup>principal</sup> shareholder, I am asking if you are willing to sell some of your stock? If you would be willing to sell, how many shares would you like to sell and at what price?

We are continuing to fight the Estate's legal filings at the Surface Transportation Board. If the Board supports our case and rules against the Estate on the Adverse Abandonment filing, we may be ok for awhile, as the Estate will then be in an area of legal limbo. If the STB rules in favor of the Estate and grants them the adverse abandonment, the railroad may be lost. This potential investor seems to be one of the few hopes we have remaining to realistically pay off the debt and restore the railroad to operation.

Please advise me as to what your inclination is on this matter and we will proceed accordingly. To date, the investor has not indicated that he wants to buy the entire company, I believe he needs our experience and expertise in railroading. He has indicated that he would value some ownership and a voice in operations and management.

Sincerely,



David M. Williamson

*David* President

# **EXHIBIT F**



Dave Watson <dmw280@gmail.com>

## Stewartstown

2 messages

Dave Watson <dmw280@gmail.com>  
To: James Gillotti <jig@oprlaw.com>

Fri, Jul 8, 2011 at 3:47 PM

If the money can be coughed up, will the estate take it and end the abandonment proceedings?

James Gillotti <jig@oprlaw.com>  
To: Dave Watson <dmw280@gmail.com>

Fri, Jul 8, 2011 at 4:07 PM

Mr. Watson,

Payment in full to the estate of the amount owed by SRC will end the matter as far as we as concerned. All proceedings with the STB would then be dropped, b/c the estate would have no reason to continue them. All that we want to do is get paid now, so that the estate can be closed out.

**Must be payment IN FULL of the entire \$352,415. Please do not make any offer that calls for payment of less than that amount, or which provides for a series of payments.**

Jim Gillotti

**From:** Dave Watson [mailto:[dmw280@gmail.com](mailto:dmw280@gmail.com)]  
**Sent:** Friday, July 08, 2011 3:47 PM  
**To:** James Gillotti  
**Subject:** Stewartstown

If the money can be coughed up, will the estate take it and end the abandonment proceedings?

# **EXHIBIT G**

## Stewartstown Railroad Company Accomplishments 2008-2011

- Reinvigorated the Board of Directors, replaced two directors and reestablished pattern of regular and annual meetings. Reconstituted the board as effective management of the company.
- Established a system of email communication and conference calls between the Board of Directors and officers for effective and efficient management.
- Located new sources of revenue from leases, car storage and easements. Collected back revenue due the Company from as far back as 2004.
- Updated and resumed required government filings to Federal Railroad Administration, Railroad Retirement Board and Pennsylvania Public Utility Commission.
- Updated and verified shareholder records. Cleaned out the railroad offices, eliminated unnecessary and irrelevant paperwork, began filing and archiving records and improved interior appearance of railroad station and waiting room.
- Maintained liability insurance coverage. Located new insurance provider at significantly lower cost. Significantly improved commercial building insurance on Stewartstown station and engine house buildings at reduced cost. (Improved coverage by more than double on both buildings!)
- Developed a comprehensive business plan.
- Established a public relations campaign to increase awareness of the Stewartstown Railroad and its need for assistance.
- Improved relationships with the local community. Now working cooperatively with the Borough Council and Mayor, the County Commissioners, the Stewartstown Historical Society and the Boy Scouts.
- Met with state, county and local officials regarding resumption of service.
- Negotiated agreement with the Stewartstown Historical Society for the reproduction and preservation of corporate records. Transferred records to SHS and began conservation and study.
- Started series of regular open houses of the station to share its history and culture with the community. Hosted programs and presented history lectures and shows within the local community in cooperation with the Stewartstown Historical Society.
- Solicited freight and passenger business, promptly responding to inquiries, proposals and opportunities.
- Worked with the Executor and Estate Attorney of the George M. Hart Estate to resolve legacy issues regarding Mr. Hart's administration of the Company.
- Generated a request for proposals for the sale of the railroad and distributed it through the appropriate media.
- Worked to establish National Register of Historic Places listing for the railroad right-of-way between New Freedom, PA and Stewartstown, PA. (Seven structures including the Enginehouse, Stewartstown Station, Hungerford Station and several bridges are already on the Register)
- Created a new accounting system and produced monthly and yearly financial statements and yearly operating budget. (First accounting statements since 1999!!)
- Brought all payables up to date.
- Inventoried all stocks of souvenirs and history publications and sold them at station open houses, local fairs and festivals. Developed relationship with the heirs of local artist Richard Falkler and began selling and distributing his artwork that related to the Stewartstown Railroad.
- Made written proposal and negotiated with the George M. Hart Estate for purchase of the four coaches owned by the estate and used in the past by the STRT Co. This was accepted in May 2011 and the sale of the coaches is being finalized.
- Developed relationship with the Northern Central Railcars, affiliated with the National Rail Car Operators Association (NARCOA) to host regular runs of railcars over the railroad on a fee-paying basis, generating additional revenue.
- Recruited and trained new volunteers for track work, railcar operations and station attendant.
- Contacted State and Federal authorities regarding requirements for start up of operations.
- Replaced the roof on the Stewartstown PA station building on the Pennsylvania Avenue (west) side. Repairs to north and east sides continued in 2010. Will finish the east side in 2011.
- Replaced wooden walkway crossing the two yard tracks at the entrance to the Stewartstown Station.
- Upgraded electrical wiring in the Stewartstown PA station building freight house room to meet current National Electrical Code.
- Repaired and maintained station and enginehouse buildings as needed. Installed new windows and shades as needed in both buildings. Repaired plumbing and heating systems in the station as needed. Maintained station and

enginehouse grounds (mowed lawns, leaf collection and disposal, etc.) Replaced bad roofing materials on SW corner of engine house roof. Replaced over 20 broken windows in enginehouse.

- Upgraded and replaced fire extinguishers in the Stewartstown Station and enginehouse buildings to current code and instituted inspection program.
- Leased the Hungerford Station building to the Friends of the Stewartstown Railroad, who will restore it and use it as a headquarters and museum building. Identified a scope of work for the repair of this structure. Repairs to roofing and structure to begin in June of 2011.
- Cleaned up grounds and track materials and sold quantities of scrap steel. Identified additional surplus equipment for possible sale or scrapping.
- Conducted regular inspections of the railroad right-of-way and completed repairs and maintenance to the track and bridges as resources allowed.
- Did extensive repairs and maintenance on RTW tie crane for use in tie replacement program. Most modern and sophisticated piece of track repair machinery ever used on the railroad.
- Maintained and repaired diesel motorcar, flatcars, toolcar and ballast car for use in track maintenance program. Added gasoline model A-4 motorcar for track maintenance and inspection. Railroad has all tools and equipment needed for track maintenance and repair in good operating condition and ready for immediate service.
- Began tie replacement program with installation of new switch timbers in the yard tracks at the Stewartstown PA yard. Secured source of switch timbers and standard length ties. Quantities of spikes bolts, joint bars and tie plugs are on hand. Purchased large quantities of 60 lb and 75 lb tie plates.
- Cleared brush on railroad line and instituted vegetation control program.
- Repaired damaged track at MP 1.1 where a runaway automobile had hit the track and broken rails loose and bent joint bars.
- Kept the railroad line open and operable by removing fallen trees, clearing crossings and repairing bypassed rails. Began crossing protection upgrade program in 2010 to bring crossing signage up to date with current FRA and PA PUC requirements.
- Returned Plymouth 35-ton gasoline –mechanical locomotive #9 to active service with new battery and a tune-up. Locomotive #10 needs a new set of batteries. We are waiting to purchase the batteries until there is a need for regular use for the locomotive. FRA required reporting on locomotives has been maintained and both locomotives are serviceable upon completion of required 92-day inspection. Washed both locomotives.
- Completed repairs to washout west of Waltermyers School Road #3 crossing. Installed new 24” culvert pipe and replaced ballast and ties as required.
- Completed repairs to culvert pipe approximately 300 yards west of Iron Bridge Road crossing. Placed 20 tons of 24” rip rap on discharge end of the culvert and ballasted the roadbed back to proper contour.
- Completed repairs to a culvert pipe approximately on grade just above the picnic grounds. Repaired bad culvert pipe joint and filled hole in roadbed to proper elevation with ballast.
- Replaced bad ties in Stewartstown Pa yard tracks.
- Started excursions for paying passengers on open house Sundays, beginning to generate passenger service revenue to increase the pace of track and building repairs.
- Repaired wide track gauge a MP 6 by installing new ties and gauge rods and re-spiking existing ties to gauge.
- Began repairs to eroded railroad embankment at Tolna.
- Cleared brush screens from entrance to culvert under High Trestle Fill and developed repair plan for repairing the culvert wing wall. This repair was completed in July 2011. Contractor Irv Allott did the concrete work.
- Developed a current inventory of road crossings and assessment of their condition. Updated Federal and State agencies numbering and filing system. Began upgrading crossing signage to new standards.
- Established “Wednesday night track crew” to focus on brushcutting, drainage improvement and crossing sign upgrades.
- Repaired crossover switch with Northern Central Ry so that the interchange tracks could be used. Replaced headblock ties and reset the switch-throw machine.
- Sprayed weeds over entire line on August 6, 2011.
- Rebuilt much of roof on the south side of the Hungerford Station building, four Saturdays in June, 2011. Will complete shingling as soon as weather cools.

# **EXHIBIT H**



# **ATTACHMENT 2**

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

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STB Docket No. AB-1071

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STEWARTSTOWN RAILROAD COMPANY

ADVERSE ABANDONMENT

IN YORK COUNTY, PA

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VERIFIED STATEMENT

OF

ERIC J. BICKLEMAN

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

---

STB Docket No. AB-1071

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STEWARTSTOWN RAILROAD COMPANY  
ADVERSE ABANDONMENT  
IN YORK COUNTY, PA

---

VERIFIED STATEMENT OF ERIC J. BICKLEMAN

My name is Eric J. Bickleman. My address is 204 St. Charles Way, # 324E, York, PA 17402. I am presently employed in a supervisory position with a Class 1 railroad. Additionally, I am also the co-owner of a locomotive leasing company. I have been a career railroader since 1991 and have experience in rail operations, locomotive maintenance, track maintenance, regulatory compliance and administrative duties in the railroad industry. I have served the Stewartstown Railroad Company (SRC) in various capacities since 1989, have been a stockholder since 1995 and was appointed to fill a vacant seat on the SRC Board of Directors in 2008.

I am submitting this verified statement to the Surface Transportation Board in connection with SRC's Protest/Statement of Opposition in STB Docket No. AB-1071. I wish to express my opposition to the verified statement made by SRC Director Captain Herman J. Bushman, Jr. and submitted in connection with the Application of the Estate of George M. Hart for Abandonment of the Stewartstown Railroad Company filed with the STB July, 2011 including the unauthorized "track inspection" made by former SRC Director and employee Mr. Brad Haines contained therein. Furthermore, I wish to rebut certain incorrect and misleading statements made by the Hart Estate in various filings submitted to the Board in connection with this case.

In the aforementioned verified statement of Captain Bushman, he offers statements by himself and a designee purporting to offer true and factual information about SRC, its assets, financial condition, potential for future earnings along with past and future courses of action. These statements have been entered into the record by the STB and were offered by the Hart Estate as having been made by Captain

Bushman in his official capacity as a “director and shareholder” of SRC. As a Director of SRC, I can attest to the fact that Captain Bushman was not authorized to make these statements and was not authorized to speak on behalf of SRC. These statements were not ratified by a majority of the SRC’s Board of Directors.

Under Pennsylvania Corporate Law, Title 15 Pa.C.S.A. 512, the director of a corporation stands in a fiduciary relationship to the corporation, and therefore owes that corporation a duty of loyalty and a duty of care. A director is required to perform his or her duties in good faith, in a manner reasonably believed to be in the best interests of the corporation and must utilize such care, skill and diligence as a person of ordinary prudence would use under similar circumstances. A corporate director may not act contrary to the interests of the corporation under Pennsylvania law. Moreover, Pennsylvania law maintains that a corporate director is required to manage the affairs of the corporation so as to promote common interest of all shareholders rather than that director’s own private interest.

By Captain Bushman’s own admission, he offered these statements in the interest and benefit of the Estate because he disagreed with the course of action chosen by a majority of SRC’s Board of Directors. It should be clear to any reasonable person that such action is contrary to the interests of SRC and its shareholders and is in clear support of a cause of action adverse to SRC’s interests. If these actions are successful, they will result in the forced liquidation of SRC’s assets and likely dissolution of SRC as a corporation.

Since Mr. Hart’s passing in 2008, Captain Bushman has refused to participate in or to offer any support whatsoever for the ongoing efforts to overcome the extensive deferred maintenance incurred during Mr. Hart’s management of SRC. He has refused to participate in efforts to both reinvigorate the Board of Directors and to address serious concerns that have since come to light concerning the internal accounting and financial management procedures practiced under Mr. Hart’s tenure. He has refused to attend any Board of Directors meetings since Mr. Hart passed and has attended only one stockholder’s meeting in which he stayed only long enough to push through the resolution to sell SRC mentioned in his verified statement. He has refused to either attend any stockholder’s meetings SRC has attempted to call since then or to submit his proxy, all in a presumed attempt to abuse his position as SRC’s largest stockholder and prevent SRC from resuming operations or from conducting any business requiring a vote of the stockholders.

Indeed, rather than fulfill his duties as an SRC Director, Captain Bushman appears content to do nothing to advance the interests of SRC as a going business concern and active shortline freight and excursion railroad. He has and continues to actively oppose any and all attempts to refinance SRC’s debts by selling un-issued stock currently held by SRC or by issuing additional stock in the corporation. He has, however, continued to devote significant effort to denigrating the qualifications, experience and efforts of others who have expended countless hours in an ongoing effort to both settle SRC’s financial obligations and restore the line for freight and excursion operations in an exceedingly difficult economic climate.

It is worth noting that in spite of using his status as SRC's largest stockholder to push through the resolution to sell the rail line without the input of many minority stockholders, Captain Bushman has, to my knowledge, made no more effort to assist in that task than he has to reinvigorate the SRC. This is despite the fact that he, as a stockholder charged himself as a Director, with a duty to do so. It should also be noted that Captain Bushman arrived at the position of being SRC's largest stockholder not because he saw fit to invest a substantial sum of capital in SRC but, rather because Mr. Hart elected to turn over his SRC stock to Captain Bushman in his will.

Additionally, it should be noted that Captain Bushman's statement ".....SRC shareholders held a special meeting on November 24, 2009, at which SRC's shareholders voted unanimously to sell SRC...." is misleading and self-serving. The word "unanimous" creates the false impression that all of SRC's stockholders voted in favor of selling SRC when in fact only the very small number of stockholders present at that special meeting or counted by proxy voted unanimously. While Captain Bushman is SRC's single largest shareholder, he alone does not control the majority of SRC's stock.

Attachment 3 of Captain Bushman's verified statement contains a two-page "Resolution Stewartstown Railroad Company to be sold." I can assert that this resolution was never presented to, circulated or approved by the stockholders in the form submitted in his verified statement and, therefore, have no choice but to question its authenticity.

Furthermore, I am concerned about Captain Bushman's apparent belief that the purpose of the STB in the matter of this adverse abandonment case is to locate a buyer for SRC thereby allowing him to recoup what he evidently believes will be a substantial financial return for his stock ownership. That such an apparent lack of understanding of the STB's policies, duties and purpose is present in a senior management official of a shortline railroad is troubling to say the least.

Captain Bushman includes as Attachments No. 1 and No. 2 of his verified statement, handwritten statements from Mr. Brad Haines, a former employee and Director of SRC. Following the passing of Mr. Hart in 2008, Mr. Haines immediately resigned as a Director of SRC. To the extent of my knowledge he also resigned his position as an SRC employee at that time. He is currently in an adversarial position with SRC due to alleged back wages owed to him, however despite requests from SRC to submit documentation supporting his claim, he has not done so to date. This circumstance alone makes his objectivity in connection with this matter, questionable at best. At no time did current SRC President and General Manager Mr. David Williamson request Mr. Haines to make any inspection or "reconnaissance" ( Attachment 1 ) or to enter on SRC's property in any way. Yet, by Mr. Haine's own admission he did so – "I walked from Baily (sp) Springs to Bridge 8" ( Attachment 1) in reference to two specific points along the SRC line.

As such the only reasonable conclusion is that Mr. Haines, at the specific request of Captain Bushman, ( I requested Brad Haines...., to undertake an informal track inspection " ) committed an act of trespass on SRC's property. As an SRC Director, Captain Bushman is not authorized to act or to make such

decisions wholly independent of the majority of his fellow Board members, regardless of his apparent disdain for them .

Furthermore, Captain Bushman offers no documentation to support Mr. Haines qualifications of being able to offer anything more than a track laborer's unqualified opinion of the SRC's track conditions with respect to 49 CFR Part 213 and to repair costs to bring the line to FRA Class 1 standards. While I am aware of Mr. Haines extensive experience as a track laborer, in addition to other duties he performed capably for SRC, I am not aware of his specific qualifications to perform track inspections with respect to Part 213.7 (a) (b)(c). In order for the Board to accept as valid Mr. Haine's statements with regards to SRC's track conditions and repair costs, Captain Bushman has the duty to submit suitable documentation to the Board substantiating his qualifications as outlined in Part 213.7 (d) (1) (2).

Finally, Mr. Haines states ( and Captain Bushman reiterates in his verified statement ) " I would suggest the FRA or PUC track inspector inspect the track to determine what is needed to bring it up to a Class 1 condition." This statement exhibits a lack of understanding by both Captain Bushman and Mr. Haines of the role the Federal Railroad Administration and the Pennsylvania Public Utility Commission fulfill in determining compliance with 49 CFR Part 213. While a FRA or PUC inspection would, of course, be required before train operations resume, it is certainly inappropriate to perform such an inspection before the necessary repairs have been completed. Indeed, if Mr. Haines truly feels the need have a FRA or PUC inspector determine what is needed to bring the line back to Class 1 standards as he, in fact, states then this indicates a lack of ability to detect deviations from the standards and to prescribe appropriate remedial action as required by part 213.7 (a) (2).

I would also like to address the, at times, condescending and unprofessional tone of the Estate's filing along with a number of misleading or wholly incorrect statements contained therein. Evidently, the Estate believes that by wasting the Board's time with irrelevant and subjective commentary along with seemingly endless repetition of the same misleading and incorrect statements their commentary will somehow become more relevant and their statements somehow less misleading and less incorrect.

A general theme of the Estate's filing is to repeatedly call into question the competence, business acumen, financial housekeeping and " honesty and efficiency " ( with regards to the Rail Transportation Policy ) of current SRC management. The Estate continues to deviate from any accepted norm of business civility and professional conduct by referring to SRC's actions ( and therefore SRC's current management team ) as "hardly honorable."

Make no mistake. The Estate represents the interest of the late George M. Hart. The same George Hart who led the SRC into its decline and current state. The same state of affairs Mr. Hart's Estate now attempts to lay at the feet of current SRC management. The same George Hart who left revenues due the Company uncollected, who allowed SRC's track and structures to deteriorate while refusing to explore potential new sources of revenue or employ volunteer assistance , who for several years made no annual financial reports to the stockholders, who ( based on an internal investigation of what

sketchy and incomplete accounting records have been located to date from his tenure ) may have in fact, routinely transferred large sums of money between SRC and another wholly independent business which he operated and without SRC Board authorization.

In its amazingly and unnecessarily lengthy 265 page abandonment filing ( no doubt designed to bury the SRC in paperwork ) the Estate commits numerous and substantial errors in both fact and assumption. Rather than further waste the Board's valuable time by responding to every single such error, I will attempt to respond to only the most egregious and the most often repeated.

On page 6, the Estate asserts " SRC has since examined the conveyance records under which SRC originally secured its right of way and has concluded that these documents reflect that SRC most likely possesses a mere easement interest in the right of way, and that, accordingly, SRC's real estate holdings possess a lower value than originally thought." This is a completely incorrect statement and calls into question the credibility of any related or further statements the Estate has offered or would offer on this subject. The fact of the matter is that SRC has examined the right of way records and found them to be " sold and conveyed to hold " or, in other words to be held in fee simple ownership. Furthermore, there appear to be no reversionary clauses contained in these agreements.

At numerous points throughout the abandonment filing, the Estate continues to insist that" SRC has no freight traffic prospects" and contends that " the proposed abandonment will not have any adverse effect on local industry or industrial development." Evidently the United States Congressman and Pennsylvania State Representative who have submitted statements to the contrary along with the York County Planning Commission and a prospective new freight customer would disagree as does SRC itself.

On page 19 the Estate asserts " In this case the SRC line has not been needed for rail freight service of any kind for nearly twenty years." This statement ( and similar ones repeated *ad infinitum* throughout the Estate's filing ) is yet another attempt to confuse the facts and re-write recent history to the Estate's benefit. SRC, under the management of Mr. Hart, Director Bushman and others voluntarily discontinued freight operations in 1992. This was due to SRC's then management team's inability both to manage operating expenses and to successfully negotiate a new operating agreement for the connecting Northern Central line with York County which had, at that time, recently assumed ownership of the NCR Line from the Pennsylvania Dept. of Transportation. There was, in fact, still a need for service to SRC's existing freight customers at that time. This is evidenced by the fact that two of those former SRC freight customers had to resort to inconvenient and more costly transload operations with another shortline to maintain rail service following the cessation of SRC freight operations under Mr. Hart's tenure.

Indeed, by the Estate's own admission ( P. 23 ) , one of those former customers, the Mann & Parker Lumber Company retains an interest in rail service today. It is, therefore, reasonable to suppose that , had SRC not discontinued freight operations under the tenure of Mr. Hart as President and Captain Bushman as a Director and had they not allowed its line to deteriorate, Mann & Parker could have still been an active customer to this very day.

The Estate continues to repeat its assertion “ the SRC Line also is isolated from the interstate rail network” and “ ... SRC Line’s only possible outlet is a line that was effectively abandoned itself over thirty years ago when the NCR Line was not included in the USRA Final System Plan,” The use of the phrase “effectively abandoned” is a yet another misleading and self-serving attempt by the Estate to re-write recent history to their benefit. Even the most casual effort to research the history of railroads in the northeast in the wake of the Penn Central bankruptcy and the creation of the USRA Final System Plan which ultimately led to the formation of Conrail will show that exclusion from the USRA Final System Plan did not in every case lead to abandonment, “effective” or otherwise. The NCR Line from the Pennsylvania state line to a connection with the then Maryland & Pennsylvania Railroad in York ( USRA Line 145 ) was purchased by the Pennsylvania Dept. of Transportation and restored to service in order to provide a common carrier rail outlet for SRC and its freight customers. SRC did, in fact, provide common carrier freight service over USRA Line 145 from 1985 through 1992 and during the transition from PaDOT to York County ownership thereby contradicting the Estate’s assertions that this line was ever abandoned.

On P. 25 [note 44] the Estate admits, correctly, that another entity applied for and received STB authority to lease and operate the NCR Line in 1996. See Northern Central Railway, Incorporated – Lease and Operation Exemption – County of York, PA, STB Finance Docket No. 32966 ( STB served July 10, 1996 ). The fact that such common carrier authority was granted by the STB and there has been no subsequent discontinuance of service proceeding only serves to further contradict the Estate’s assertions of the line ever being “effectively abandoned” or, and more importantly, abandoned by any action of the STB or the I.C.C.

Furthermore, the common carrier obligation to provide freight service over the NCR Line does, in fact, reside today with the line’s current owner York County, again contradicting the Estate’s assertion on P. 25 [ note 43 ] “ As such the NCR Line was effectively abandoned, and York County acquired and owns the NCR Line outside of scope of ICC or Board regulatory authority pursuant to Common Carrier Status of States, State Agencies & Instrumentalities, & Political Subdivisions, 363 I.C.C. 132 ( 1980 ). aff’s sub nom Simmons v. ICC, 697 F.2d 326 ( D.C. Ci. 1982 ). Therefore the record is clear that, despite intermittent lapses in common carrier rail operations being conducted on the NCR line the common carrier obligation of the NCR Line’s current owner, and therefore status of the Line as SRC’s connection to the national rail network, remains intact to this day

The Estate continues on this same path of misinformation designed to confuse the facts before the Board on P. 25. “Moreover, the Estate has serious questions concerning the condition of the NCR Line in light of its utter inactivity for several years.” This is a purely subjective and unqualified opinion offered by the Estate concerning the condition of a rail line of which said rail line’s condition is not the immediate subject of this proceeding. As such the comment is, therefore, of no direct relevance and designed only to further misdirect the Board’s attention from the issues at hand.

The statement ( P. 27 ) “ The Estate has no vested interest in the liquidation of the SRC property and , in fact, it would prefer to see the SRC line preserved because of its historical significance” is such a thinly disguised misrepresentation of the Estate’s intent as to be almost ludicrous. In my belief the actions of the Estate are almost entirely at the direction of the Bucks County Historical Society (BCHS) and in the interest of their (BCHS) immediate financial gain. Therefore, while it may be correct to say the Estate has no “vested interest “ ( other than, perhaps, administrative convenience )in expediting a resolution of this action the BCHS ( under cloak of the Estate ) most certainly does have one. In fact, it is my belief that the Executor of the Estate himself has been reluctant to pursue the present aggressive course of action against SRC, however, feels that if he does not he will be subject to legal action by the BCHS.

The BCHS is arguably one of the most well-funded 501 ( c ) (3) not for profit historical societies in the Commonwealth of Pennsylvania and, to my understanding, has already realized significant financial gain from other elements of Mr. Hart’s Estate not connected to SRC. The financial reward they stand to reap from a liquidation of SRC – particularly after the mounting expenses they are incurring in pressing forward with this action and the inherent uncertainties of any foreclosure action – may well be so small by comparison that any reasonable person would question the wisdom of pursuing such an aggressive and unrelenting course of action. As such the only “ Compelling Interests Advanced by Abandonment “ ( P. 29 ) is the private pecuniary one of the Bucks County Historical Society and only then to the detriment of both SRC as a going business concern and the public convenience and necessity offered by rail service in southern York County.

While the Estate does, in fact, tacitly acknowledge that it is acting in the interests of its residual beneficiary, it then goes on to draw a misleading conclusion (P. 7[note 11], P. 8, P.31 ) regarding the reasons SRC has not made any partial payments on the lien designed to further impugn the current SRC management’s efforts to reach an amicable solution to the issue. “SRC proposed a five year repayment plan over a year ago and although that plan was rejected, SRC could have and should have by now made payments atleast commensurate with what it said it would have been able to pay in year one of its repayment plan “ ( P. 31 ).

Surely any reasonable person can understand SRC’s reluctance to advance any payment on a plan which, by the Estate’s own admission, was rejected. Furthermore, with that rejection, SRC was afforded absolutely no guarantee that if it did nonetheless present any payment in accordance with the terms of the rejected proposal, the Estate would not then subsequently accept payment from another entity for the balance of the lien and SRC could still lose control of the bulk of its assets

VERIFICATION

I, Eric J. Bickleman, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

A handwritten signature in black ink, appearing to read "Eric J. Bickleman". The signature is written in a cursive style with a long horizontal flourish at the end.

Executed on August 16, 2011

# **ATTACHMENT 3**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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STB DOCKET No. AB-1071

---

STEWARTSTOWN RAILROAD COMPANY  
--ADVERSE ABANDONMENT—  
IN YORK COUNTY, PA

---

VERIFIED STATEMENT  
OF

RAYMOND E. RETER

Raymond E. Reter  
10310-L Malcolm Circle  
Cockeysville, Maryland 21030  
(410) 628-7131 ♦ raymondreter@verizon.net

August 22, 2011

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423-0001

RE: Stewartstown Railroad Company—Adverse Abandonment—In York County, PA  
STB Docket AB-1071

Dear Ms. Brown:

I wish to object to the abandonment of the Stewartstown Railroad.

I am a stockholder of the Stewartstown Railroad Company and currently serve on its board of directors. I am also a co-founder, officer and director of the not-for-profit tax-exempt organization Friends of the Stewartstown Railroad, Inc. I have been an admirer of this little railroad for almost fifty years, since accidentally “discovering” it during a Sunday daytrip with one of my sisters.

The railroad’s new management team, in place since the passing of Mr. George M. Hart in April 2008, has thus far accomplished quite a bit in its efforts to restore the line and more restoration is in the planning stage. Their efforts will create a carrier poised to haul both freight and passenger excursions from sites along their line to its interchange with the Northern Central line in New Freedom, Pennsylvania. This will create an opportunity for communities along the Stewartstown Railroad to develop commerce and not just become “bedroom communities” to York, Pennsylvania and Baltimore, Maryland.

During George M. Hart’s management of the Stewartstown Railroad, he negligently allowed the property to deteriorate and refused help from “outsiders” to rehabilitate the line and to recapitalize the company so it could meet the challenges of a changing economy. How sad it is that this same George M. Hart left a bequest to his heirs that, in order to fulfill, has led to the current Adverse Abandonment request by his Estate.

The Stewartstown Railroad Company has proposed to issue a five-year promissory note to the Estate for the amount of the lien. This promissory note could be transferred to the Estate’s residuary heir at the time the Estate is closed. Despite comments to the contrary made by the Estate, five (5) years *is not* an unduly long period of time to give the new management team to restore the railroad to full operation. Especially considering that the railroad’s current condition

is due to neglect under Mr. George Hart's management during a twenty (20) year period.

I've noticed that a director of the Stewartstown Railroad Company, Captain Herman Bushman (USN, Retired) has submitted a verified statement in support of the Estate's Adverse Abandonment application. It should be noted that Captain Bushman is, and has been, free to sell his shares of Stewartstown Railroad stock to anyone he chooses. Despite his claim that ". . . In fact, if SRC had a viable business plan for the railroad, I would have expected it to obtain necessary capital from individual investors or a lending institution . . ." (see page 4 of Captain Bushman's verified statement, second paragraph) Captain Bushman has steadfastly claimed that the directors of the Stewartstown Railroad *may not* issue additional shares of stock to new or current investors. This, even though the railroad has 600 "authorized but unissued shares" and an additional 195 shares of "treasury stock," for a total of 795 shares available for issuance *without requesting an amendment of its original 1884 charter* (the company's charter allows for the issuance of up to 2,000 shares; as of this date there are only 1,205 shares issued and outstanding). Prospective investors interested in purchasing the lien held by the Hart Estate have indicated they would want the opportunity to *purchase* some of these available shares if they purchased the lien from the Hart Estate. Thus, Captain Bushman's position on this matter is actually discouraging potential investors while he states on page 6 of his verified statement ". . . I understand that SRC has not been able to secure third-party financing sufficient to repay the amounts owed the Estate, or that it has not tried to do so, although, given SRC's limited prospects, I presume the former to be more likely."

Captain Bushman further states on page 6 "In my view, since third-party financing is almost certainly unavailable to SRC, the best (and, indeed the ethical) solution would be for the SRC property to be sold at fair market value . . ." It appears to me that this is an effort by Captain Bushman to force those shareholders who wish to retain their shares into selling their shares.

I urge the Surface Transportation Board to reject the Adverse Abandonment Petition.

Cordially,

  
Raymond E. Reter

# **ATTACHMENT 4**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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STB DOCKET No. AB-1071

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STEWARTSTOWN RAILROAD COMPANY  
--ADVERSE ABANDONMENT--  
IN YORK COUNTY, PA

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VERIFIED STATEMENT  
OF

DAWN RENEE BITTEN

My name is D. Renee Bitten. I am the Corporate Secretary for the Stewartstown Railroad. I am the first woman to ever be on the Stewartstown Railroad Board of Directors. I have been involved with the railroad since 1985. My occupation was working as a registered nurse, with my last assignment being in psychiatry.

My objection to abandoning the Stewartstown Railroad is that I do not feel that is that I do not feel that a historical society obviously motivated by greed should be able to demand abandonment of our railroad because as they have said, "we want our money and we want it now". They have been unwilling to even consider a payment plan. If we were to give them any money and someone were to come along and buy the lien, all we would be doing would be making it easier for that individual because it would be decreasing the amount due. When we met with the Bucks County Historical Society they claimed that they wanted to see Mr. Hart's wishes carried out, yet they did not recognize his photo during a presentation we made nor did they nor did they ever know him. The fact that Mr. Hart changed his will after an auto accident, a stroke and diagnosis of Alzheimer's has a lot of the people that did know him wondering what happened. If Mr. Hart had been a patient admitted to the unit that I worked on, I believe that he would have been diagnosed with a delusional disorder. He had alterations in thinking and behavior responses and ineffective coping. He could not put together the fact that he had a \$6 million estate that he was leaving to the Bucks County Historical Society yet not enough money to live day by day. If the Bucks County Historical Society had any comprehension of what a historical society is and does, like compassion and understanding of Mr. Hart's situation, and some conscience about the fact that what they are doing is wrong, this case for abandonment would not be in front of you now.

I believe that Mr. Bushman is wrong for agreeing with the abandonment. He may have the most shares, thanks to Mr. Hart, but he is not speaking for all of the stockholders. It would appear that the only people that are after the railroad's demise are those who would gain monetarily. We most certainly not only need to think of the significance of keeping it a working railroad for historic purposes, but also to look ahead to the future. As our population continues to grow we will need all of our large and small railroads to provide the ability to get products in and out of communities and to the nation

I implore you not to abandon the Stewartstown Railroad. Given time, we will repay the lien and become a productive member of the railroad community.

VERIFICATION

I, D. Renee Bitten, verify under penalty of perjury that the foregoing is true and correct. Further, I state that I am qualified and authorized to file this Verified Statement.

Executed on Aug. 22, 2011

Signed: D. Renee Bitten

Dated: Aug. 22, 2011

# **ATTACHMENT 5**

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

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STB Docket No. AB-1071

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STEWARTSTOWN RAILROAD COMPANY

ADVERSE ABANDONMENT

IN YORK COUNTY, PA

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VERIFIED STATEMENT

OF

KENNETH C. BITTEN

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

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STB Docket No. AB-1071

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STEWARTSTOWN RAILROAD COMPANY  
ADVERSE ABANDONMENT  
IN YORK COUNTY, PA

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VERIFIED STATEMENT OF KENNETH C. BITTEN

My name is Kenneth Bitten. My address is 17704 Barrens Rd. N., Stewartstown PA 17363. I am presently employed as a General Manager for the short line railroad holding company Iowa Pacific Holdings. I have been a career railroader since 1978, and involved in managing shortlines and small rail operations since 1987. During this time, I have been General Manager or in charge of seven different short line railroads. My wife and I have been stockholders in the Stewartstown Railroad since approximately 1987. I also served for brief time as a director in 1195 and 1996. I have also assisted the railroad in various voluntary capacities since 1984.

I am submitting this verified statement to the Surface Transportation Board in connection with SRC's Protest/Statement of Opposition in STB Docket No. AB-1071. I wish to clarify and/or rebut some of the comments made in the verified statement made by SRC Director Captain Herman J. Bushman, Jr. and submitted in connection with the Application of the Estate of George M. Hart for Abandonment of the Stewartstown Railroad Company filed with the STB July, 2011. Capt. Bushman became the largest shareholder when George M Hart turned over his Stewartstown railroad stock to Capt. Bushman in his will. Capt. Bushman asserts in his verified statement that he is very familiar with the current circumstances of the Stewartstown Railroad Company. However, Capt. Bushman has chosen to insulate himself from the operation of the company. He has refused to attend any directors meetings since George M Hart passed away in 2008. He only attended one stockholders meeting, and then only long enough to push through the resolution mentioned in his verified statement. He then left immediately, before any other business was transacted, even though it was clear that further business would be handled and he was asked to stay. In fact, Capt. Bushman has withheld his proxy and refused to attend any of the stockholders meetings that the company has called in an effort to prevent the company from

moving forward on plans to resume operations. Even prior to Mr. Hart's passing, he was public and vocal in his negative comments about several of the other directors and their lack of railroad experience, despite the fact that at least one of them (aside from me) is a career railroader with extensive short line experience. Capt. Bushman has also refused to join in any of the frequent directors meetings that have been held by telephone conference call. In addition, the fact that he is inaccessible through e-mail has made keeping Capt. Bushman apprised of the details of operating the company challenging.

Capt. Bushman's dislike for some of the present management of the railroad has resulted in him ignoring or denigrating much of the progress that the company has made since Mr. Hart's passing. For the last several years of Mr. Hart's life, he was in precarious mental and physical health, and virtually nothing was done to repair the railroad or put it back into operation. Volunteers were discouraged, and anyone whose opinion differed with Mr. Hart's was ignored or excluded. I remember at least one directors meeting where people who drove in to attend were advised that they would not be permitted to be at the meeting.

At times, it appeared that several people were interested in acquiring the railroad, but were unwilling to pay significantly more than the amount of the lien to do so. Capt. Bushman stated on a number of occasions that he felt that the railroad was worth well over \$1 million and wouldn't consider any offer that wasn't near this figure. He made it very clear that while he wanted to sell the railroad to someone who would continue to operate it, he wanted something approaching the full appraised value of the property (as stated in the abandonment filing) and then he would not consider a sale to someone at what he felt was a discounted price. Despite significant efforts by the rest of the board to publicize the availability of the railroad for purchase, ultimately no offers that met Capt. Bushman's requirements were received.

Brad Haines had been an employee of the company and a director. Mr. Hart had been paying Mr. Haines from his personal funds to perform various tasks around the railroad, but had not provided any information to the directors or stockholders as to how much Mr. Haines was being paid, or what tasks were being performed. Immediately upon Mr. Hart's passing, Mr. Haines resigned his directorship and made a demand for past wages. Despite requests of the company, Mr. Haines has never provided any documentation to support his request for wages and has been adversarial in his relationship with the company. While Mr. Haines knowledge of the Stewartstown Railroad's former operations is quite substantial, his objectivity is certainly open to question. Certainly, the credibility of his "stealth" track inspection, performed without the company's knowledge or permission is very much in doubt. Mr. Haines' recommendation that the FRA be asked to inspect the line to determine the needs to bring it up to class one condition reflect not only a lack of understanding of the railroad's present operational status but also of the FRA's role in such matters. Inspection by the FRA and PUC will be required before revenue trains are operated, but it is inappropriate at the present time.

Given the fact that the motorcar operations over the railroad are made by the North American Rail Car Operators Association, which carries liability insurance, and that the railroad maintains its own railroad liability insurance policy, the liability exposure from such operations is minimal. However, Capt. Bushman may not be aware of these facts for the reasons stated above.

Capt. Bushman's comments also reflect an unwillingness to recognize the usefulness of volunteer labor for preparing and operating the railroad. Despite the fact that several other nearby shortline tourist and excursion railways successfully use volunteers for part or all of their maintenance of way efforts, and despite the fact that virtually all of the repairs to buildings, equipment and track have been accomplished with volunteer labor, Capt. Bushman and Mr. Haines state unequivocally that using volunteers will not work.

Capt. Bushman implies in his verified statement that he disagrees with the company's handling of the debt owed to the estate. However, Capt. Bushman has purposefully and intentionally abandoned his responsibilities as a director of the Corporation in working towards what he suggests might be a better course of action. It is worth noting that after pushing for a resolution to sell the company, he has made virtually no effort to publicize or help in those sales efforts himself, despite the fact that he was one of the board members that he charged with the duty to do so as a stockholder! Even now, it is my belief that Capt. Bushman believes that the Surface Transportation Board will help find a buyer for the company that will allow him to sell his shares at the price he hopes to achieve.

Despite the impression given by Capt. Bushman's statement and the Estate, the amount of work performed in the last 3 years is vastly more that had been performed in the previous 4 years under prior management and it is increasing in rate and scope. It is likely that the railroad will be operating trains over some portions of the line within a few months, and will continue to open additional track until the whole line is operable. They have also begun dialogue with shippers, connecting railroads and other stakeholders. This is a complete turn around from the previous management, which had not solicited freight traffic, but even actively discouraged it at times, and had performed no track repairs of any kind from May 2004 to April 2008. The expectation of a rehabilitated connecting line in the next 2-3 years gives further indication that the potential for successful operation of the Stewartstown Railroad is greater than at any time in recent memory.

VERIFICATION

I, Kenneth Bitten, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

A handwritten signature in black ink, appearing to read 'Kenneth Bitten', written in a cursive style.

Executed on August 18, 2011

