ENTERED
Office of Proceedings

JAN 25 2012

Part of
Public Record

JAN 25 2012

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB-1071

STEWARTSTOWN RAILROAD COMPANY
ADVERSE ABANDONMENT
IN YORK COUNTY, PENNSYLVANIA

231737

REPLY TO

OPPOSITION TO JAMES RIFFIN'S FILINGS OF JANUARY 18, 2012

---

1. James Riffin ("Riffin"), a party of record in this proceeding, herewith replies to the Stewartstown Railroad Company's ("**SRC**") and the Estate of George M. Hart's January 20, 2012 "Joint Reply in Opposition to James Riffin's Filings of January 18, 2012."

BACKGROUND INFORMATION

2. The Estate of George M. Hart (the "**Estate**"), on July 7, 2011, filed an application ("**Application**") to authorize the abandonment of the entire line of the Stewartstown Railroad Company. The ultimate goal of the Estate was to institute State foreclosure proceedings in order to liquidate the assets of the SRC, so that the Estate could collect the debt owed to the Estate by the SRC.[1]

---

[1] The SRC executed a mortgage of its assets on January 5, 1996, in order to secure a $289,702 debt the SRC owed George Hart. In 2006, the SRC executed and delivered to Mr. Hart a judgment note in the amount of $352,415, which was entered as a judgment with the Prothonotary of York County. The judgment note entitles Mr. Hart to immediate repayment of the loan amount upon demand, which demand was made on December 12, 2008. George Hart died April 17, 2008. His Will was probated on April 24, 2008. The Executor of Mr. Hart's estate is John Willever. In 2009, the SRC's Board of Directors resolved to pursue the sale of SRC's rail assets. The resolution also stated that **"for all practical purposes [SRC] is insolvent."** The SRC proposed a 5-year repayment arrangement, which the Estate and the sole residuary beneficiary of the Estate (the Bucks County Historical Society)

3. The estate argued in its September 6, 2011 Rebuttal that:

"the track comprising the SRC Line, in whatever shape it may be, has no future as a common carrier operation, because it has no definite near-term or reliable long-term freight traffic prospects. The SRC Line's continued existence furthers no important federal interest, except for perhaps the *theoretical* possibility that one day it could again host freight traffic." Rebuttal at 5. Emphasis in original.

4. On pp. 5-6 of its Rebuttal, the Estate stated:

"The Estate has chosen to pursue the abandonment in an effort to collect a debt owed to it (an amount that the Estate's executor is obligated to secure for the benefit of the Estate's sole residuary beneficiary, Bucks County Historical Society – "BCHS") pursuant to an agreement under which SRC has been in default for nearly three years. Were SRC a viable operation, there would have been multiple avenues by which SRC could have arranged the timely repayment of the debt (see Application at 30-32), but **SRC is unable to pay its debts in a timely fashion, and has not proven itself able to repay its debts under even an extended repayment plan.** Bold added.

SRC has sufficient assets to satisfy its debt obligations, but it adamantly refuses to liquidate them (at least not for the benefit of the Estate), insisting that the Estate should give SRC 'more time' to address its financial circumstances. For these reasons, the **Estate has determined that it would be able to recover the amounts owed to it only if – (1) SRC's assets are sold at fair market value (and for cash) to an interested person seeking to acquire these assets for continued common carrier rail use;** (2) SRC's assets are sold for non-common carrier rail uses (such as those that SINTOH [Steam Into History] has chosen to engage in on the connecting NCR Line; or (3) the SRC assets are, as a last resort, sold off in pieces and / or salvaged." Bold added.

5. On p. 6 of its Rebuttal, the Estate stated:

"The Estate would prefer ***not*** [bold in original] to see the SRC Line salvaged, and it hopes that abandonment authorization facilitates the for-cash transfer of SRC's assets to an entity **with the resources and desire to see the SRC Line retained for railroad purposes. Accordingly, the Estate has agreed that offers of financial assistance** ("OFA") and interim trail use, **if undertaken in an expedited manner that would not defraud SRC creditors, should be allowed.**" Bold added.

6. On p. 7 of its Rebuttal, the Estate argued:

---

subsequently rejected. September 6, 2011 Estate Rebuttal at 4-5, 18.

"Moreover, because granting the abandonment Application would facilitate the possible transfer of ownership of the SRC Line to another entity with an interest in preserving the property for future rail service, it is far from certain that abandonment authorization would harm any federal interest."

7. On p. 7 of its Rebuttal, the Estate argued:

"Granting the Estate's Application, on the other hand, would – (1) promote the honest and efficient management of SRC; (2) **permit the Estate to pursue its remedies at state law related to SRC's default on its debt obligations**; and (3) enable the executor of the Estate to fulfill his legal duties to collect amounts owed the Estate promptly in an effort to conclude the Estate without delay." Bold added.

8. On p. 11 of its Rebuttal, the Estate argued:

"As the first step in its PC&N [public convenience and necessity] analysis, the Board undertakes a thorough and realistic assessment of the line's traffic prospects to see if there is an existing or future public need for rail service. The Board also assesses whether or not the railroad has taken 'reasonable steps to attract traffic.' In this case, there is no persuasive evidence to show that the SRC Line can or will ever again host freight traffic."

9. On p. 11 of its Rebuttal, the Estate argued:

"As a second step, the Board must determine whether or not, on balance, the Board's jurisdiction over the subject rail property is being used to shield the railroad from the legitimate processes of state law, and to thwart other public interests linked to the proposed abandonment."

10. On p. 12 of its Rebuttal, the Estate argued:

"To better grasp SRC's freight potential, the Estate requested and obtained via discovery documents (supplied pursuant to a protective order) chronicling SRC's recent, limited efforts to solicit and to secure freight traffic. In these documents, discussed in the confidential version of SRC's Application at pages 20-24 and offered as Confidential Exhibits AA and BB attached thereto, SRC recognizes that it has no freight traffic future. According to SRC-supplied documents, the only shipper with which SRC has had recent freight service discussions is Pen-Mar, but SRC's frank assessment of its inability to secure Pen-Mar traffic is detailed in these same portions of the application.

11. On p. 12 of its Rebuttal, the Estate argued (incorrectly):

"SRC has but one rail outlet [correct] – the out-of-service NCR Line [incorrect] extending from a connection with SRC at New Freedom to a point of connection with

York Railway Company – 'York Rail' – at Hyde Siding, PA. [correct]"

12. On p. 13 of its Rebuttal, the Estate argued:

"SRC's single token 'effort' to attract freight traffic (there is only mention of 'preliminary discussions' with Pen-Mar) is not genuine; it is all form and no substance."

13. On p. 16 of its Rebuttal, the Estate argued:

"Without the Board's assistance or SRC's cooperation in selling or liquidating the railroad, it is unlikely that the Estate or its residual beneficiary will ever see SRC repay the debt it owes. SRC is already in default."

14. On p. 38 of its Rebuttal, the Estate reiterated:

"The Estate has repeatedly stated in this proceeding that it does not want to see the SRC Line salvaged, preferring, rather, that the SRC Line be sold for fair market value to an entity interested in preserving the railroad. Such an arrangement is much more likely to facilitate the prompt recovery of the amounts SRC owes than would foreclosure and subsequent salvage. Simply put, the Estate has both a sentimental and a business basis for not wanting to have to go down the more complicated salvage path."

15. On p. 39 of its Rebuttal, the Estate reiterated:

"The record in this case already makes clear that salvage of the SRC Line is not the Estate's preferred outcome here, and that **it is willing to facilitate the timely sale of SRC's rail property at fair market value to an entity that wishes thereby to preserve the railroad.**" Bold added.

16. On pp. 44 - 45 of its Rebuttal, the Estate stated:

"To be clear, if no financially <u>bona fide</u> comes forward **on a timely basis** to acquire the SRC Line in the interest of preserving its legally 'active' common carrier status, then the Estate has no objection to efforts to acquire possession of the SRC Line via the Board-administered interim trail use provisions, provided of course, that trails use negotiations are conducted promptly, in good faith, and in a manner that would not defraud SRC's creditors." P. 44.

"At the same time, the Estate's willingness to facilitate trails use / rail banking is not determinative. Rather, such arrangements depend upon SRC, who owns the SRC Line and possesses the common carrier obligation that attaches. SRC cannot be made to negotiate trails use / railbanking, and if it objects to such arrangements, then that is the end of the exercise." P. 45.

REPLY TO

JOINT OPPOSITION TO JAMES RIFFIN'S FILINGS OF JANUARY 18, 2012

17. Since the Joint Opposition to James Riffin's Filings of January 18, 2012 ("**Opposition**" or "**Op.**"), raises new issues, Riffin does not believe that this Reply to the Opposition would constitute a 'reply to a reply.' However, in the event that this Reply would be construed to be a 'reply to a reply,' Riffin would ask that the Board accept this filing in order to provide the Board with a more complete record.

18. In the Opposition, the SRC and Estate argue that Riffin's January 18, 2012 filings [Notice of Intent to Participate as a Party of Record; Notice of Intent to Fill an Offer of Financial Assistance ("**OFA**"); Motion for a Protective Order] should be rejected or denied, for the following reasons:

A. Riffin has no right to intervene. Op. at 6.

B. Riffin's OFA Notice should be rejected for being filed 'untimely;' Op. at 3-5.

C. Riffin's OFA Notice should be rejected since there is no provision in 49 CFR 1152.27 for filing a Notice of Intent to File an OFA in an abandonment Application proceeding; Op. at 3.

D. Riffin "would not, in any event, prove to be a financially responsible party under the applicable OFA standards," "unless he has failed fully to disclose his assets to the [Bankruptcy] court." Op. at 6.

E. "[T]he Estate and SRC, in their respective opinions, can conceive of few (if any) who would be more ill-suited to undertake an OFA for the purposes of the legitimate preservation of rail service anywhere." Op. at 5. "Mr. Riffin has no business being here ... ." Op. at 6.

19. **First thought:** The Estate and SRC make for strange bedfellows. The Estate argues that it wants SRC to pay the debt owed the Estate, and the Estate is prepared to auction off all of SRC's assets to secure payment of the debt. The SRC pleads with the Board not to send it to the guillotine. The Estate repeatedly argues "The Estate would prefer ***not*** [bold in original] to see the SRC Line salvaged, and it hopes that abandonment authorization facilitates the for-cash transfer of SRC's assets to an entity with the resources and desire to see the SRC Line retained for railroad purposes." Rebuttal at 6.

20. Riffin finds it strange that just before the Board is set to grant the adverse abandonment, thereby guillotining the SRC, the SRC joins with its arch nemesis, the Estate, asking the Board to reject the only prospect the SRC has of having its Line preserved. Riffin finds it strange that the Estate, after numerous statements saying that all it wants is cash, and saying repeatedly that it would prefer the Line be sold to an OFA offeror, the Estate asks the Board to reject the only OFA offer that has been made. Strange bedfellows. It makes one wonder if the Estate and the SRC are attempting to misuse / abuse the Board's procedures to obtain goals not disclosed.

Riffin has no right to intervene.

21. 49 CFR 1152.25 grants all "interested persons" the right to participate as a 'commenter' or as a 'protestant.' Riffin has elected to fully participate as a 'protestant.' Riffin does not protest the Estate's attempt to collect on its debt. Riffin protests the permanent abandonment and salvaging of the Line. Rather than just symbolically chant, "I protest," Riffin offers to put his money where his mouth is: He offers the Estate precisely what the Estate seeks: Cash for SRC assets, which cash the Estate can levy with a lien. Riffin decidedly is an 'interested person,' and as such, has the right to participate fully.

Riffin's OFA Notice should be rejected for being filed 'untimely.'

22. 49 U.S.C. 10904 (c) states:

> "(c) Within 4 months after an application is filed under section 10903, any person **may** offer to subsidize or purchase the railroad line that is the subject of such application."

"(d)(1) Unless the Board, within 15 days after the expiration of the 4-month period described in subsection (c), finds that one or more financially responsible persons ... have offered financial assistance ...abandonment ... **may** be carried out in accordance with section 10903."

"(d)(2) If the Board finds that such an offer or offers of financial assistance has been made within such period, abandonment or discontinuance **shall** be postponed until –

(A) the carrier and a financially responsible person have reached agreement on a transaction for subsidy or sale of the line; or

(B) the conditions and amount of compensation are established under subsection (f)." Bold added.

23. The language in 10904 is permissive, not mandatory. A person **may** file an OFA within 120 days of the date an Application for Abandonment is filed. If an OFA is filed within this time period, the Board **shall** postpone the abandonment proceeding until the carrier and OFA offeror have had an opportunity to reach an agreement, and if not, the OFA offeror has asked the Board to set the terms and conditions for the sale of the Line.

24. If an OFA is not filed within the 120-day period, then the Board may grant abandonment authority anytime after day 135.

25. The statute is silent on what happens if an OFA offer is filed after day 120.

26. 49 CFR 1152.27 (c) (A) and (B) are more explicit:

"(A) An offer **may be filed and served AT ANY TIME after the filing of the abandonment or discontinuance application** or petition for exemption."

"(B) An offer, or notification of a previously filed offer, **must be filed and served no later than 10 days after service of the Board decision granting the application** or petition for exemption." Bold and emphasis added.

27. The regulation relied upon by SRC and the Estate, 1152.27 **(b)**, has to do with language that must be included in the *Federal Register*. The *Federal Register* notice states:

"Offers of financial assistance will be due 120 days after the application is filed or 10 days after a decision granting the application is served, whichever occurs sooner."

28. This regulation is not controlling. It applies to what language must be included in a *Federal Register* notice. The language is somewhat misleading. The Board is not required to wait 120 days to approve an abandonment application. The notice states that if the Board were to render a decision prior to the 120th day, then an OFA offer would have to be filed within 10 days of that pre-day-120 decision (which may be sooner than day 120).

29. 49 CFR 1152.27 **(c)** is the controlling regulation. It explicitly applies to **service and filing** of OFA's. **(c)** expressly states that the filing of an OFA before the Board renders its decision, is of no import, unless the offeror notifies the Board after the decision, that an OFA has been previously filed. (c)(A) expressly states than an OFA "may be filed and served **at any time** after the filing of the abandonment or discontinuance application."

30. One purpose for filing an OFA before the Board renders its decision, is to advise the carrier, and the Board, that one is **considering** filing an OFA. Once the carrier is on notice that an entity is considering filing an OFA, 49 CFR 1152.27 **(a)** comes into play. This regulation mandates that the carrier provide the prospective OFA offeror certain information, including the minimum purchase price. Invoking this regulation before the Board renders its decision, has the potential of speeding up the process, since this information potentially could be provided before the Board renders its decision. Once the Offeror has this information, the Offeror can decide whether to make a formal OFA. In the event that the required information is not provided within 10 days after the Board renders its decision, then 49 CFR 1152.27 (c)(C) permits an Offeror to petition the Board "to toll the 10-day period for submitting offers of financial assistance under paragraph (c)(1) of this section. Petitions must be filed with the Board within 5 days after service of the decision granting the application."

31. The Board has not rendered its decision in this proceeding. Riffin has until 10 days after the Board renders its decision, to file an OFA. Riffin's Notice of Intent to File an OFA is not untimely. It is quite timely.

Riffin's OFA Notice should be rejected since there is no provision in 49 CFR 1152.27 for filing a Notice of Intent to File an OFA in an abandonment Application proceeding.

32. SRC and the Estate are correct in stating that there is no **express** provision in 49 CFR 1152.27 for filing a Notice of Intent to File an OFA in an abandonment Application proceeding. However, there is no regulation that **prohibits** the filing of a Notice of Intent. Filing a Notice of Intent would be in conformity with 1152.27 (a), which states:

> "(a) *Provision of information.* An applicant must provide promptly upon request to a party **considering** an offer of financial assistance to continue existing rail service, and concurrently to the Board, the following:" Bold added.

33. Riffin is "**considering**" filing an OFA. He has made his intention known by filing a Notice of Intent to File an OFA. He also could have made his intention known by filing a formal OFA. However, presently, he has insufficient information to file a formal OFA. Once SRC provides Riffin with the "minimum purchase price" [net liquidation value] for those portions of the Line that Riffin is **considering** purchasing, then Riffin will file a formal OFA. If the information required to be provided to Riffin is not provided prior to the Board rendering its decision, then Riffin will petition the Board to toll the 10-day period for filing an OFA subsequent to the Board rendering its decision, until such time as the required information has been provided to Riffin.

Riffin "would not, in any event, prove to be a financially responsible party under the applicable OFA standards," "unless he has failed fully to disclose his assets to the [Bankruptcy] court."

34. 49 CFR 1152.27 (c)(1)(ii)(B) defines the term 'financially responsible' as follows:

> "(B) Demonstrate that the offeror is financially responsible; that is, that it has or within a reasonable time will have the financial resources to fulfill proposed contractual obligations;"

35. SRC and the Estate made the unsupported allegation that Riffin could not possibly be a 'financially responsible person.' They surmise, incorrectly, that because Riffin filed a

bankruptcy petition in January, 2010, two years later, he would not have obtained sufficient funds with which to purchase even a small portion of the SRC. Any assets a debtor acquires after filing a bankruptcy petition, becomes the property of the debtor, and are not subject to his creditor's claims. Any pre-petition property the debtor owned that is returned to the debtor post-petition, is also not subject to his creditor's claims. Riffin received his discharge in bankruptcy on October 13, 2010. Riffin and his bankruptcy trustee reached a settlement agreement, which was approved by the bankruptcy court after a hearing which was open to all of Riffin's creditors, on September 26, 2011, wherein Riffin's trustee agreed to return to Riffin all of his pre-petition assets, minus Riffin's Allegany Rail Line. Riffin fully disclosed all of his assets. Post-settlement agreement, Riffin has salvaged some of his pre-petition entireties assets, thereby converting these assets into cash. The Board has been apprized of the amount of cash Riffin has access to. (This information was provided to the Board under seal.) Whether this amount of cash is sufficient "to fulfill proposed contractual obligations," will be determined after SRC provides to Riffin and the Board, the 'minimum purchase price' [net liquidation value] of those portions of the Line that Riffin has indicated he is 'considering' purchasing via the OFA procedures.

"[T]he Estate and SRC, in their respective opinions, can conceive of few (if any) who would be more ill-suited to undertake an OFA for the purposes of the legitimate preservation of rail service anywhere." "Mr. Riffin has no business being here ... ."

36. The SRC and the Estate do not elaborate on why, in their opinion, Riffin would be "ill-suited" to acquire portions of the SRC via the OFA procedures, nor do they offer any reasons why, in their opinions, "Riffin has no business being here."

37. The only relevant criteria in an OFA proceeding, is whether the Offeror has the financial means to purchase identified portions of a Line subject to abandonment. Once purchased, the offeror is prohibited from abandoning the Line for two years, and cannot transfer the Line to another entity for five years, without the consent of the carrier.

38. In this proceeding, Riffin has difficulty comprehending why the Estate even cares who provides the cash pay SRC's debt to the Estate. If Riffin does not buy the Line, then the Estate has expressly stated that it will institute foreclosure proceedings and that ultimately the Line will

be sold to a 'salvager,' who will dismantle the Line and scrap everything of value. This poses the question: Would the Estate prefer that the Line be saved, albeit by someone the Estate does not like, or would the Estate prefer that the Line be salvaged and forever lost?

39. The SRC and the Estate have an alternative to Riffin: Find another OFA offeror.

Certificate of Service

40. 49 CFR 1152.27 (c)(1)(i) requires service of an OFA upon the carrier, the Board, and all parties to the abandonment application. The word 'parties' is not defined.

41. 49 CFR 1152.25 addresses participation in abandonment proceedings. To "participate actively and fully in the process [one] should file a protest." A protestant is required to present its case in chief with its initial filing, including "evidence showing that the applicant can operate the portion of the line profitably, including an appropriate return on its investment for those operations." 49 CFR 1152.25 (A)(1)(ii)(C).

42. The 'applicant' is the Estate. The SRC filed as a 'protestant,' and included its case in chief, supported by affidavits, in its initial filing. No one else filed as a 'protestant.' Everyone else merely filed 'comments.' Only a 'protestant,' as defined in the regulation, has the right to participate 'actively and fully.' 'Actively and fully' connotes a desire to be served with pleadings and a desire to respond to pleadings. Merely 'commenting,' indicates a desire to voice their opinion, typically without verification.

43. Riffin served those parties who had indicted a desire to 'actively and fully' participate, namely, SRC and the Estate. If the Board rules that Riffin is required to serve his pleadings on everyone who has merely filed a comment, then Riffin will do so. Presumably, each of the commenters have access to the Internet and access to the Board's website, and thus can keep themselves fully apprized of what Riffin files.

NORTHERN CENTRAL RAILROAD

44. In its Rebuttal, the Estate represents on numerous pages (12, 23, 39) that the Northern Central Line, from New Freedom to Hydes (York), PA, is 'out of service.' To Riffin's knowledge, no 'discontinuance' authority has been granted for this Line of railroad, nor has a notice been posted indicating that this Line is 'out of service.'

45. The Estate argued in its Rebuttal, at pp. 40-42, that York County is not a rail common carrier, since York County never had the obligation to provide an operator for the Northern Central. Evidently the Estate has not read the underlying documents which transferred ownership of the Northern Central from Penn DOT to York County.

46. On April 1, 1976, Penn DOT acquired from Penn Central that portion of the Northern Central Railroad that lies between MP 35.6, at the Maryland - Pennsylvania Line, and MP 54.6, located at Hydes, PA, which is about 1.5 miles from the center of York, PA. The deed of conveyance is recorded in the Land Records of York County in Liber 70C, folio 861.

47. On July 13, 1990, Penn DOT conveyed its portion of the Northern Central to York County, PA. The deed of conveyance is recorded in the Land Records of York County in Liber 107C, folio 1075. The deed from Penn DOT to York County is subject to an Agreement of Sale, Agreement # 822077, dated March 28, 1990. The Agreement contains a number of terms and conditions, including a "Section 4 - Rail Operations and Maintenance," which states:

> "The County will provide, or arrange by contract to have provided, railroad freight transportation service over the Line without any operating subsidy from the Department. The County will be responsible for all maintenance and repairs to the line which shall be kept in good order and repair in accordance with state and / or federal safety requirements. The County acknowledges and agrees to honor the lease of the Line to Southern York County Corporation (commonwealth Agreement No. 74341) referenced as Exhibit 'B' attached hereto and made a part hereof. The County also acknowledges the existence and operation of the Stewartstown Railroad, a common carrier whose rail line connects with the line contained in this Agreement, whose ability to provide rail freight service to their customers is dependent upon the maintenance of freight transportation service on the subject Line. In the event that Southern York County Corporation elects to terminate Agreement 74341, the County agrees to concur in the termination.

48. Agreement 74341 is recorded in the Land Records of York County in Liber 107 C, folio 1112. It is dated February 11, 1983. This Agreement leases the Northern Central to the Southern

York County Corporation ("**SYCC**"), a non-profit corporation, for a term of 10 years, and superceded a previous September 1, 1977 (Agreement No. 58956) lease of the Northern Central to the SYCC. According to Section 11 of Agreement 74341, the Stewartstown Railroad was to be the operator for the SYCC.

49. Recorded in the Land Records of York County in Liber 107 C, folio 1109 to 1110, is a Work Description and Budget for $1,971,231 worth of rehabilitation work that was performed on the Northern Central by Penn Dot and York County, PA.

50. On September 29, 1995, Penn Dot and the County of York, PA, executed Agreement No. 829519, titled "Rail Corridor Preservation Agreement," which modified some of the original terms and conditions associated with the conveyance of the Northern Central to York County.

51. Page 1 of the Rail Corridor Preservation Agreement states that in September, 1992, the SRC terminated its lease of the Northern Central and ceased providing rail freight service on the Northern Central.

52. Paragraph 4 of the Rail Corridor Preservation Agreement states:

> "4. In the event a prospective rail operator makes a bona fide, no subsidy required, written proposal for rail freight service on the Line, the County agrees to cooperate in the reestablishment of rail freight service. ... The county agrees to restore the Line to Federal Railroad Administration Class 2 track standards. ... The restoration and rectification shall be completed by the County no later than One Hundred Eighty (180) days following acceptance of the proposal to reestablish rail freight service.

53. On or about September, 2010, York County executed a Lease and Operating Agreement between York County and Steam Into History, Inc. This Agreement leased the Northern Central to Steam Into History for a term of 15 years. Paragraph 1 of the Agreement states: "County hereby leases to Steam and Steam hereby leases from County, for the operation of a railroad excursion, passenger and freight transportation services, the 'Railroad' Line as hereinafter described:" Paragraph 5 of the Agreement stipulates that "Steam shall be solely responsible for any and all costs of rehabilitation and maintenance of the track, railbeds and equipment."

54. The language in the above referenced Northern Central documents stipulates that York County "will provide, or arrange by contract to have provided, railroad freight transportation service over the Line." The 1995 Agreement between Penn DOT and York County stipulates that York County "agrees to restore the Line to Federal Railroad Administration Class 2 track standards." The facts recited in the Agreements indicate that the SRC operated as the common carrier operator on the Northern Central from 1977 until 1992. Riffin is not aware of any SRC 'discontinuance of service' request filed with the Interstate Commerce Commission.

55. From the above, it could be concluded that York County has the residual, and may have the actual, common carrier obligations associated with the Northern Central. In addition, unless documentation can be produced showing otherwise, the SRC still has the common carrier rights and obligations associated with the Northern Central. And unless someone can prove otherwise, the Northern Central, while in a state of some disrepair, is not officially 'out of service.'

56. Riffin has had discussions with Steve Chronister, the President of the York County Commissioners. Riffin requested overhead trackage rights on the Northern Central, to permit Riffin to transport freight rail cars from New Freedom to Hydes, PA. Mr. Chronister stated to Riffin that York County will not consider Riffin's overhead trackage rights request until Riffin acquires some portion(s) of the SRC.

57. Riffin, on January 19, 2012, had a discussion with David Hart, General Manager of York Rail, concerning an interchange agreement between Riffin and York Rail. Mr. Hart stated that until York County grants Riffin the right to transport freight on the Northern Central, York Rail will not discuss the terms of an interchange agreement.

58. Consequently, the sequence of events must be as follows: Riffin must first acquire portion(s) of the SRC. Riffin then will obtain overhead trackage rights over the Northern Central, unless the SRC already has trackage rights on the Northern Central, in which case Riffin will seek to acquire those rights via the OFA process. Riffin then will negotiate an interchange agreement with York Rail.

FREIGHT POTENTIAL

59. Riffin has spoken with a number of shippers who have expressed a desire to ship rail cars to locations on the SRC's Line. The details of these shipper requests have been submitted to the Board under seal.

60. Riffin and York Rail have discussed what rate York Rail would charge to move rail cars from Norfolk Southern's interchange with York Rail, to York Rail's interchange with Riffin at Hydes. The details of this discussion have been submitted to the Board under seal.

61. The quantity of rail cars to be shipped, and the rates at which they will be shipped, have been submitted to the Board under seal. The quantities and rates indicate that the SRC Line can be operated at a profit.

CONDITION OF THE TRACK

62. The rails, even though they are light (67 # rail), are in good shape. A high percentage of the cross ties (99%+) are rotted out and are embedded in dirt. A bridge with a 30-foot span near MP 0.9 should be removed, and a culvert should be installed instead, about 100 feet west from where the bridge presently is located. A bridge with a 32-foot span near MP 3.6, and a bridge with a 65-foot span near MP 6.3, need to be strengthened if 286,000 lb. rails cars are to be moved over them. Volunteer workers on the SRC have replaced a number of drainage (12" to 24") culverts and have added ballast and rip rap to areas that have been eroded.

63. Riffin's primary interest is in the first 1.9 miles of the Line (to a point 1,500 feet east of the east side of the intersection of the Line with the Susquehanna Trail in Shrewsbury, PA). Riffin also has an interest in the portion of the Line that lies between MP 1.9 and MP 3.2. [The I-83 Industrial Park mentioned on p. 31 of the Estate's Rebuttal (which the Estate incorrectly said "does not appear to be located on SRC"), is located between MP 2.45 and MP 2.9.] Since Riffin's primary interest is in the first 3.2 miles of the Line, the condition of the bridges past MP 3.2 do not overly concern Riffin.

64. Riffin's bankruptcy trustee returned to Riffin about 6,000 feet of 100 lb rail, all of Riffin's concrete cross ties (several thousand), all of Riffin's Maintenance-of-way equipment (tamper, ballast equilizers, scarifiers, spike removers, 40-ton burro cranes, track liner) and heavy construction equipment, and Riffin's bridge steel. With this material and equipment, Riffin can rebuild the first 1.9 miles of the Line at little cost. Riffin can strengthen the two bridges at MP 3.6 and MP 6.3 with Riffin's bridge steel.

ADVERSE ABANDONMENT PROCEEDING

65. Prior to January 18, 2012, the date Riffin made his filings, the record in this proceeding indicated that the SRC has not moved any revenue-producing traffic for decades. The SRC Line presently is incapable of handling traffic. Captain Bushman said in his verified statement that the SRC had passed a resolution which stated that "for all practical purposes [SRC] is insolvent." Of the three shippers identified by SRC (Pen-Mar Recycling, Internet Factory and Ma & Pa Railroad Preservation Society), only Pen-Mar is located on the Line, and only Pen-Mar is likely to move any traffic over the Line. (Pen-Mar is located adjacent to the Line near MP 1.4.) Riffin spoke to the general manager of the Pen-Mar facility. He indicated that Pen-Mar may ship one car a month some time in the future.

66. Based on the record prior to January 18, 2012, there was sufficient reason for the Board to grant the Adverse Abandonment Application, to permit the foreclosure process to move forward. In Riffin's opinion, the SRC had failed to present sufficient evidence to demonstrate that the SRC was needed for continued rail service, and had failed to demonstrate that the SRC, under its current ownership, had the financial capability of rehabilitating the Line and providing rail freight service. By the SRC's own admission, it desired to provide an excursion service starting at the end of the Line, near MP 7.4, and somewhere west of MP 7.4 (as far as the excursion train could go without derailing[2]) By its own admission, the SRC had no present intention of rehabilitating the beginning of the Line, in New Freedom. Without rehabilitating the beginning of the Line, there is no prospect for future rail freight traffic. The Board has no authority to regulate excursion trains. Consequently, as of January 17, 2012, there was no reason

[2] The last excursion train, Easter of 2006 or so, derailed just before it crossed the 65-foot span bridge near MP 6.3. Riffin was on this train.

for the Board to continue to exercise its jurisdiction over the SRC Line.

67. Based on the record as of January 17, 2012, there was a very high probability that the Board would have granted the Adverse Abandonment Application. Had that occurred, the Line would have been salvaged, since as of January 17, 2012, no one that had the requisite financial resources, had expressed any interest in acquiring and preserving the Line.

68. On January 18, 2012, Riffin presented to the Board under seal, documentation that demonstrates that there is a significant unmet demand for rail freight service along the first 1.2 miles of the SRC Line, documentation that demonstrates that Riffin has access to significant financial resources, and evidence that Riffin has the immediate ability to begin rehabilitating the first 1.2 miles of the Line, and has the ability to provide service to rail freight customers shortly after he acquires the first 1.2 miles of the Line.

69. As of January 18, 2012, the record contains sufficient evidence to demonstrate that the Line is in fact needed for continued rail freight service, sufficient evidence to demonstrate that there is sufficient traffic to make the Line financially viable, and that there is a party, Riffin, who has the requisite resources to rehabilitate the Line then place it back into service.

70. On January 20, 2012, the SRC joined with its arch nemesis, the Estate, in a joint effort to persuade the Board to shoo away the only person who can save the SRC line from salvage. The SRC and the Estate make for strange bedfellows. It also calls into question the real goal of the SRC and the Estate: Is it to save the SRC Line from being salvaged, or is it some other, undisclosed goal? (The Estate has professed numerous times that besides wanting its debt paid, it also wants to preserve the SRC Line for future rail use. What Riffin is offering would meet the goals of both the SRC and the Estate: The Line would be preserved for continued rail service. The SRC would get cash, which it could turn over to the Estate.

71. There is sufficient evidence in the record to demonstrate that under its present ownership, the SRC Line meets the criteria for adverse abandonment. There also is sufficient evidence in the record to demonstrate that the Line is needed for continued freight rail service. What needs to occur, is a change in ownership.

72. For the foregoing reasons, Riffin would ask that the Board rule that there is sufficient evidence in the record to grant the Adverse Abandonment Application if the Line remains in the hands of the current owners, that there is sufficient evidence in the record to demonstrate that the Line is needed for continued rail service, then hold the abandonment ruling in abeyance to permit the OFA process to move forward.

SALVAGING THE LINE

73. Riffin spoke with Duke Pepper, a Pennsylvania Department of the Environment Assistant Attorney General with oversight over Sediment Control laws. Riffin also spoke with Karen Ward, an engineering technician at the York County Conservation District office. Mr. Pepper and Ms. Ward both stated that Chapter 102 of Title 10 of Pennsylvania's Code, would be applicable to activities associated with the abandonment of the SRC Line, including obtaining a NPDES (National Point Discharge Elimination System) permit. When an activity needs a NPDES permit, a professional engineer must be hired to prepare a Sediment Control Plan, sediment control fencing must be erected, then removed post-activities, on the down-slope side of the activity, and construction entrance / exit ramps must be built at each access point.

74. I certify under the penalties of perjury, based on my personal knowledge, the above is true and correct.

Respectfully submitted,

Executed on January 23, 2012.

James Riffin
1941 Greenspring Drive
Timonium, MD 21093
(443) 414-6210

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of January, 2012, a copy of the foregoing Reply to Opposition to Riffin's January 18, 2012 filings, was served by first class mail, postage prepaid, upon Alex Snyder, Barley Snyder, P.O. Box 15012, York, PA 17405-7012 and upon Keith G. O'Brien, Baker and Miller, Ste 300, 2401 Pennsylvania Ave, Washington, DC 20037.

James Riffin

BOOK PAGE

107C 1075 23-6063050

JAN 25 2012

Deed 35571

FED. PROJ. NO.	N/A
COUNTY	York
CITY-BORO.-TWP.	
S.R.-SEC.	N/A
CL. NO.	N/A — 98
CLAIMANT	Trustee, Northern Central Railway Company

Destroy Previous Editions

RW-318-QC (4-87)

REPRODUCE LOCAL

034322

QUIT CLAIM DEED

JUL 23 1990

OFFICE OF ATTORNEY GENERAL

CONTRACTS #

Made July 13, 1990

by the Commonwealth of Pennsylvania, Department of Transportation, (hereinafter called the GRANTOR), and the County of York, 1 West Marketway, York, PA 17401

(hereinafter, whether singular or plural, called the GRANTEE);

WITNESSETH, That in consideration of

($ 1.00), in hand paid, the receipt whereof is hereby acknowledged, the said GRANTOR does hereby release and quit claim to the GRANTEE

☒ the premises described in Exhibit "A" made a part hereof,

☐ the premises designated by hatching on the plot plan attached hereto and made a part hereof,

determined, by the GRANTOR, to be not needed for present or future transportation purposes;

BEING ☐ a portion of ☒ the premises heretofore

acquired from the Trustee of the Northern Central Railway Company in Document NC-PA-RP-1 on the First Day of April, 1976 recorded in Deed Book 70C Page 861.

RECORDED PAID

AUG 3 11 99 A 90

RECORDER OF DEEDS OFFICE

YORK COUNTY, PA.

03557.1

BOOK 107 C PAGE 1076

Approved as to form and legality.

John AF Hall
Deputy Attorney General

APPROVED AS TO LEGALITY AND FORM

By [signature]
for Chief Counsel

IN WITNESS WHEREOF said GRANTOR has hereunto set its hand and seal, the day and year first above written.

Susan H Richuck
(SEAL)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

By David E Zazworsky
Deputy Secretary of Transportation

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF DAUPHIN :

On July 19, 1990, before me, the undersigned officer, personally appeared David E Zazworsky who acknowledged himself to be Deputy Secretary of Transportation of the Commonwealth of Pennsylvania, and that he, as such Deputy Secretary of Transportation, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

NOTARIAL SEAL
SUZANNE MARIE MILLER, NOTARY PUBLIC
CITY OF HARRISBURG DAUPHIN COUNTY
MY COMMISSION EXPIRES FEB. 17, 1994

Suzanne Marie Miller
Notary Public
My Commission Expires;

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF York :

Recorded in the Office for Recording of Deeds in and for aforesaid County in Deedbook 107 C, Vol. Page 1077.

Witness my hand and seal of Office on

[signature]
Recorder of Deeds

I certify that, upon recording, the within instrument should be mailed to GRANTEE at:

York County Commissioners
1 W. Market Way
York, PA 17401.

GRANTEE

EXHIBIT A

All that certain parcel of land known as the Northern Central Branch, (U.S.R.A. Line No. 145) beginning at Milepost 54.6 (Hyde) extending to Milepost 35.6 (New Freedom) at the Maryland Border, as outlined in the attached plan illustrating the general location of the said line; subject however to the reservations and exceptions contained in document NC-PA-RP-1 as recorded in Deed Book 70C Page 861; also to the terms and conditions of the attached Agreement of Sale #822077 executed on March 28, 1990.

BOOK PAGE
1076 1097

Federal ID
or SS #
23-6003050

Agreement #
822077

AGREEMENT OF SALE

This Agreement, made and executed this 28th day of March, 1990 by and between the Commonwealth of Pennsylvania, acting through its Department of Transportation, hereinafter referred to as the "Department" and the County of York, operating under the laws of the Commonwealth having its principal place of business at 1 West Marketway, York, Pennsylvania 17401, hereinafter referred to as the "County."

W I T N E S S E T H:

Whereas, the Department owns a line of railroad, knows as USRA Line 145, extending between Hyde, PA at M.P. 54.6 and the Maryland Border at M.P. 35.6 formerly owned by the Penn Central Corporation, hereinafter referred to as the "Line" ; and

Whereas, under the provisions of Act No. 119 of 1984, July 5, P.L., 55 P.S. §696.1-11, the Department is authorized to sell or convey any line or lines for continued rail use, to any responsible party; and

Whereas, the County has agreed to acquire and accept the subject line;

Now therefore, for and in consideration of the foregoing premises and the mutual promises hereinafter set forth, the parties hereto agree, with the intention of being legally bound hereby, as follows:

SECTION 1 Description of Property

The Department hereby conveys to the County, for consideration as specified in section 3 of this agreement, and the County hereby accepts, under the terms and conditions, hereinafter set forth, the following described Line:

All that certain right-of-way demised to the Department in Document No. NC-PA-RP-1 of the Deed by and between Fairfax Leary, as Trustee of the property of the Northern Central Railway Company, Debtor, Grantor, and the Commonwealth of Pennsylvania, Grantee, together with improvements, ties, rails, trestles, bridges, understructures and any other improvements thereon erected, subject to any exclusions and provisions herein contained, whether title is held in fee, easement or otherwise. A plan of the general location of the said Line is ~~[illegible]~~ incorporated herein by reference as if physically attached hereto.

SECTION 2 - Warranty of Title

The parties hereto acknowledge the Line was acquired by predecessors of the Department before such time as deeds were recorded in York County.

Title shall be conveyed by delivery of a Quitclaim Deed without any covenants or warranties of any kind whatsoever by the Department. Said title shall be conveyed free and clear of all liens, encumbrances, restrictions and objections by or against the Department, except those of record and as mentioned in this Agreement.

The Line above described is to be conveyed in its present physical condition, it being understood that the County has carefully inspected said premises, and in executing this agreement is relying solely upon such inspection and not upon any representation made by the Department, its officers, agents, or employees, and that the Department makes no warranty, expressed or implied, in respect to the condition of the Line or any part thereof.

SECTION 3 -Compensation

The Commonwealth agrees to accept one dollar as payment in full for the Line, receipt of which is hereby acknowledged. The County will pay four thousand five hundred dollars to Stephen Busch, having offices at 714 Arsenal Road, York, PA 17402, as repayment for the cost of an appraisal conducted on the Line.

SECTION 4 - Rail Operations and Maintenance

The County will provide, or arrange by contract to have provided, railroad freight transportation service over the Line without any operating subsidy from the Department. The County will be responsible for all maintenance and repairs to the Line which shall be kept in good order and repair in accordance with state and/or federal safety requirements. The County acknowledges and agrees to honor the lease of the Line to Southern York County Corporation (Commonwealth Agreement No. 74341) referenced as Exhibit "B" attached hereto and made a part hereof. The County also acknowledges the existence and operation of the Stewartstown Railroad, a common carrier whose rail line connects with the Line contained in this Agreement, whose ability to provide rail freight service to their customers is dependent upon the maintenance of freight transportation service on the subject Line. In the event that Southern York County Corporation elects to terminate Agreement 74341, the County agrees to concur in the termination.

SECTION 5 - Liens and Encumbrances

The County agrees to provide or arrange to provide continued rail service on the Line until the expiration of a lien by the federal government under grant PR-PA-79 which remains in effect until December 31, 1994, or a minimum 5 year period from the date of closing, as required by act 119 of 1984, July 5, P.L., 55 P.S. §696.1-11, whichever period is longer.

SECTION 6 - Licenses and Occupancies

Conveyance shall be made subject to existing tenancies and at the time of settlement. The licenses, leases, and/or agreements as listed in Exhibit "C" attached hereto and made a part hereof, will be assigned to the County.

The County will assume all profits from those licenses, leases, and/or agreements listed in Exhibit "C" effective on January 1, 1991. However, the Department reserves the right to collect any profits due prior to January 1, 1991. The County may sell, lease, grant easements or licenses, develop, or otherwise utilize the properties or portions thereof so long as such actions do not unduly interfere with the utilization of said line for railroad purposes. Such uses shall include, without limitation, transverse and longitudinal occupancies for public improvements (e.g., roads, sewers, etc., at, above or below grade, pipelines, power lines and energy corridors, bikeways, and commercial development of air, subterranean and surface rights. The County shall be prohibited from granting any perpetual license, easement or agreement until the expiration of this Agreement.

SECTION 7 - Sale of Convevance of Property

The County shall be prohibited from transferring title to any real estate or parcels included in this conveyance to any party until the expiration of this Agreement. Exceptions shall include real estate or parcels conveyed to parties for continued rail freight use. The Commonwealth shall be notified in writing in advance of any proposed sales, which consent shall not be unreasonably withheld.

SECTION 8 - Liability

The County shall hold and save the Department and the Commonwealth harmless from all claims, damages, suits, judgements or causes of action on account of injury to or death of persons or loss or damage to property which may result from, or grow in any manner out of, the management, control, use or operation of the Line including all appurtenant facilities, after the beginning of the term of this Agreement. In this connection the

County will acquire, or cause its operator to acquire, public liability and property damage insurance, with a minimum 2 million dollar level of coverage until the expiration of this Agreement.

SECTION 9 - Taxes and Other Obligations

Upon the execution of this Agreement any taxes or assessments levied thereafter by public authorities for improvements, including water and sewer rents, as well as any requirement to make water and/or sewer connections and/or to construct sidewalks or curbs or repair or remove existing construction, shall be the obligation of the County.

SECTION 10 - Approvals

The sale and conveyance hereunder shall be subject to and conditioned upon:

(a) Approval, if necessary, of the Pennsylvania Public Utility Commission, the Interstate Commerce Commission, and/or any other governmental authority, the cost and expense of obtaining or attempting to obtain such to be borne solely by the County.

(b) All laws and ordinances, including but not limited to zoning and subdivision; cost of obtaining or attempting to obtain approval of subdivision, if necessary, shall be borne solely by the County.

SECTION 11 - Dissolution of the Line

In the event the County fails to arrange for or provide rail freight transportation service, as provided in Section 4, at any time prior to the expiration of any federal liens on the property or the expiration of this Agreement, the parties will use their best efforts to engage a replacement railroad to provide such service. However, in the event no railroad can be engaged for such purpose, and/or in the event the York to Maryland portion of the Line is abandoned by the County by reason of such breach, or otherwise terminated by legal action, the County will cooperate fully with the Department in settling any and all claims by any federal or state agency having jurisdiction. The County shall be liable to pay any

claims by the government of the United States for a portion of the proceeds of the York to New Freedom portion of the Line or for rehabilitation funds sought to be recovered by the government of the United States upon the disposition thereof. Such cooperation shall also include any appropriate financial contribution imposed by federal law or regulation upon the parties.

SECTION 12 - Force Majeure

In the event that either party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, acts of God, or war, or any other reason beyond its control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

SECTION 13 - Termination

The Department shall have the right to terminate this Agreement, upon thirty (30) days notice to the County for non-performance or breach by the County of any of the provision of this Agreement.

SECTION 14 - Return of Premises

If the County shall violate any covenant of this Agreement, or in the event of the termination of this Agreement, then in such event the County agrees to quit and deliver up peaceable possession of the Line to the Department and the Department may thereupon re-enter upon and take possession of the Line and of every part thereof, either by force or otherwise, without any liability therefor, and have and enjoy the premises as of its former estate, free, clear and discharges of this Agreement and of all rights of the County. The County agrees to and does hereby waive all notices to quit now or hereafter required by any law or laws previous to proceedings to recover possession of the premises and does also waive the benefit of all laws now or hereafter made granting stay of execution,

appeal, inquisition or exemption of property from sale on execution or distress for rent.

SECTION 15 - Successors and Assigns

The parties hereto acknowledge that the County may create an Authority to own and administer the property. The terms and conditions of this Agreement shall extend to and be binding upon the respective successors and assigns of the parties hereto as their respective interest may appear, as though in each case herein they had been specifically mentioned, provided, however, that this Agreement may not be assigned by the County unless written consent from the Department is first obtained therefor, which consent shall not be unreasonably withheld by the Department.

SECTION 16 - Governing Laws

This Agreement is to be construed in accordance with the laws of the Commonwealth of Pennsylvania.

SECTION 17 - Severability

If any term, covenant, condition or provision (or part thereof) of this agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision (or remainder thereof) to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereof, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

SECTION 18 - Captions

The paragraph headings in this Agreement are for convenience only and are without legal effect.

SECTION 19 -Discrimination

The County will execute and comply with the non-discrimination clause attached hereto as Exhibit "D" and made a part hereof.

SECTION 20 - Disputes

The County agrees to be bound by the Act of May 20, 1937, P.L. 728, as amended (72 P.S.§4651-1 et seq.), which provides, in substance, that the Board of Claims shall have jurisdiction of claims against the Commonwealth arising from contracts and the power to order interpleader or impleader of other parties, when necessary for a complete determination of any claim or counterclaim in which the Commonwealth is a party.

SECTION 21 - EXPIRATION

This agreement will expire 5 years from the date of closing or December 31, 1994, whichever is later.

BOOK PAGE

1076 1104

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed, attested and ensealed by their proper officials, pursuant to due and legal action authorizing the same to be done, the day and year first above written.

ATTEST:

Signature Date

Title
(Seal)

BOARD OF COUNTY COMMISSIONERS
YORK COUNTY

by

Signature Date

Signature Date

Signature Date

ATTEST:

Signature Date

Title
(Seal)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Signature Date

Title

APPROVED AS TO LEGALITY AND FORM

by

Signature Date

Chief Counsel
Title

by

Deputy Attorney General
Title

PRELIMINARILY APPROVED

by

Signature Date

Assistant Counsel
Title

Recorded No.

Certified Funds Available Under

Activity Program

Symbol

Amount $

by

Signature Date

Title

APPROVED FOR:
Office of
Budget and Administration

by

Signature Date

Title

EXHIBIT "D"

COMMONWEALTH NONDISCRIMINATION CLAUSE

During the term of this contract, Contractor agrees as follows:

1. Contractor shall not discriminate against any employe, applicant for employment, independent contractor, or any other person because of race, color, religious creed, ancestry, national origin, age, or sex. Contractor shall take affirmative action to insure that applicants are employed, and that employes or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employes, agents, applicants for employment, and other persons, a notice to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

2. Contractor shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, or sex.

3. Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.

4. It shall be no defense to a finding of noncompliance with this nondiscrimination clause that Contractor had delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.

5. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under this nondiscrimination clause, Contractor shall then employ and fill vacancies through other nondiscriminatory employment procedures.

6. Contractor shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor's noncompliance with the nondiscrimination clause of this contract or with any such laws, this contract may be terminated or suspended, in whole or in part, and Contractor may be declared temporarily ineligible for further Department contracts, and other sanctions may be imposed and remedies invoked.

7. Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by, the contracting agency and the Office of Administration, Bureau of Affirmative Action, for purposes of investigation to ascertain compliance with the provisions of this clause. If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency or the Bureau of Affirmative Action.

8. Contractor shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employes.

9. Contractor shall include the provisions of this nondiscrimination clause in every subcontract, so that such provisions will be binding upon each Subcontractor.

10. Contractor obligations under this clause are limited to the contractor's facilities within Pennsylvania or, where the contract is for purchase of good manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

EXHIBIT C BOOK PAGE

107 C 1107

MILEPOST	NAME	AGREEMENT NUMBER
35-3724	GENERAL TELEPHONE	81031
35-0728	METROPOLITAN EDISON	
35-0728	NEW FREEDOM BOROUGH	80550
35-3195	NEW FREEDOM BOROUGH	80550
35-3278	BULL'S SUPPLY COMPANY	822049
35-3395	NEW FREEDOM BOROUGH	80550
35-3480	G S COMMUNICATIONS	81690
35-3480	METROPOLITAN EDISON	0370081
35-3480	GENERAL TELEPHONE	81031
35-3500	NEW FREEDOM AUTH	
35-3928	BULL'S SUPPLY COMPANY	822048
35-4048	NEW FREEDOM BOROUGH	80550
35-4680	F. PATRICK FISCHER	822017
35-5088	G S COMMUNICATIONS	81690
35-5088	METROPOLITAN EDISON	0209134
37-0204	GENERAL TELEPHONE	81031
37-0244	COLUMBIA GAS OF PA	151357
37-0244	G S COMMUNICATIONS	81690
37-0244	METROPOLITAN EDISON	0370151
37-1263	METROPOLITAN EDISON	0370082
37-2561	G S COMMUNICATIONS	81690
37-2561	METROPOLITAN EDISON	190577
37-2561	GENERAL TELEPHONE	81031
37-2580	NEW FREEDOM AUTH	
37-2599	COLUMBIA GAS OF PA	199125
38-0735	RAILROAD, BOROUGH OF	81428
38-0750	SHREWSBURY BORO AUTH	173369
38-0765	G S COMMUNICATIONS	81690
38-0766	GENERAL TELEPHONE	81031
38-0766	METROPOLITAN EDISON	0370156
38-2875	GENERAL TELEPHONE	81031
38-2885	RAILROAD, BOROUGH OF	81428
38-2891	G S COMMUNICATIONS	81690
38-2891	METROPOLITAN EDISON	0370044
38-2900	SHREWSBURY BORO AUTH	173369
38-3040	METROPOLITAN EDISON	
38-4904	GENERAL TELEPHONE	81031
38-5123	METROPOLITAN EDISON	0370076
39-0398	GENERAL TELEPHONE	81031
39-0422	METROPOLITAN EDISON	0370036
39-2387	COLUMBIA GAS OF PA	71046
39-2423	GENERAL TELEPHONE	81031
39-4904	G S COMMUNICATIONS	81690
40-0168	GENERAL TELEPHONE	81031
40-0168	METROPOLITAN EDISON	
40-0436	COLUMBIA GAS OF PA	71046
40-1909	GENERAL TELEPHONE	81031
40-2020	GENERAL TELEPHONE	81031
40-3832	G S COMMUNICATIONS	81690
40-3832	METROPOLITAN EDISON	0370035
40-4362	COLUMBIA GAS OF PA	
40-4863	GENERAL TELEPHONE	81031
40-4863	G S COMMUNICATIONS	81690
40-5161	METROPOLITAN EDISON	0370007
41-1942	METROPOLITAN EDISON	0370084
41-3130	GENERAL TELEPHONE	81031
41-3130	G S COMMUNICATIONS	81690
41-3141	COLUMBIA GAS OF PA	155188
41-3200	METROPOLITAN EDISON	
41-3465	GLEN ROCK SEWER AUTH	
41-3767	G S COMMUNICATIONS	81690
41-3767	GENERAL TELEPHONE	81031
41-3770	AMF INCORPORATED	80757
41-4214	METROPOLITAN EDISON	209091
41-4229	HUGH QUACKENBUSH DBA	79643
41-4229	GLEN ROCK SEWER AUTH	
41-4231	ENTERPRISE CENTER	622026
41-4431	ENTERPRISE CENTER	622026
41-4557	METROPOLITAN EDISON	
41-4685	GENERAL TELEPHONE	81031
41-5029	GLEN ROCK SEWER AUTH	
42-0230	SACO SUPPLY	911511
42-1954	GENERAL TELEPHONE	81031
42-1954	G S COMMUNICATIONS	81690
42-1966	METROPOLITAN EDISON	203982
42-3221	METROPOLITAN EDISON	
42-3484	GENERAL TELEPHONE	81031
42-4411	GNERAL TELEPHONE	81031
42-5011	GENERAL TELEPHONE	81031
42-5137	METROPOLITAN EDISON	
43-0435	GENERAL TELEPHONE	81031
44-0935	GENERAL TELEPHONE	81031
44-0935	METROPOLITAN EDISON	
44-3262	GENERAL TELEPHONE	81031
44-4786	G S COMMUNCATIONS	81690
44-4786	METROPOLITAN EDISON	0370008
44-4796	GENERAL TELEPHONE	81031
45-3710	GENERAL TELEPHONE	81031
45-3710	METROPOLITAN EDISON	56970
45-4984	GENERAL TELEPHONE	81031
45-5070	METROPOLITAN EDISON	
46-0852	G S COMMUNICATIONS	81690
46-2612	METROPOLITAN EDISON	0370152
46-4848	METROPOLITAN EDISON	200849
47-0032	METROPOLITAN EDISON	0370133
47-0032	G S COMMUNICATIONS	81690
47-0035	GENERAL TELEPHONE	81031
48-4800	OLD ORCHARD MACHINE	822055
48-5058	GENERAL TELEPHONE	81031
48-5085	METROPOLITAN EDSION	209092
50-0178	ADAMS ELECTRIC	185619
51-1189	METROPOLITAN EDISON	0370183
51-1814	ADAMS ELECTRIC	
51-1814	GENERAL TELEPHONE	81031
52-0493	METROPOLITAN EDISON	0370073
52-2758	GENERAL TELEPHONE	81031
53-2280	METROPOLITAN EDISON	0370085
54-089	SOUTHERN YORK CTY. COOP.	74341

BOOK 107C PAGE 1108

COMMONWEALTH NONDISCRIMINATION CLAUSE
(All Contracts)

During the term of this contract, Contractor agrees as follows:

1. Contractor shall not discriminate against any employe, applicant for employment, independent contractor or any other person because of race, color, religious creed, ancestry, national origin, age or sex.

Contractor shall take affirmative action to ensure that applicants are employed, and that employes or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age or sex. Such affirmative action shall include, but is not limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.

Contractor shall post in conspicuous places, available to employes, agents, applicants for employment and other persons, a notice to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.

2. Contractor shall in advertisements or requests for employment placed by it or on its behalf state all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age or sex.

3. Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this non-discrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.

4. It shall be no defense to a finding of noncompliance with the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this non-discrimination clause that Contractor has delegated some of its employment practices to any union, training program or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.

5. Where the practices of a union or of any training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, or this non-discrimination clause, Contractor shall then employ and fill vacancies through other non-discriminatory employment procedures.

6. Contractor shall comply with the Contract Compliance Regulations of the Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49 and with all laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor's noncompliance with the non-discrimination clause of this contract or with any such laws, this contract may, after hearing and adjudication, be terminated or suspended, in whole or in part, and Contractor may be declared temporarily ineligible for further Commonwealth contracts, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations.

7. Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by, the contracting agency and the Human Relations Commission, for purposes of investigation to ascertain compliance with the provisions of the Contract Compliance Regulations, pursuant to § 49.35 of these Regulations. If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency or the Commission.

8. Contractor shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employes.

9. Contractor shall include the provisions of this non-discrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor.

10. The terms used in this non-discrimination clause shall have the same meaning as in the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49.

11. Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania, or, where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

Wherever hereinabove the word Contractor is used it shall also include the word Engineer, Consultant, Researcher, or other Contracting Party as may be appropriate.

_____
(FIRM NAME)

BY Herman J. Bushman, Jr.
SIGNATURE AND TITLE.

_____
DATE

EXHIBIT 2

Northern Central Rehabilitation Project

Project Funding

Total Project Cost	$1,971,254.00
Federal (80%)	1,577,003.00
State (13-1/3%)	262,768.00
Local (6-2/3%)	131,483.00

EXHIBIT 1

WORK DESCRIPTION AND BUDGET

ESTIMATED COSTS OF REHABILITATION
OF
NORTHERN CENTRAL RAIL LINE (LINE NO. 145)

YORK (M.P. 54.17) TO NEW FREEDOM (M.P. 36.7)

Items of Work	Unit Costs	Quantities	Estimated Costs
Cross Ties	$40/ea.	3,925	$157,000.00
Rail Installation	$10/LF	2,399	23,990.00
Raise, Line & Surface	$2/LF	3,978	7,956.00
Brush Cutting	$1,500/acre	30	45,000.00
Ditch Cleaning	$1.50/LF	2,000	3,000.00
Crossing Rebuilding	$200/LF	326	65,200.00
Crossing Removal	$100/LF	144	14,400.00
Bridge Ties	$80/ea.	115	9,200.00
Track Realignment	$10/LF	1,154	11,540.00
Clean Culverts	$15/LF	105	1,575.00
Embankment Reconst.	$18/ton	3,578	64,404.00
Vegetation Control	$50/acre	60	3,000.00
Guard Rail Replacement	$10/LF	644	6,440.00
Bolt Sets	$2.50/ea.	620	1,550.00
Ballast	$12/ton	2,989	35,868.00
Crossing Timber	$5/LF	114	570.00
		Sub total - track work	$ 450,693.00
Construction costs by structure			
MP 42.46			53,995.00
MP 43.97			326,248.00
MP 44.84			61,460.00
MP 46.24			225,515.00
MP 51.17			337,870.00
		Sub total - structures	$1,005,088.00
Non-structural costs			174,473.00
	Total Construction Costs,		$1,630,254.00
	Right-of-way Easements*		13,000.00
	Total Project Costs		$1,643,254.00
	Contingency (10%)		164,000.00
	Construction Management and Inspection		164,000.00
		TOTAL	$1,971,254.00

*To be funded 2/3 Commonwealth, 1/3 Local

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, attested, and ensealed by their proper officials, pursuant to due and legal action authorizing the same to be done, the day, month and year first above written.

ATTEST:

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY _____
Deputy Secretary of Transportation

(SEAL)

ATTEST:

SOUTHERN YORK COUNTY CORPORATION

_____ BY _____
(Title) (Title)

(SEAL)

APPROVED:

APPROVED AS TO LEGALITY AND FORM:

_____ BY _____
Attorney General Chief Counsel

PRELIMINARILY APPROVED

BY _____

RECORDED NO. 7433-1
CERTIFIED
ACTIVITY
SYMBOL
AMOUNT

14 _____
Assistant Comptroller

BOOK PAGE
1070 1112

Federal I. D. No. _____ Agreement No. 74341

USRA Line No. 145

LEASE AND AGREEMENT

THIS AGREEMENT, made this 11th day of February, 1982, by and between the Commonwealth of Pennsylvania, acting through its Department of Transportation, hereinafter referred to as the "Commonwealth",

a n d

Southern York County Corporation, a non-profit Pennsylvania corporation, with principal offices located at Pennsylvania Avenue and Hill Street, Stewartstown, Pennsylvania 17363, hereinafter referred to as "SYCC";

W I T N E S S E T H:

WHEREAS, the Commonwealth has, by agreement, dated September 1, 1977 (No. 58956), provided for the lease to SYCC of certain portions of the Northern Central Branch of the (former) Penn Central railroad between York and the Maryland state line presently owned by the Commonwealth (hereinafter referred to as the "Line"); and,

WHEREAS, by virtue of Act No. 35 of 1973, June 27, (71 P.S., §512) the Commonwealth has the power and duty to sell or lease any right-of-way track or other related real or personal property on any branch line or other railroad within the State which has been damaged or destroyed in 1972 as a

EXHIBIT "B"

result of natural disaster or has been suspended by action of its owner or operator, and which has been acquired for restoration and replacement; and,

WHEREAS, SYCC desires to have restored and replaced, where necessary, track and other appurtenant facilities on a certain portion of the Line, as hereinafter identified in paragraph seven, so as to permit railroad operation by SYCC, through agreement with the Stewartstown Railroad Company, hereinafter referred to as "SRC", over said right-of-way; and,

WHEREAS, the Commonwealth requires that deferred maintenance be corrected over another line of railroad, owned by SRC, from New Freedom, Pennsylvania to Stewartstown, Pennsylvania (hereinafter referred to as the "Stewartstown Railroad") in order to provide for a rail freight transportation connection to the Line; and,

WHEREAS, the Commonwealth has agreed to participate in the restoration and rehabilitation of a certain portion of the Line in consideration of SYCC maintaining the said portion of the Line thereafter as a Class II railroad as established by the Federal Railroad Administration of the United States Department of Transportation (hereinafter referred to as "FRA"); and,

WHEREAS, the cost of the restoration and rehabilitation of a certain portion of the Line is to be borne as follows:

(1) 80% federal contribution

(2) 13 1/3% Commonwealth contribution

(3) 6 2/3% SYCC contribution; and,

WHEREAS, SYCC has secured financial resources from York County (Community Development Block Grant funds from the U. S. Department of Housing and Urban Development) to meet its financial obligations to provide the local share under this agreement;

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual promises hereinafter set forth, the parties hereto agree, with the intention of being legally bound hereby, as follows:

1. Agreement of September 1, 1977. The agreement of September 1, 1977 (No. 58956) between the Commonwealth and SYCC is hereby superseded. It is agreed by the parties hereto that any rights and/or responsibilities surviving the said 1977 agreement are hereby merged into this agreement.

2. Lease of the Line. The Commonwealth hereby leases to SYCC, and SYCC hereby accepts, under the terms and conditions hereinafter set forth, the following described portions of the Line, for the operation of railroad freight transportation services:

All that certain right-of-way demised to the Commonwealth in Exhibit "A" (Document No. NC-PA-RP-1) of the Deed by and between Fairfax Leary, as Trustee of the property of the Northern Central Railway Company, Debtor, Grantor, and the Commonwealth of Pennsylvania, Grantee, excepting therefrom all that certain right-of-way reserved by Fairfax Leary, as Trustee of the property of the Northern Central Railway Company, Debtor, Grantor, in Exhibit "B" thereof (Document No. NC-PA-RP-1), containing 5 "B" attachments.

3. Warranty of Title. This lease is granted insofar as the Commonwealth's title permits, but the Commonwealth specifically disavows any warranty of title to SYCC, and the Commonwealth shall not be liable to SYCC for any defect or encumbrance upon the title to the leased property or premises hereby demised.

4. Term. This lease and agreement will begin upon execution hereof and will end ten (10) years after the date upon which the rehabilitation of a certain portion of the the Line by the Commonwealth, provided for in paragraph seven, is completed. This lease and agreement is renewable for additional five (5) year periods upon the written approval of both parties hereto.

5. Right of Entry.

(a) SYCC gives to the Commonwealth for the term of this lease, a license to enter upon the premises for the purpose of carrying out the rehabilitation of a certain portion of the Line, for the purpose of inspecting the railroad, tracks, ties, and all other appurtenances relating to railroad operation and for the purpose of carrying out any responsibilities imposed upon the Commonwealth by third parties, by virtue of the Commonwealth's ownership of the Line.

(b) The Commonwealth reserves the right to retire rail and other track materials on the portion of the Line between New Freedom (M.P. 36.7) and the Maryland state line (M.P. 35.62), and SYCC gives to the Commonwealth a license to enter upon the premises for this purpose.

6. Compensation. As compensation for the lease privileges granted herein, SYCC agrees to pay, and the Commonwealth agrees to accept, a rental of five hundred ($500.00) dollars per calendar year, payable January 1st, in advance, commencing on the date upon which the rehabilitation of a certain portion of the Line by the Commonwealth is complete. The first payment will be due within thirty (30) days of the date of completion of the rehabilitation work. In the event the completion date falls after June 30th, the first advance payment due will be reduced to two hundred fifty ($250.00) dollars. SYCC also agrees to pay to the Commonwealth, (during the term of this lease), within thirty (30) days after the conclusion of each calendar year, an additional rental of five ($5.00) dollars for every carload in excess of four hundred (400) carloads per year using the Line, or any portion thereof.

7. Rehabilitation of the Line. Subject to SYCC's compliance with the terms of this agreement, and subject to the availability of federal, Commonwealth and local funds authorized therefor, the Commonwealth will perform, or arrange to have performed through a contractor, rehabilitation of the Line, from York (M.P. 54.17) to New Freedom (M.P. 36.7), to FRA Class II condition in accordance with the terms of the work description and budget attached hereto as Exhibit "1" and made a part hereof, hereinafter referred to as the "Project".

8. Management and Control.

(a) SYCC agrees that the determination or the allowability for reimbursement of any costs or the legality or propriety of any payment to any contractor or any other practices or procedures relating to the Project are

all matters within the exclusive administrative jurisdiction and control of the Commonwealth. It is understood and agreed that SYCC shall have no direct contractual rights or responsibilities under any agreement ultimately entered into by the Commonwealth on behalf of the Project. It is understood, however, that SYCC shall have the right of approval or disapproval of the bid which the Commonwealth intends to be the basis of any award. Failure to give notice to the Commonwealth of approval or disapproval within twenty (20) days of notice by the Commonwealth of the apparent lowest responsible bid shall be deemed to be approval of the bid.

(b) The Commonwealth agrees that all terms and conditions required by York County's Community Development Block Grant Program for construction projects will be incorporated in the bid documents, and the Commonwealth assumes responsibility for enforcement of and compliance with said terms and conditions.

9. Payment of Local Share.

(a) Within thirty (30) days of the execution of the Commonwealth's agreement with its contractor for the Project, SYCC will pay to the Commonwealth one hundred thirty-one thousand four hundred eighty-three ($131,483.00) dollars, representing approximately six and two-thirds (6 2/3%) percent of the estimated cost of the Project.

(b) The Commonwealth will expend the local share of Project costs, as such costs are incurred, in accordance with the percentage contributions indicated in Exhibit "1", and will forward to SYCC a copy of each invoice paid by the Commonwealth.

(c) The Commonwealth will not expend portions of the federal or Commonwealth shares of the Project unless the Commonwealth has first secured an adequate amount of the approximately six and two-thirds (6 2/3%) percent matching share from SYCC to support the payments contemplated.

(d) In the event the actual cost of the Project, upon completion, is less than the estimated cost of the Project set forth in Exhibit "1", the Commonwealth will promptly return to SYCC its approximately six and two-thirds (6 2/3%) percent share of the unexpended funds.

10. Cost Over-runs. In the event the cost of the Project exceeds the estimates set forth in Exhibit "1", the Commonwealth will attempt to secure additional federal, Commonwealth and local funds, in the same proportions as indicated in Exhibit "1", to finance such additional expenses. Federal and Commonwealth funds for additional costs will not be expended unless SYCC is able to provide the appropriate six and two-thirds (6 2/3%) percent local share of the additional expenses. No expenses in excess of the Project funding set forth in Exhibit "1" will be incurred unless and until the Commonwealth is satisfied that appropriate amounts of federal, Commonwealth and local shares of such additional expenses are available on behalf of the Project and such commitments are evidenced by an executed amendment to this agreement, including a revised Exhibit "1".

11. Stewartstown Railroad. Upon execution of this agreement, SYCC will cause to be performed by its operator, SRC, or by others, maintenance work over the Stewartstown Railroad to bring the Stewartstown Railroad up to FRA Class I condition. All maintenance required under this paragraph must be

completed by SYCC, or its operator or contractor, by the time the Commonwealth completes its work on behalf of the Project. Upon completion of said maintenance work, SYCC will cause to be performed by its operator or by others such additional maintenance as is required to maintain the Stewartstown Railroad at FRA Class I condition during the term of this agreement.

12. Rail Operations and Maintenance. Upon completion of the Project by the Commonwealth, SYCC will provide, or arrange by contract to have provided by SRC or by others, railroad freight transportation service over the Line, from York (M.P. 54.17) to New Freedom (M.P. 36.7). The York to New Freedom portion of the Line will be operated by SYCC, or its operator, without any operating subsidy from the Commonwealth, for a period of ten (10) years. SYCC will be responsible for all maintenance to FRA Class II condition and repairs only over the York to New Freedom portion of the Line, which shall be kept in good order and repair during the term of this agreement or any extension thereof.

13. Rail Operators or Other Users. The Commonwealth consents to operation by SRC over the York to New Freedom portion of the Line in fulfillment of SYCC's operating responsibilities under this agreement. In the event SYCC desires to allow other parties or carriers on any portion of the Line for any purpose, SYCC shall first secure the written permission of the Commonwealth.

14. Dissolution of the Line. In the event SYCC fails to provide rail freight transportation service, as provided in paragraph 12, the parties

will use their best efforts to engage a replacement railroad to provide such service. However, in the event no railroad can be engaged for such purpose, and in the event the York to New Freedom portion of the Line is abandoned by the Commonwealth by reason of such breach, or otherwise terminated by legal action, SYCC will cooperate fully with the Commonwealth in settling any and all claims by the government of the United States for a portion of the proceeds of the York to New Freedom portion of the Line or for rehabilitation funds sought to be recovered by the government of the United States upon the disposition thereof. Such cooperation shall include any appropriate financial contribution imposed by federal law or regulation upon SYCC. However, SYCC shall be entitled, in the event of sale of the York to New Freedom portion of the Line by the Commonwealth, to any pro-rata share of the sale proceeds of track materials installed as part of the Project provided for by federal law or regulation.

15. Liability. SYCC shall not be liable for any loss or damage to property and for any injury to or death of persons in any manner arising or occurring out of the rehabilitation or other work carried on by the Commonwealth, or any of its contractors or subcontractors; however, SYCC shall in all other respects hold and save the Commonwealth harmless from all claims, damages, suits, judgments or causes of action on account of injury to or death of persons or loss or damage to property which may result from, or grow in any manner out of the management, control, use or operation of the Line including all appurtenant facilities, after the beginning of the term of this agreement. In this connection, SYCC will acquire, or cause its operator to acquire, public liability and property damage insurance, in an amount and form

satisfactory to the Commonwealth, for protection from any liability above described at SYCC's own expense.

16. Approvals. SYCC will be responsible for the acquisition of any and all approvals or permits necessary from, or required by the Interstate Commerce Commission, the Public Utility Commission of Pennsylvania, or any other regulatory body or agency having jurisdiction over the operations contemplated hereunder.

17. Force Majeure. In the event that either party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, acts of God, or war, or any other reason beyond its control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

18. Occupancies.

(a) The Commonwealth will be entitled to retain all income from existing occupancy agreements during the term of this lease and agreement, or any extensions thereof.

(b) The Commonwealth may, during the term of this lease and agreement, or any extensions thereof, sell, lease, grant easements or licenses, develop or otherwise utilize the properties or portions thereof so long as such actions do not unduly interfere with the utilization of said

properties by SYCC for railroad purposes. If the Commonwealth so desires to sell, lease, grant easements or licenses or develop or otherwise utilize the properties or portions thereof, the Commonwealth shall notify SYCC of such action, and in cases where there could be any interference or affect on railroad operations, the Commonwealth shall first submit to SYCC its plans therefor for approval, which approval shall not be unreasonably withheld by SYCC. Such uses shall include, without limitations, transverse and longitudinal occupancies for public improvements (e.g., roads, sewers, etc., at, above or below grade) pipelines, power lines and energy corridors, bikeways, commercial development of air, subterranean and surface rights.

19. Termination. The Commonwealth shall have the right to terminate this agreement, upon thirty (30) days notice to SYCC, for either of the following reasons: (1) non-performance or breach by SYCC of any of the provisions of this agreement, or (2) non-availability to the Commonwealth of funds required under the terms hereof.

20. Return of Leased Premises. If SYCC shall violate any covenant of this lease and agreement, or if the leased premises shall be used for any purpose other than as above stated, or in the event of the termination of this lease and agreement by expiration of the term, then in such event SYCC agrees to quit and deliver up peaceable possession of the leased premises to the Commonwealth and the Commonwealth may thereupon re-enter upon and take possession of the leased premises and of every part thereof, either by force or otherwise, without any liability therefor, and have and enjoy the leased premises as of its former estate, free, clear and discharges of this lease and

agreement and of all rights of SYCC. SYCC, for itself and any sublessee, agrees to and does hereby waive all notices to quit now or hereafter required by any law or laws previous to proceedings to recover possession of the subleased premises and does also waive the benefit of all laws now or hereafter made granting stay of execution, appeal, inquisition or exemption of property from sale on execution or distress for rent.

21. Successors and Assigns. The terms and conditions of this lease and agreement shall extend to and be binding upon the respective successors and assigns of the parties hereto as their respective interest may appear, as though in each case herein they had been specifically mentioned, provided, however, that this agreement may not be assigned by the SYCC unless written consent from the Commonwealth is first obtained therefor, which consent shall not be unreasonably withheld by the Commonwealth.

22. Records. SYCC shall maintain full and accurate records with respect to all matters covered by this agreement at its principal office or place of business. The Commonwealth and appropriate representatives of the United States government will be permitted, during regular business hours and at all reasonable times during the period of this agreement and for three (3) years thereafter, to have free access to original instruments, including records and copies thereof, in possession, custody or control of SYCC, and to examine and audit the same, including the right to make and carry away transcripts therefrom and to inspect all date, documents, proceedings and records or notes of activities.

23. Governing Law. This agreement is to be construed in accordance with the laws of the Commonwealth of Pennsylvania.

24. Severability. If any term, covenant, condition or provision (or part thereof) of this agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this agreement or the application of such term or provision (or remainder thereof) to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereof, and each term, covenant, condition and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

25. Captions. The paragraph headings in this agreement are for convenience only and are without legal effect upon the terms hereof.

26. Anti-Discrimination. SYCC will execute and comply with the non-discrimination clause attached hereto as Exhibit "2" and made a part hereof.

27. Disputes. SYCC agrees to be bound by the Act of May 20, 1937, P.L. 728, as amended (72 P.S. $4651-1 et seq.), which provides, in substance, that the Board of Claims shall have jurisdiction of claims against the Commonwealth arising from contracts and the power to order interpleader or impleader of other parties, when necessary for a complete determination of any claim or counterclaim in which the Commonwealth is a party.

BOOK PAGE
1076 , 1125

Resolution

RAIL TRAIL

MARCH 7, 1990

BE IT RESOLVED that the persons authorized to sign Articles of Agreement for the conveyance of approximately twenty miles of rail line from the Commonwealth to the County of York are the three County Commissioners of York County, Pennsylvania subscribed as follows:

BOARD OF COUNTY COMMISSIONERS

Lorraine B. Hovis, President

Ronald E. Fitzkee

George M. Trout

Chief Clerk/Administrator

State of Pennsylvania,
County of York]

Recorded in Record Book 107-C Page 1075
the 3rd day of August A.D. 19 90

OGC 0180194

JMT-RF
8/4/95

Agreement No. 829519
Fed.I.D.# 23-6003050

JAN 25 2012

RAIL CORRIDOR PRESERVATION AGREEMENT

THIS AGREEMENT, made and executed this 29 day of SEPTEMBER, 1995, by and between the Commonwealth of Pennsylvania, acting through its Department of Transportation ("Department")

and

the County of York, Pennsylvania, a political subdivision of the Commonwealth, with offices at 1 West Marketway, Fourth Floor, York, Pennsylvania 17401 ("County").

WITNESSETH:

WHEREAS, on March 28, 1990, the parties entered into Agreement No. 822077, a copy of which is attached to this Agreement as Exhibit A ("Transfer Agreement"), providing for the sale of certain Commonwealth-owned rail property ("Line") to the County, subject to certain terms and conditions as outlined therein, including the requirement that rail freight service be provided on the Line for a period of at least five years thereafter, with a right of reversion to the Department in the event such rail service was not provided; and

WHEREAS, in September, 1992, the railroad which had been providing rail freight service on the Line exercised its right to terminate its sublease, ending rail freight service on the Line; and

WHEREAS, the County caused an offer of continued rail service to be made to shippers on the Line by another railroad,

which offer was declined; and

WHEREAS, the parties agree that the Line should be preserved for possible rail use in the future.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual promises set forth herein, the parties hereto agree, with the intention of being legally bound hereby, as follows:

1. The County may continue record ownership of the Line, subject to the rights of the Department as specifically set forth herein.

2. The property constituting the Line under this Agreement is described in Section 1 of Exhibit A.

3. The County may design, construct, and operate any or all parts of the proposed recreational trail to be constructed on the Line in a manner which shall be compatible with the re-establishment of rail service, either passenger or freight, on the Line. Before commencing construction, the County shall submit its design and accompanying documents to the Department for its review. The Department shall review the submission and note the areas where it finds the construction incompatible with future rail service. If the County does not receive a written response from the Department within thirty (30) days of the date of submission under this paragraph, the design shall be deemed compatible.

4. In the event a prospective rail operator makes a bona fide, no subsidy required, written proposal for rail freight service on the Line, the County agrees to cooperate in the re-establishment of rail freight service. The County shall forward any rail proposal received for the Line to the Department immediately upon receipt. The County shall consult with the Department in its review of any rail freight proposal, and consent to renewed operations on the line shall not be unreasonably withheld by the County. The County agrees to restore the Line to Federal Railroad Administration Class 2 track standards, and to rectify any incompatibilities noted by the Department in its review pursuant to paragraph three (3). The restoration and rectification shall be completed by the County no later than One Hundred Eighty (180) days following acceptance of the proposal to reestablish rail freight service. The County shall owe no other maintenance obligation to the Department under this Agreement or the Transfer Agreement for the Line and its appurtenances.

5. In the event a prospective rail operator makes a bona fide, written proposal for regular rail passenger service (other than excursions) on the Line, the County agrees to cooperate in the re-establishment of rail passenger service. The County shall forward any rail proposal received for the Line to the Department immediately upon receipt. The County agrees to reconvey the Line to the Department for the sum of One Dollar ($1.00), no

later than One Hundred Eighty (180) days following receipt of written notice from the Department. A bona fide proposal as expressed in this paragraph must include a provision that the County shall be reimbursed for its documented capital costs for construction of the proposed recreational trail on the Line and its appurtenances, including station rehabilitation. In the Department's discretion, the reconveyance may exclude the New Freedom train station and the land upon which it is situate, apart from the rail corridor. For purposes of reimbursement, the capital costs shall be depreciated on a straight-line basis, with a life of Twenty (20) years from date of construction. Reimbursement shall not include any state and federal monies used by the County in design and construction. The Department and the County agree that this provision is not subject to the Rule Against Perpetuities, either statutory or common law, and any assertion of this Rule is hereby waived.

6. The County agrees that all proceeds from leases, licenses, or other occupancies of the Line, shall be used by the County exclusively for direct costs associated with construction and maintenance of the trail and/or the Line, including but not limited to the costs of maintenance and protection of the track and other rail structures, security measures taken to protect the Line, vegetation control, brush cutting and grass mowing, and construction, maintenance, and protection of trail paths and structures.

7. The County agrees to indemnify, hold harmless, and defend (if requested) the Department and the Commonwealth from any and all claims, suits, causes of action, or judgments in connection with the Line or this Agreement.

8. The terms and conditions of this Agreement shall extend to and be binding upon the respective successors and assigns of the parties hereto as their respective interests may appear, as if mentioned by name in this Agreement; provided, however, that this Agreement may not be assigned by the County unless written consent is first obtained from the Department, which consent shall not be unreasonably withheld. It is understood that the County has authorized the York County Rail/Trail Authority to act as its agent in connection with this Agreement, and the County is hereby permitted to assign this Agreement to the York County Rail/Trail Authority ("Authority"). The County will require the Authority to comply with all terms and conditions under this Agreement in its activities.

9. This Agreement is to be construed in accordance with the laws of the Commonwealth of Pennsylvania.

10. If any term, covenant, condition, or provision (or part thereof) of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be found to be invalid or unenforceable, the remainder of this Agreement or the application of such terms or provision (or remainder thereof) to persons or circumstances (other than those

as to which it is held invalid or unenforceable) shall remain unaffected, and each term, covenant, condition, and provision of this Agreement shall be valid and enforced to the fullest extent of the law.

11. The County agrees to be bound by the Act of May 20, 1937, P.L. 728, as amended (72 P.S. §§ 4651-1 et seq.), which provides, in substance, that the Board of Claims shall have jurisdiction of claims against the Commonwealth arising from contracts and the power to order interpleader or impleader of other parties, when necessary for a complete determination of any claim or counterclaim in which the Commonwealth is a party.

12. The County agrees that its construction and construction contracts shall conform with the provisions of the Americans With Disabilities Act and the Commonwealth Contractor Integrity Provisions attached hereto as Exhibits B and C.

13. The Department contact person for all matters concerning this Agreement shall be the Director of the Bureau of Rail Freight, Ports, and Waterways. The designated contact person for the County shall be the President Commissioner of York County.

14. This Agreement shall remain in full force until terminated by the Commonwealth.

* * * * * *

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

ATTEST:

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Sharon M Opperman 8/24/95 By Elizabeth Sarge Yoder 8/24/95

Title DATE Deputy Secretary DATE

COMMISSIONERS OF THE COUNTY OF YORK, PENNSYLVANIA

Witness George Trout 8/16/95 DATE

Witness Robert McCormick 8/16/95 DATE

Witness Newton L Brown 8/16/95 DATE

APPROVED AS TO LEGALITY AND FORM

By Michael R. Kline 8/24/95
Asst. Chief Counsel DATE

By
Deputy Atty. General DATE
Under

Approved for Form and Legality

SEP 21 1995

Deputy General Counsel

PRELIMINARILY APPROVED:

By
Assistant Counsel DATE

RECORDED NO. 829519
Certified Funds Available

Activity Program
Symbol
Amount

John E. Frye 9/28/95
Title DATE

APPROVED FOR:
Office of the Budget

By 9/29/95
Comptroller DATE

JAN 25 2012

LEASE AND OPERATING AGREEMENT

THIS LEASE AND OPERATING AGREEMENT, made this 17 day of March, 2010, by and between the **COUNTY OF YORK**, a political subdivision of the Commonwealth of Pennsylvania, hereinafter referred to as "County",

and

STEAM INTO HISTORY, a not-for-profit corporation organized and existing in accordance with the laws of the Commonwealth of Pennsylvania, hereinafter referred to as "Steam".

WITNESSETH:

WHEREAS, County by virtue of a certain Transfer Agreement dated March 28, 1990, by and between County and the Commonwealth of Pennsylvania, is the owner of railroad property formally known as the Northern Central Railroad Line, hereinafter "Railroad" or "Line"; and

WHEREAS, Railroad extends from the Maryland-Pennsylvania border in New Freedom Borough, York County, to a point near the City of York, York County; and

WHEREAS, parties hereto have agreed to a lease of the said Railroad by Steam, under and subject to certain terms and conditions as are more fully set forth herein as well as those terms and conditions contained in a document entitled "Operating Regulations for Northern Central Railroad Corridor" (Exhibit "A").

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and intending to be legally bound hereby, the parties agree as follows:

1. Lease of Railroad: County hereby leases to Steam and Steam hereby leases from County, for the operation of a railroad excursion, passenger and freight transportation services, the "Railroad" Line as hereinafter described:

> All that certain portion of the right-of-way demised to the County pursuant to certain Agreement No. 822077 by and between the Commonwealth of Pennsylvania as Grantor and the County of York as Grantee consisting of the railroad track from Hyde (M.P. 54.17) to New Freedom Borough at the Maryland-Pennsylvania border (M.P. 35.6), together with any and all appurtenant railroad equipment and such portions of the underlying ground and bridges as are reasonably necessary for railroad operations.

2. Warranty of Title: This lease is granted insofar as the County's title permits, but the County specifically disavows any warranty of title to Steam, and the County shall not be liable to Steam for any defect or encumbrance upon the title to the leased property or premises hereby demised.

3. Term: This lease shall commence upon the execution of all parties hereto and extend for a period of fifteen (15) years, terminating at twelve o'clock a.m. on the fifteenth (15th) year anniversary hereof, with the right and option in Steam to extend the lease, under the same terms and conditions as set forth herein, for an additional term of fifteen (15) years. Said option must be exercised, in writing, by Steam and delivered to County not later than one hundred eighty (180) days prior to the expiration of the initial term.

4. Right of Entry: County retains a right to enter upon the leased premises for the purpose of inspecting the premises, and carrying out rehabilitation, repair or maintenance of the leased premises, and for the purpose of providing security in the corridor. County shall have no obligation to Steam to provide security or track inspections, and shall have no specific obligations to Steam as to rehabilitation, repair or maintenance except as specifically set forth below.

5. Line Rehabilitation and Maintenance: County shall not be required to perform any rehabilitation or maintenance to or for the benefit of the Line or any appurtenant railroad equipment. Steam shall be solely responsible for any and all costs of rehabilitation and maintenance of the track, railbeds and equipment. Steam agrees that the repair and rehabilitation to the Line, initially from New Freedom Station to a point approximately 400 yards north of Hanover Junction Station, shall be such as to bring the Line into FRA class condition necessary for the operation of a railroad excursion train. Steam shall provide all future maintenance for said portion of the Line as required by federal or state rules and regulations and as further required by County. Steam shall also be responsible for the rehabilitation and maintenance of that portion of the Line extending from Hanover Junction to the City of York at such time as Steam extends its operations to said point, subject to the provisions of Paragraph 8 below.

6. Current Condition of Leased Premises: County makes no representation or warranty as to the current condition of the leased premises. Steam agrees to accept the leased premises, "as is". County makes no representation that the leased premises are fit for the intended use.

7. Shared Use of Line and Corridor: Steam agrees that its use of the Line and appurtenant facilities shall not interfere with the recreational trail adjacent to the leased premises and the conduct of its operations will be such as to minimize any negative impact on the trail. Steam acknowledges that the adjacent recreational trail crosses railroad tracks at various places and that bike riders, horse riders and pedestrians will be using the recreational trail. Steam agrees that only duly licensed and competent operators shall be allowed to operate the trains and that the trains will travel at such speeds so as to accommodate the adjacent trail use and not endanger the individuals so using. Steam agrees that the trains will be operated safely at all times.

8. Exclusivity: During the term of this lease and so long as Steam is not in default of any of the terms and conditions hereunder, County warrants that the lease shall be exclusively for Steam. Steam hereby acknowledges that the provisions of the agreements by and between County and the Commonwealth of Pennsylvania, as above referenced, require that upon submission of a bonafide proposal for freight rail service, County must cooperate in the establishment of the same. Steam agrees that if such a proposal is received by County and if at

such time Steam is not providing freight service, it will cooperate with County to accommodate such proposal, and will agree to sublease to such acceptable rail freight operator under terms and conditions as County, Steam and the operator can agree. Under no circumstances will Steam be responsible for any repairs or upgrades to the railroad in order to facilitate or accommodate freight utilization by any third party carrier or operator. All such costs of repairs and/or upgrades shall be at the sole expense of either County or the freight operator. In any case, the lease with the Commonwealth of Pennsylvania shall supercede the obligations of the County to this Agreement to the extent there is a conflict.

Steam further acknowledges that it is cognizant of the retransfer provisions of the Commonwealth of Pennsylvania Agreements and upon such transfer, this lease could be terminated. In that event, County agrees that it will expend its best efforts, in conjunction with Steam, to seek agreement from the Commonwealth of Pennsylvania to make any such retransfer subject to this lease agreement.

County and its designees may use the lease premises from time to time for governmental purposes (high rail vehicles, motor cars, inspections) so long as such uses do not unreasonably interfere with Steam operations and activities.

9. New Freedom and Hanover Junction Stations: In addition to the Railroad, this lease may extend to the New Freedom and Hanover Junction Stations for the purposes of allowing Steam to establish facilities therein subject, however, to the terms and conditions that are otherwise agreeable to the County Parks Department and to other parties with any interest in said facilities.

10. Other Users: Steam agrees that it may not allow other parties or carriers to use any portion of the leased premises for any purpose without the prior written consent of County.

11. Additions: County agrees that Steam may construct additional rail facilities (sidings, switches, turntables) which may attach to the existing facilities, such additions to be at the sole expense of Steam. All plans for such additions must be submitted to and approved by the County. Upon termination of this lease, such facilities remain the property of Steam and, if required by County, shall be removed within one hundred and eighty (180) days of written notification of same. Upon removal, all adjacent facilities must be restored to their original condition. All additional rail facilities, if approved, shall be constructed and placed in such a way so as to impact operations of the adjacent recreational trail in a minimal way as possible. All additional rail facilities must meet local, municipal standards for zoning.

12. Liability: Steam shall hold and save the County harmless from all claims, damages, suits, judgments or causes of action on account of injury to or death of persons or loss or damage to property which may result from, or arise in any manner out of the management, control, use, or operation for the term of this agreement. In this connection, Steam will acquire public liability and property damage insurance, in the amount of Two Million Dollars ($2,000,000.00), in a form satisfactory to County, and including as additional insureds, the County of York, Pennsylvania, The York County Rail Trail Authority, and York County Parks and Recreation Department, for protection from any liability above described, at no expense to

County or the other named insureds. Steam shall provide County with a certificate of insurance at least annually.

13. Approvals: Steam will be responsible for the acquisition of any and all approvals or permits necessary from, or required by, and compliance with any validly existing orders from the Interstate Commerce Commission or its successors, the Public Utility Commission of Pennsylvania, or any other regulatory body or agency having jurisdiction over the railroad operations contemplated hereunder.

14. Force Majeure: In the event that either party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, acts of God, or war, or any other reason beyond its control, then this agreement may be terminated by written notice of either party.

15. Occupancies: County will be entitled to retain all income from any existing occupancy agreements during the term of this lease and agreement, or any extensions thereof. County may, during the term of this lease and agreement, or any extensions thereof, sell, lease, grant easements or licenses, or develop or otherwise utilize the corridor or portions thereof. County shall notify Steam in advance of any such action, and in cases where there could reasonably be any interference or negative effect on railroad operations, County shall first submit to Steam its plans therefore for approval, which approval shall not be unreasonably withheld by Steam. Such uses shall include, without limitation, transverse and longitudinal occupancies for public improvements (e.g., roads, sewers, etc., at, above or below grade) pipelines, power lines and energy corridors, the recreational trail), commercial development of air, subterranean and surface rights. In the event that Steam reasonably determines the need for the same, Steam can require any and all contractors working in the corridor to hire a flagman or flagmen from Steam (at reasonable cost) to ensure that no work is performed in a manner which would compromise Steam's ability to provide rail service over the affected area. In any case, nothing in this clause shall be construed to the County's obligations under this Lease and Operating Agreement are superceded by County's obligations under the County's agreement with the Commonwealth of Pennsylvania. In the event the County is performing repair work that would require a flagman for the rail line, the County has the right to use its own flagman at its own expense.

16. Return of Leased Premises: If Steam shall violate any covenant of this lease and agreement, or if the leased premises shall be used for any purpose other than as above stated or in the event of the termination of this lease and agreement, or by expiration of the term, then and in such event Steam agrees to quit and deliver up peaceable possession of the leased premises to County and County may thereupon reenter upon and take possession of the leased premises and of every part thereof, either by force or otherwise, without any liability therefore, and have and enjoy the leased premises as of its former estate, free, clear and discharges of this lease and agreement and of all rights of Steam. Except as set forth herein, Steam, for itself and any subleasee, agrees to and does hereby waive all notices to quit now or hereafter required by any law or laws previous to proceedings to recover possession of the leased premises.

17. Successors and Assigns: The terms and conditions of this lease and agreement shall extend to and be binding upon the respective successors and assigns of the parties thereto as

their respective interest may appear, as though in each case herein they had been specifically mentioned, provided however, that this agreement may not be assigned by Steam unless written consent from County is first obtained therefore.

18. Records: Steam shall maintain full and accurate records with respect to all matters covered by this agreement at its principal office or place of business. County and appropriate representatives of County will be permitted, during regular business hours and at all reasonable times during the period of this agreement and for three (3) years thereafter, to have access to original instruments, including records and copies thereof, to have access to original instruments, including records and copies thereof, in possession, custody or control of Steam, and to examine and audit the same, including the right to make and carry away transcripts therefrom and to inspect all data, documents, proceedings and records or notes of activities. The above notwithstanding, County will not permit such records to be made public, except where required by law. Steam acknowledges that any records in the possession of the County may be subject to an open records request.

19. Operations Schedule: Steam agrees to use reasonable efforts to provide County with a written schedule, in advance, of its railroad operations. Steam shall make reasonable efforts to notify County or its designee in advance of any unscheduled railroad operations on the leased premises. County shall make reasonable efforts to notify Steam of its activities which might reasonably interfere with Steam's railroad operations.

20. Alcoholic Beverages: County agrees that the leased premises shall be exempt from Code of the County of York §75-27 (A), prohibiting the possession and transportation of alcoholic beverages. Open containers of alcohol are permitted only in trains. Steam shall make reasonable efforts to see that open containers of alcohol are kept on the train. Individual possessors of alcoholic beverages are subject to prosecution for violations of this provision. Steam shall be solely responsible for obtaining the right to sell alcoholic beverages or to permit consumption of alcoholic beverages on the train. Steam shall be solely responsible for insuring compliance with laws of the Commonwealth of Pennsylvania and local municipalities with regard to the sale or consumption of alcoholic beverages. Repeated violations of laws pertaining to the sale and consumption of alcoholic beverages with regard to Steam's operation could result in termination for cause without having to provide the notices required by paragraph 26 below.

21. Compliance with Law. Steam agrees to conduct its operations and activities on the leased premises in compliance with all valid and applicable federal, state and local statues, regulations and ordinances.

22. Existing Rights of MCI Telecommunications Corporation: Steam acknowledges and agrees that its rights in the leased premises shall be at all times subordinate to the rights of MCI Telecommunications Corporation (MCI) as set forth in certain agreement between County and MCI, dated October 19, 1994 and October 12, 2995. Steam is prohibited from doing or permitting any act which would interfere with any MCI Facility, and shall hold harmless MCI from all liability, claims, damage, loss, costs and expenses, including attorneys' reasonable fees, arising out of Steam's interfering with the use, operations, or maintenance of MCI facilities.

23. Governing Law: This agreement is to be construed in accordance with the laws of the Commonwealth of Pennsylvania.

24. Severability: If any term, covenant, condition or provision (or part thereof) of this agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this agreement or the application of such term or provision (or remainder thereof) to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereof, and each term, covenant, condition and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

25. Captions: The paragraph headings in this agreement are for convenience only and are without legal effect upon the terms hereof.

26. Termination for Cause:

A. If, through any cause, either party shall fail to fulfill in a timely and proper manner its obligations under this lease and agreement, or if either party shall violate any of the covenants or stipulations of this lease and agreement, the other may thereupon give notice to the breaching party, specifying the failure or violation and demanding cure of the same within thirty (30) days of receipt of notice.

B. If the breaching party does not correct the failure or violation to the reasonable satisfaction of the other within the specified time period, the other may terminate this lease and agreement by giving written notice thereof to the breaching party and specifying the date of termination, which shall be at least five (5) days after receipt of the termination.

C. Upon termination the rights of removal set forth in Paragraph 11 above shall apply.

27. Dispute Resolution. All disputes surrounding this Agreement shall be resolved by a non-jury trial in the York County Courts of Common Pleas.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, attested, and ensealed by their proper officials, pursuant to due and legal action authorizing the same to be done the day, month and year first above written.

ATTEST:

Charles R. Noll
Administrator/Chief Clerk

COUNTY OF YORK, PENNSYLVANIA

Steve Chronister, President

Christopher B. Reilly, Vice President

Doug Hoke

Doug Hoke, Commissioner

ATTEST:

STEAM INTO HISTORY

By: William H Simpson

ITS: President

OPERATING REGULATIONS FOR
NORTHERN CENTRAL RAILROAD CORRIDOR

1. No vehicle operating on the track shall travel at a speed in excess of 15 miles per hour. Within one hundred (100) yards of the Hanover Junction Station, New Freedom Station and Howard Tunnel, no vehicle operating on the track shall exceed a speed of 5 miles per hour.

2. Steam shall copy County or its designee with reports made by Steam to its insurer of any incidents involving personal injury or property damage occurring on the leased premises.

3. In the event that Steam should extend the use of the trail to include Howard Tunnel, any train operating on the track shall come to a stop before entering the tunnel and make reasonable efforts to ascertain that the tunnel is empty of trail users before entering.

4. Regular scheduled train utilization shall cease by 9 p.m. each day. Occasional extended excursions beyond that time are permitted.

5. All trains or other vehicles operating on the track shall give appropriate warnings in advance of trail crossings and bridges.

6. Maintenance by Steam of the leased premises shall include weed control.

7. Steam shall insure that all discarded railroad ties or other items or equipment shall be removed from the area of the trail/tracks within thirty (30) days of said items being taken out of their original position.

Exhibit "A"

8. Railroad maintenance operations shall be conducted so as to minimize impact on the trail and trail use. Any damage to the trail from railroad maintenance operations shall be restored to the prior condition of said trail within twenty-four (24) hours of occurrence. Ties and other track materials shall not be stored on the trail side of the track at any time. Whenever possible, track repairs shall be performed from the non-trail side of the track. Steam shall designate construction or track repair areas using cones, safety tape or other similar designations or devices. Steam shall make reasonable efforts to insure that passage by trail users is not obstructed.

9. Steam shall insure that when trains or other vehicles operating on the track which are under its control approach trail users riding horses, such trains or vehicles shall approach with extreme caution. In all cases, trains and vehicles shall approach any horse and rider to assure that the rider can continue to keep control of or dismount from the horse. Horns and bells shall not be sounded in the vicinity of trail users on horses unless absolutely necessary.

10. Steam shall maintain the leased premises and its equipment and rolling stock in a neat and well kept condition.

11. Steam shall not dispose of any human waste or refuse on or near the leased premises.

12. Steam shall not perform restoration or reconstruction work upon the engine or railcars while they are on the tracks.

RESOLUTION 2011-16

RESOLUTION DEFINING BONA FIDE RAIL FREIGHT SERVICE PROPOSAL

WHEREAS, the County of York, ("County") entered into a Rail Corridor Preservation Agreement ("Agreement") with the Commonwealth of Pennsylvania, actions through its Department of Transportation ("PENNDOT") on September 29, 1995;

WHEREAS, the Agreement provides that the County may establish a recreational trail besides railroad tracks from New Freedom to Hyde;

WHEREAS, said tracks have not been used for freight service for many years;

WHEREAS, Paragraph four (4) of the Agreement requires the County to cooperate in the re-establishment of freight service on said tracks if it receives a bona fide written proposal for freight service on said tracks;

WHEREAS, the phrase "bona fide written proposal" is not defined in the Agreement; and

WHEREAS, it is the desire of the York County Board of Commissioners ("Commissioners") to define said phrase and establish guidelines for applications to operate freight service on said tracks.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners, County of York, Pennsylvania, as follows:

1. Any proposal shall be submitted to the County of York Administrator along with a certified check made out to the "County of York" in the amount of $7,500.00. Said check shall be used to cover anticipated costs for having the plan reviewed by an individual with expertise in the railroad freight industry.

2. The plan shall include the following:

A. A written agreement with the owner of the rail lines north of Hyde (currently York Rail) to operate over said lines.

B. A history of the prospective freight operator's experience in operating rail freight service.

C. Financial statement and proof of insurance.

D. Detailed business plan

E. At least one written enforceable agreement with a customer that the prospective operator contends will be a significant source of income if the operator is granted permission to operate.

3. The prospective operator shall submit all documents in support of its proposal at the time of submission of the check. No other documents will be considered unless said documents are specifically requested by the County.

4. Any plan shall provide a detailed statement on how the operator intends to operate safely next to the existing recreational trail.

5. A recommendation of approval of the plan by a consultant retained by the County.

Approved this day of September, 2011, at a regularly scheduled meeting of the Board of Commissioners.

ATTEST:

Charles R. Noll
Administrator/Chief Clerk

BOARD OF COMMISSIONERS

Steve Chronister, President

Christopher B. Reilly, Vice President

Doug Hoke, Commissioner