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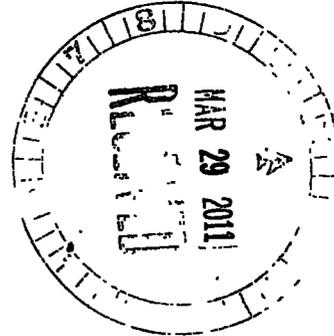
March 28, 2011

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, S.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

MAR 29 2011

Part of
Public Record



Re: **STB Docket No. AB-1053 (Sub-No. 1X), Michigan
Air-Line Railway Co.-Abandonment Exemption-
Line in Oakland County, Michigan**

Dear Ms. Brown:

Enclosed for filing in the above-referenced proceeding are the original and 10 copies each of Michigan Air-Line Railway Co.'s Petition for Waiver and Leave to File and Surreply of Michigan Air-Line Railway Co. to American Plastic Toys, Inc.'s Reply and Objection to Petition for Exemption.

Also enclosed are additional copies of the Motion and the Surreply, and I would request that you date-stamp each of these documents and return them to me in the self-addressed, stamped envelope I have enclosed.

Thank you for your assistance in this matter. If there are any questions concerning this filing, please contact me by telephone at (785) 232-0753 or by email at the email address shown above.

Very truly yours,

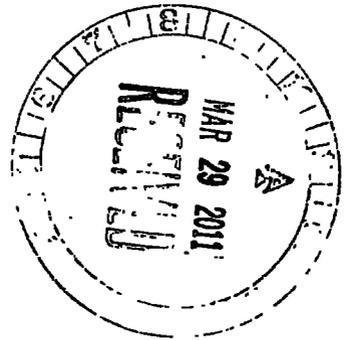
W. Robert Alderson
ALDERSON, ALDERSON, WEILER,
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WRA:bjb
Enclosures

cc: R. Robert Butler
Dirk H. Beckwith, Esq.

229053

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**



STB DOCKET NO. AB-1053 (Sub-No. 1X)

**MICHIGAN AIR-LINE RAILWAY CO.
- ABANDONMENT AND DISCONTINUANCE OF SERVICE EXEMPTION -
LINE IN OAKLAND COUNTY, MICHIGAN**

**MICHIGAN AIR-LINE RAILWAY CO.'S
PETITION FOR WAIVER AND LEAVE TO FILE**

**ENTERED
Office of Proceedings
MAR 29 2011
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Public Record**

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Counsel for Michigan Air-Line Railway Co.**

Dated: March 28, 2011

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-1053 (Sub-No. 1X)

**MICHIGAN AIR-LINE RAILWAY CO.
- ABANDONMENT AND DISCONTINUANCE OF SERVICE EXEMPTION -
LINE IN OAKLAND COUNTY, MICHIGAN**

**MICHIGAN AIR-LINE RAILWAY CO.'S
PETITION FOR WAIVER AND LEAVE TO FILE**

Michigan Air-Line Railway Co. ("MAL Railway") hereby respectfully requests, pursuant to 49 C.F.R. § 1110.9, that the Board temporarily waive its general rule at 49 C.F.R. § 1104.13(c) prohibiting a "reply to a reply," and permit MAL Railway's pleading entitled Surreply of Michigan Air-Line Railway Co. to American Plastic Toys, Inc.'s Reply and Objection to Petition for Exemption ("MAL Railway Surreply") which accompanies this petition.

The Board has permitted the filing of a reply to a reply when, for example, such a filing would help provide a complete record and clarify arguments and would not prejudice any party or unduly prolong the proceeding. See, e.g., *Tongue River Railroad Co.-Construction and Operation-Western Alignment*, Finance Docket No. 30186 (Sub-No. 3), *slip op.* at 3 (STB served March 11, 2003).

That is the case here. As explained more fully in the MAL Railway Surreply, that surreply is necessary, in part, to respond to and correct misstatements of fact by American Plastic Toys, Inc. ("APT") regarding its objections to the Petition for Exemption filed by MAL Railway in the Docket.

Because the MAL Railway Surreply will, in this way, merely respond to misstatements of fact, the filing of the response will not prejudice APT or broaden the scope of this proceeding. Additionally, the timely filing of this petition and the MAL Railway Surreply will not prolong this proceeding or hinder the Board from timely acting on this matter.

Moreover, permitting a surreply is necessary, as a matter of due process, in order to permit a party to respond in the first instance to a reply that contains a request for new, affirmative relief. Under strict application of the “no reply to a reply” rule, such a request for affirmative relief would be completely unanswerable. *See, e.g., Union Pac. Corp. et al.-Control and Merger-Southern Pac. Rail Corp., et al.*, Finance Docket No. 32760, 1999 STB Lexis 410 at *2 (decision served July 12, 1999) (permitting a response to a reply that requested affirmative relief).

That, again, is the situation here: In its Reply, APT does not simply ask the Board to reject MAL Railway’s Petition for Exemption. APT asks the Board to go further and, as an alternative to rejecting the Petition for Exemption, to stay the proceedings. See Reply at page 3. Permitting the MAL Railway Surreply is necessary in order to allow MAL Railway to respond to APT’s request to stay the proceedings.

CONCLUSION

MAL Railway respectfully requests that the Board accept for filing the Surreply of Michigan Air-Line Co. to American Plastic Toys, Inc.’s Reply and Objection to Petition for Exemption.

Respectfully submitted,



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Attorney for Michigan Air-Line Railway Co.

Dated: March 28, 2011

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have on this 28th day of March, 2011, served a copy of the above and foregoing Petition for Waiver and Leave to File upon all parties of record in this proceeding, by sending a copy thereof by first-class mail, postage prepaid, to:

Troy R. Taylor
Law Office of Troy R. Taylor, PLLC
107 E. Main Street, Suite 204
Northville, Michigan 48167

Robert Alan Kemp, d/b/a Nevada Central Railroad
2741 Pinewood Avenue
Henderson, Nevada 89074

A handwritten signature in black ink, appearing to read "W. Robert Alderson", written over a horizontal line.

W. Robert Alderson