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June 22, 2007

ENTERED  
Office of Proceedings

JUN 22 2007

Part of  
Public Record

Re: Finance Docket No. 34869  
Honey Creek Railroad, Inc.  
-Petition for Declaratory Order  
and  
STB Docket No. AB 865-X  
Honey Creed Railroad, Inc.  
-Abandonment in Henry County, IN

Honorable Vernon A. Williams  
Secretary of Surface Transportation Board  
395 E Street, SW  
Room 1260  
Washington, DC 20423-0001

**BY FACSIMILE**  
**ORIGINAL BY MAIL**

Dear Secretary Williams:

Enclosed herewith, please find the Motion of Honey Creek Railroad, Inc. for Leave To File a Rebuttal Statement of Facts and Arguments and replies to Respondent's Motion to Reopen and Reconsider not later than July 11, 2007.

Copies of this Motion have been served on all parties of record.

Very truly yours,



Richard R. Wilson

jas/54809

Enclosure

cc: Honey Creek Railroad, Inc.

William B. Keaton, Esq.

All parties of record

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**DOCKET NO. 34869**

**HONEY CREEK RAILROAD, INC.**

**PETITION FOR DECLARATORY ORDER**

**and**

**DOCKET NO. AB 865-X**

**HONEY CREEK RAILROAD, INC. – ABANDONMENT IN HENRY COUNTY, IN**

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**MOTION FOR LEAVE TO FILE REBUTTAL STATEMENT**

**OF FACTS AND LEGAL ARGUMENT**

**AND**

**TO REPLY TO MOTIONS FOR CONSOLIDATION, REOPENING AND**

**RECONSIDERATION AND FOR ORAL ARGUMENT ON OR**

**BEFORE JULY 11, 2007**

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rrwilson@atlanticbbn.net  
Attorney for Honey Creek  
Railroad, Inc.**

**Dated: June 22, 2007**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**DOCKET NO. 34869**

**HONEY CREEK RAILROAD, INC.**

**PETITION FOR DECLARATORY ORDER**

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**MOTION FOR LEAVE TO FILE REBUTTAL STATEMENT  
OF FACTS AND LEGAL ARGUMENT**

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RECONSIDERATION AND FOR ORAL ARGUMENT ON OR**

**BEFORE JULY 11, 2007**

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Pursuant to the Board's Order of May 17, 2007, Respondent, Gary L. Roberts, et al. filed a 254 page Reply to HCR's Petition for Declaratory Order. Respondent's Reply contains a substantial volume of factual material and legal arguments unrelated to the questions referred by the Henry County Circuit Court to the STB for determination. Respondent's Reply collaterally

attacks the merits of the HCR abandonment exemption in STB Docket AB 865-X and the Board's jurisdiction with respect thereto. HCR contends that most of the factual material contained in Respondent's Reply is irrelevant to the issues pending before the Board, but in light of Respondent's related Motion to Consolidate, Reopen and Reconsider the HCR Abandonment Exemption Notice in Docket AB 865-X, Petitioner requests permission to file not later than July 11, 2007 a Rebuttal Statement of Facts and Legal Arguments which will also reply to the Motion to Consolidate, Reopen and Reconsider and to the Request for Oral Argument.

A rebuttal statement by Petitioner in this proceeding is appropriate in as much as Respondent has raised numerous new issues and legal arguments not originally presented in HCR's Petition for Declaratory Order. Moreover, given the volume of material to which Petitioner must respond, the fact that this material must be reviewed by Petitioner and local counsel and the fact that the undersigned counsel did not receive a copy of Respondent's reply until June 21, 2007 and, given the impending Fourth of July holiday next week, the rebuttal filing deadline of July 11, 2007 will afford Petitioner adequate time to prepare a substantive response to the pleadings filed by Respondent but will not unduly prolong this proceeding.

Based on consultation with opposing counsel, Respondent consents to Petitioner's request to extend the filing date for replies to Respondent's pending motions, but does not consent to Petitioner's request for leave to file a rebuttal statement of facts and legal argument.

Dated : June 22, 2007

Respectfully submitted,



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Inc.

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/54803

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 22nd day of June, 2007 served a copy of the Motion For Leave To File Rebuttal Testimony And To Reply To Motions For Oral Argument upon the following via first class United States Mail, postage prepaid:

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