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SERVICE DATE – LATE RELEASE OCTOBER 26, 2016

SURFACE TRANSPORTATION BOARD

ORDER OF PRESIDING ADMINISTRATIVE LAW JUDGE ON JAMES RIFFIN'S MOTION  
TO STAY

Docket No. AB 167 (Sub-No. 1189X)

CONSOLIDATED RAIL CORPORATION—ABANDONMENT EXEMPTION—IN HUDSON  
COUNTY, NJ

Docket No. AB 55 (Sub-No. 686X)

CSX TRANSPORTATION, INC.—DISCONTINUANCE OF SERVICE EXEMPTION—IN  
HUDSON COUNTY, NJ

Docket No. AB 290 (Sub-No. 306X)

NORFOLK SOUTHERN RAILWAY COMPANY—DISCONTINUANCE OF SERVICE  
EXEMPTION—IN HUDSON COUNTY, NJ

Decided: October 26, 2016

On October 25, 2016, James Riffin filed a Motion to Stay, which seeks to stay the issuance of an order memorializing the bench ruling made at the October 24, 2016 oral arguments. Later on the same day, the City of Jersey City, Rails to Trails Conservancy, and Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition (collectively, City et al.) submitted a reply in opposition to Mr. Riffin's Motion to Stay.

I am adopting arguments contained in City et al.'s reply in opposition to Mr. Riffin's Motion to Stay as the rationale for striking Mr. Riffin's Motion to Stay as ordered, below.

The Board follows standard federal practice in addressing motions to stay.<sup>1</sup> The standard treatment requires the party seeking a stay to show: (1) a likelihood that it will prevail on the merits of any challenge to the action sought to be stayed; (2) that it will suffer irreparable harm in the absence of a stay; (3) other interested parties will not be substantially harmed by a stay; and (4) that the public interest supports the granting of the stay.<sup>2</sup>

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<sup>1</sup> Wash. Metro. Area Transit Comm'n v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977).

<sup>2</sup> Eighteen Thirty Group, LLC—Acquis. Exemption—In Allegany Cty., Md., FD 35438 et al., slip op. at 2 (STB served Nov. 17, 2010).

Mr. Riffin does not purport to make any of these showings. Mr. Riffin predicates his motion for a stay on his desire for delay while he attempts to assemble more evidence which, even if assembled, does not address the multiple grounds I articulated to dismiss Mr. Riffin from the proceedings in the above-referenced dockets.

With City et al.'s Second Motion to Compel Discovery Against Mr. Riffin being filed on July 5, 2016, and the subsequent issuance of the order requiring Mr. Riffin to respond fully to City et al.'s discovery request being issued on August, 25 2016, Mr. Riffin had ample time to comply in good faith with City et al.'s discovery request. This last-ditch effort, purporting to comply with the discovery request in order remain in these proceedings, is unacceptable.

Additionally, Mr. Riffin's Motion to Stay violates the bench ruling made at the October 24, 2016 oral arguments, which explicitly prohibited Mr. Riffin from submitting any further pleading into evidence.

The bench ruling remains unaffected. Accordingly, Mr. Riffin is reminded that his remaining alternative to continue in these proceedings is to seek reconsideration from the Board as noted by City et al.

It is ordered:

1. Mr. Riffin's Motion to Stay is hereby stricken from the proceedings in the above-referenced dockets.
2. This decision is effective on its service date.

By the Board, John P. Dring, Administrative Law Judge.