

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 550 (Sub-No. 3X)

R.J. CORMAN RAILROAD COMPANY/ALLENTOWN LINES, INC.—ABANDONMENT
EXEMPTION—IN LEHIGH COUNTY, PA.

Digest:¹ This decision denies James Riffin’s motion to supplement the record because the supplemental filing is irrelevant and immaterial to the Board’s previously issued decision in this proceeding.

Decided: November 23, 2015

By petition filed on May 1, 2015, R.J. Corman Railroad Company/Allentown Lines (RJC) sought an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately 3.5 miles of rail line extending between milepost 93.18, in Allentown, Pa., and milepost 96.709, in or near Whitehall, Pa. (the Line). Notice of the exemption was served and published in the Federal Register on May 21, 2015 (80 Fed. Reg. 29,390). The Board granted the abandonment exemption in a decision served on August 20, 2015, subject to employee protective and environmental conditions. See R.J. Corman R.R.—Aban. Exemption—in Lehigh Cty., Pa., AB 550 (Sub-No. 3X) (STB served Aug. 20, 2015).² The exemption became effective September 18, 2015.

On September 4, 2015, James Riffin (Riffin) filed a motion to supplement the record. Riffin’s motion included a copy of the petition to revoke of Samuel J. Nasca, on behalf of SMART/Transportation Division, New York State Legislative Board (SMART/TD-NY), filed on August 28, 2015 in a separate Board proceeding. See Del. & Hudson Ry.—Discontinuance of Trackage Rights—in Broome Cty., N.Y., AB 156 (Sub-No. 27X) (STB served July 10, 2015). No replies were filed in response to Riffin’s motion.

Riffin’s motion to supplement will be denied. Under 49 C.F.R. § 1104.8, the Board may strike any filing, or a portion of any filing, that is “redundant, irrelevant, immaterial, impertinent, or scandalous.” The information contained in Riffin’s motion to supplement the record is

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² That decision permitted RJC to discontinue service, but not to consummate the abandonment or conduct any salvage activities until Delaware & Hudson Railway Company, Inc. (D&H) has confirmed to RJC that D&H has exercised its authority to discontinue trackage rights over the Line.

irrelevant and immaterial to the Board's consideration of RJC's petition for abandonment. Riffin offers no explanation as to why SMART/TD-NY's petition to revoke, filed in another proceeding, is either relevant or material to RJC's abandonment exemption, other than to "let the STB, and the world, and in particular R.J. Corman and Trestle Development know what Mr. Nasca has argued . . .[.]" But SMART/TD-NY filed their petition to revoke in the appropriate proceeding, and the petition contains no reference to the RJC abandonment exemption at issue here. The Board will address SMART/TD-NY's petition to revoke in a separate decision in the proceeding in which it was filed.

The pleading that Riffin seeks to enter into the record in this proceeding is also not necessary to the disposition of RJC's petition. Riffin's motion was filed after the Board issued a final decision in this proceeding, and the exemption has already become effective. Granting Riffin's motion would not create a more complete record or aid the Board in reaching any future decision.³

It is ordered:

1. Riffin's motion to supplement the record is denied.
2. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Miller.

³ Denying Riffin's motion to supplement is consistent with the Board's recent decision in Petition of Norfolk Southern Railway Company to Institute a Rulemaking Proceeding to Address Abuses of Board Processes, EP 727, slip op. at 4 (STB served Sept. 23, 2015). In that decision, the Board stated that it would address the issue of irrelevant and immaterial filings through increased enforcement of the existing rule at 49 C.F.R. § 1104.8.