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Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: STB Finance Docket No. 34064, *Waccamaw Coast Line Railroad -- Modified Rail Certificate*

Dear Ms. Brown:

In behalf of Horry County, South Carolina (the County), this is to respectfully request issuance of a Board order vacating the Modified Certificate of Public Convenience and Necessity (modified rail certificate) that was issued to Waccamaw Coast Line Railroad (WCLR) in *Waccamaw Coast Line Railroad -- Modified Rail Certificate*, 2001 STB LEXIS 613 (Finance Docket No. 34064, decision served July 13, 2001).

The County owns a rail line that extends between Milepost 336.18 in the City of Conway, SC and Milepost 350.17 in the City of Myrtle Beach, SC (Conway-Myrtle Beach line). The County acquired the Conway-Myrtle Beach line after it was abandoned by Seaboard System Railroad, a predecessor of CSX Transportation, Inc. See *Seaboard System Railroad, Inc. -- Abandonment -- in Horry County, SC*, ICC Docket No. AB-55 (Sub-No. 107), decision served September 12, 1984.

On March 9, 2001, the County entered into a Lease Agreement with The Baltimore and Annapolis Railroad Company (BAR), of which WCLR is a division, for operation of the Conway-Myrtle Beach line. On July 13, 2001, the Board issued a modified rail certificate to WCLR for such operation. (2001 STB LEXIS 613, *supra*).

On June 28, 2013, the County terminated its Lease Agreement with BAR on the ground that defaults by BAR of material terms of the Lease Agreement were not cured after due notice of such defaults was provided by the County. A copy of the County's Termination of Lease Agreement is attached to this Petition as Appendix 1. BAR has not contested the lawfulness of the County's termination of BAR's Lease Agreement.

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It is provided in 49 C.F.R. § 1150.24 that:

The duration of the service (under the modified rail certificate) may be determined in the contract between the State (or County) and the operator . . .

The contract between the County and WCLR-BAR for operation of the Conway-Myrtle Beach line under the modified rail certificate is the Lease Agreement between the County and BAR. Inasmuch as that Lease Agreement has been duly terminated in accordance with its terms, it follows that the duration of rail service under the modified rail certificate has come to an end. The Board is requested to so find, and on the basis of that finding, the Board is respectfully requested to issue an order vacating WCLR's modified rail certificate.^{1/}

A copy of this Petition is being e-mailed to the President of BAR-WCLR and its consultant.

^{1/} It is also provided in 49 C.F.R. § 1150.24 that:

An operator may not terminate service over a line unless it first provides 60 days' notice of its intent to terminate the service. The notice of intent must be (a) filed with the State and the Board and (b) mailed to all persons that have used the line within the 6 months preceding the date of the notice.

It is respectfully submitted that the foregoing provision does not apply in the circumstances of this proceeding. There are no shippers that have used the rail line in the past 6 months. WCLR has not provided service over the rail line for more than two years. The County hereby waives the requirement of 60 days' notice before service can be terminated. The provision quoted above is for the benefit of shippers on the line and the County, not for the benefit of WCLR as operator.

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Respectfully submitted,



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