

FLETCHER & SIPPEN LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2875

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

THOMAS J. LITWILER
(312) 252-1508
tlitwiler@fletcher-sippel.com

January 31, 2005

VIA ELECTRONIC FILING

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, DC 20423-0001

Re: **Docket No. AB-875X**
R.J. Corman Railroad Company/Bardstown Line -- Discontinuance
Exemption -- In Johnson, Magoffin and Breathitt Counties, Kentucky

Docket No. AB-876X
R.J. Corman Equipment Company, LLC -- Abandonment
Exemption -- In Johnson, Magoffin and Breathitt Counties, Kentucky

Dear Secretary Williams:

By decision served December 23, 2004 in the above-captioned proceedings, the Board granted an exemption allowing R.J. Corman Equipment Company, LLC ("RJCE")¹ to abandon, and R.J. Corman Railroad Company/Bardstown Line ("RJCR") to discontinue service over, a line of railroad extending from milepost 0.05 at Dawkins, Kentucky to milepost 36.13 near Evanston, Kentucky, a distance of approximately 36.08 miles in Johnson, Magoffin and Breathitt Counties, Kentucky (the "Dawkins Line"). The abandonment and discontinuance exemption became effective on January 22, 2005.

We are in receipt of a letter dated January 10, 2005 from NRP (Operating) LLC ("NRP"), which claims to own coal reserves near the end of the Dawkins Line. NRP requests that abandonment be "deferred" for two years to "allow us to attempt to facilitate coal production and shipments." NRP did not participate in the exemption proceeding before the Board and filed its letter after the required date for petitions to stay in this matter, although before the required date for petitions to reopen. Even if considered a petition to reopen, however, NRP's cursory letter does not even purport to address the relevant reopening standards of 49 C.F.R. §§ 1115.3(b) and 1152.26(e)(4).

¹ RJCE has changed its name to R.J. Corman Railroad Property, LLC. For convenience, we refer here to RJCE by its prior name, and to RJCE and RJCR collectively as "Corman."

FLETCHER & SIPPEN LLC

Mr. Vernon A. Williams
January 31, 2005
Page 2

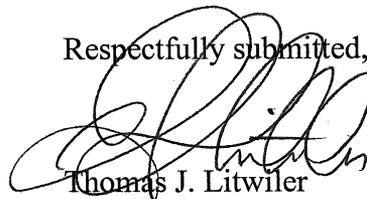
NRP claims, with no further elaboration or supporting evidence, that "we believe these [coal] reserves will be mined and so shipped at some point in the future" Precedent conclusively forecloses any postponement of an abandonment based on such claims. CSX Transp., Inc. v. STB, 96 F.3d 1528, 1529 (D.C. Cir. 1996) (abandonment could not be deferred for a year on basis of claims that closed coal mine might reopen, where "there were no credible projections for rail traffic over the segment in the future" and retention of the line "would force [the railroad] to incur substantial opportunity costs.").

We note that NRP specifically concedes that truck transportation is a "viable way" to handle any of its coal reserves that might be mined in the future. The Board's Section of Environmental Analysis reached the same conclusion. Environmental Assessment, served November 5, 2004, at 5 ("[A]ny future transportation of coal would not be expected to be substantially inhibited by the loss of the Dawkins Line because of the availability of other modes of transportation"). After a thorough analysis, the SEA also concluded that handling such coal shipments by truck would not result in significant environmental or public safety impacts.

Finally, we also note that neither NRP nor Appalachian Fuels LLC (the actual former mine operator and shipper on the line) sought to avail themselves of the offer of financial assistance procedures to acquire the Dawkins Line. And while Corman had indicated to Appalachian Fuels -- and more recently to NRP -- Corman's willingness to consider private arrangements for preservation of the line, neither entity ever sought to pursue such discussions.

Corman thus respectfully requests that the relief sought in NRP's January 10, 2005 letter filing, however construed, be denied. I certify that copies of this letter have been served by overnight delivery on NRP and Appalachian Fuels.

Respectfully submitted,



Thomas J. Litwiler
Attorney for R.J. Corman Railroad Company/
Bardstown Line and R.J. Corman Equipment
Company, LLC

TJL:tl

Enclosures

cc: Mr. Nick Carter, NRP (Operating) LLC
Mr. John C. Smith, Jr., Appalachian Fuels LLC