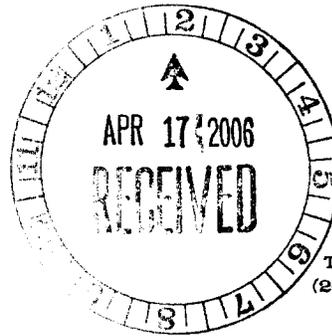


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April 17, 2006

BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, D.C. 20423-0001

Re: Finance Docket No. 34729, Saginaw Bay Southern
Railway Company – Acquisition and Operation Exemption
– Rail Line of CSX Transportation, Inc. in Bay, Saginaw,
Genesee, and Midland Counties, MI

Dear Secretary Williams:

Saginaw Bay Southern Railway Company (“SBS”) is in receipt of a letter from Huron & Eastern Railway Company, Inc. (“HESR”) dated April 13, 2006 and filed in the above-referenced proceeding. HESR’s letter constitutes an impermissible reply to SBS’s March 30, 2006 reply. See 49 C.F.R. § 1104.13(c) (“A reply to a reply is not permitted.”). HESR’s letter neither makes reference to § 1104.13(c), nor seeks to present any justification for HESR’s failure to abide by that rule.

As to the merits of HESR’s impermissible reply, SBS notes that neither case cited in the letter supports HESR’s argument regarding the trackage rights agreement at issue. Specifically, Prairie Central Ry. Co. – Acquisition & Operation, 367 I.C.C. 884 (1983), does not address the subject of the “age of any underlying contract” in any respect, and the referenced language of Thompson v. Texas Mexican Ry. Co., 328 U.S. 134, 144 (1946) (“Tex-Mex”) pertains to the abandonment of common carrier operations.

Interestingly, however, the Tex-Mex case itself elsewhere draws a distinction between the agency’s authority regarding abandonments and its authority

The Hon. Vernon A. Williams
April 17, 2006
Page 2

regarding trackage rights agreements, and in so doing, comments upon the issue of the age of trackage rights agreements subject to the agency's jurisdiction:

The jurisdiction of the Commission is not restricted, however, to determining whether or not operations of Brownsville over the tracks of Tex-Mex should be abandoned. Prior to the Transportation Act of 1940 the Commission had some jurisdiction over trackage agreements of the character involved in this case. . . . But by that Act the Commission received new explicit powers over trackage rights. [citing 49 U.S.C. § 5(2)(a)] . . .

The authority of the Commission under § 5(2)(a) extends to fixing terms and conditions, including rentals for any trackage agreements entered into subsequent to the effective date of the Transportation Act of 1940. If, therefore, the two carriers had voluntarily terminated the 1904 trackage contract and had entered into a new one without the approval of the Commission, they would have violated the Act.

Tex-Mex at 146 (emphasis added). The 1887 trackage rights agreement that is at issue in the instant matter was not "entered into subsequent to the effective date of the Transportation Act of 1940."

As such, HESR's April 13, 2006 reply is both procedurally defective and fails to support the merits of HESR's arguments regarding SBS's trackage rights operations. Thank you for your consideration in this matter.

Sincerely,



Andrew B. Kolesar III
An Attorney for Saginaw Bay
Southern Railway Company

cc: Thomas J. Litwiler, Esq.
Ronald A. Lane, Esq.