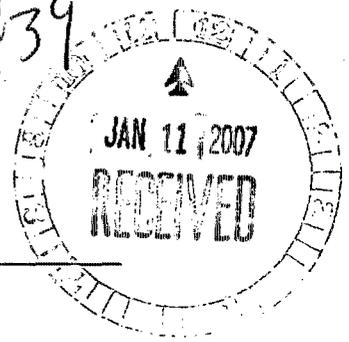


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**BEFORE THE
SURFACE TRANSPORTATION BOARD**



FINANCE DOCKET NO. 34975

**VERIFIED PETITION OF THE MARYLAND TRANSIT ADMINISTRATION
FOR DECLARATORY ORDER**

COMMENTS OF JAMES RIFFIN

**ENTERED
Office of Proceedings**

JAN 12 2007

**Part of
Public Record**

**James Riffin
1941 Greenspring Drive
Timonium, MD 21093
(443) 414-6210**

Dated: January 11, 2006



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 34975

**VERIFIED PETITION OF THE MARYLAND TRANSIT ADMINISTRATION
FOR DECLARATORY ORDER**

COMMENTS OF JAMES RIFFIN

1. **Notice is hereby given that James Riffin ("Riffin"), intends to participate as a party of record in this proceeding.** Please direct all matters pertaining to this proceeding to: James Riffin; 1941 Greenspring Drive; Timonium, MD 21093. Telephone No.: (443) 414-6210

2. On December 22, 2006, the Maryland Transit Administration ("MTA") filed a Verified Petition of the Maryland Transit Administration for Declaratory Order ("Petition"), asking the Surface Transportation Board ("Board") to institute a declaratory order proceeding to confirm that (1) the MTA's May 1, 1990 acquisition of the Cockeyesville Industrial Track¹ ("CIT") from Conrail was outside the Board's jurisdiction and was not subject to Board approval under 49 U.S.C. §10901 because common carrier obligations attached to the line were not transferred; and (2) that the MTA did not assume any common carrier rights or obligations by virtue of its acquisition of the CIT.

3. Riffin would argue instituting a declaratory order proceeding would be appropriate, for there is an ongoing controversy regarding what, if any, property rights and / or common carrier rights and obligations were transferred to the MTA on May 1, 1990; whether Interstate Commerce Commission ("ICC") authority was required prior to transferring the CIT line to the

¹ The Line was formerly known as the Pennsylvania Railroad's Northern Central Branch. Norfolk Southern Railway acquired its rights in the Cockeyesville Line via the purchase of, merger with, that portion of Conrail's assets known as the Pennsylvania Lines assets.

MTA; and if so, should / must the unauthorized conveyance be set aside. Were the Board to institute a declaratory order proceeding in this matter, the Board could resolve the underlying controversies, thereby removing uncertainty in a case that relates to the subject matter jurisdiction of the Board. See 5 U.S.C. 554(e); 49 U.S.C. 721; and *Intercity Transp. Co. v. United States*, 737 F.2d 103 (D.C. Cir. 1984); *Delegation of Authority – Declaratory Order Proceedings*, 5 I.C.C. 2d 675 (1989). Riffin would further ask that the Board set a procedural time line for discovery, and responses to material obtained via discovery.

Initial Comments of James Riffin

4. On page two of its Petition, the MTA indicated the CIT began at MP 0.00, which the MTA stated was located approximately 200 feet southeast of Howard Street in Baltimore City, Maryland and that the CIT ended at “the end of the line east of York Road in Cockeysville, Maryland (railroad milepost 15.4, more or less).” In its Petition, the MTA further stated the CIT was approximately 14.22 miles long.

5. **Comment One:** If the CIT began at MP 0.00 and ended at MP 15.4, the length of the line would be 15.4 miles long, rather than 14.22 miles long. Riffin would ask the MTA to address this inconsistency.

6. **Comment Two:** On page 11 of its Petition, the MTA erroneously stated the respective obligations of Conrail and the MTA were public records. On page 6 of the Operating Agreement, in ¶ B of Section I, the Operating Agreement specifically states the Operating Agreement is **not** to be recorded, and thus made a public document.

7. On page 3 of its Petition, the MTA stated: “In acquiring the real property, MTA expressly did *not* assume any rights or obligations to provide freight service.”

8. **Comment Three:** While the Agreement of Sale and Quit Claim Deed did state Conrail reserved an exclusive freight operating easement over the CIT, neither the Agreement of Sale nor the Quit Claim Deed have language which **expressly** states the MTA did not assume any rights or obligations to provide freight service. Furthermore, the Agreement of Sale and Quit Claim Deed expressly state Conrail’s freight operating rights are fully assignable. Which means Conrail could have assigned some or all of its freight operating rights to the MTA.

9. On page 4 of its Petition, the MTA stated: “the Operating Agreement specifically provided that ‘nothing herein shall be construed as interfering with the ability of Conrail to provide common carrier service to both present and future customers;’ and the MTA “may also perform track changes on its own initiative, but only if such changes do not affect Conrail’s rights and abilities to meet its common carrier obligations.”

10. In 2004, the MTA decided it was going to double-track the CIT, and further decided it would put the CIT out-of-service for the duration of the double-tracking project (approximately one year). In 2004, representatives from Norfolk Southern Railway (“NSR”) [Conrail’s successor in title], and representatives from the MTA, approached the three active shippers on the line (Fleischmann’s Vinegar, Imerys, and BGE), then **declared** to these three shippers that the line was going to be put out of service for approximately one year, and further declared that freight service on the CIT line was going to be permanently terminated. These representatives then gave the shippers an ultimatum: If they signed a MTA-drafted agreement, wherein the shippers agreed to not file a complaint with the Board, and further agreed not to oppose an abandonment petition to be filed by NSR **the MTA** [not NSR], would provide the shippers with a fixed-amount subsidy, to offset their immediate increase in shipping costs due to the intended permanent elimination of rail-freight service. The shippers were further informed that if they chose not to sign the MTA agreements, they would still lose their rail-freight service, and would have to shoulder the full cost of shipping their products via truck. Given their choices, the three shippers signed the MTA agreements. Riffin would seek, via discovery, production of these agreements, and testimony from these three shippers.

11. In August, 2006, Riffin, a new shipper on the CIT line, requested NSR ship eleven rail cars to Riffin, to be delivered to Packard Fencing’s rail siding in Cockeysville, Maryland, at MP 13.8, which rail siding Riffin had permission to utilize. A NSR representative quoted a rate to Riffin. Riffin then mailed a cashier’s check for the full amount of the transportation costs to NSR. A short time thereafter, a number of NSR representatives, including the NSR Baltimore Superintendent and James Paschall, Senior NSR Counsel, informed Riffin that NSR would not deliver the eleven cars to Riffin. The NSR Baltimore Superintendent sent a certified letter to Riffin declaring to Riffin that NSR would not ship Riffin’s eleven rail cars to Riffin in Cockeysville, and further declaring that NSR was returning the rail cars to their place of origin (in York, Pennsylvania). Nine of those eleven rail cars are still in York, Pennsylvania. Two of those rail cars, while languishing in York, were heavily vandalized (\$100,000 or more worth of

damage). Mr. Pascall, in a January 27, 2006 letter to the Board, *see AB-290 (Sub-No. 237X)*, acknowledged the CIT line was never embargoed.

12. In a February 22, 2006 filing in AB-290 (Sub-No. 237X), several potential shippers indicated they had a desire to receive freight rail service at their facilities located adjacent to the CIT line. One shipper, Badolato Stone, called a NSR representative, requesting a rate quote for natural stone, with a point of origin in Wyoming, the destination being Badolato Stone's facility located adjacent to the CIT line in Cockeyville. The NSR representative informed Badolato Stone that freight rail service was no longer available on the CIT line. Another of those potential shippers, Packard Fencing, was served with a termination of lease and eviction notice from the MTA three weeks after Packard Fencing expressed an interest in receiving freight rail service. (Packard Fencing had been leasing from the MTA, for the past seven years, the former Northern Central Freight Depot, and adjacent land and siding.)

13. **Comment Four:** Riffin would argue the MTA's decision to put the CIT out-of-service for approximately one year, materially "affected" NSR's ability to provide common carrier service to both present (Fleischmann's Vinegar, Imerys, BGE) shippers, and to future (Riffin and Badolato Stone) shippers. Riffin would further argue NSR's refusal to ship Riffin's rail cars to Riffin in Cockeyville, constituted a breach of NSR's Public Convenience and Necessity obligations. Moreover, Riffin would argue the MTA's retaliatory action against Packard Fencing after Packard Fencing expressed an interest in receiving freight rail service, was unlawful and materially affected NSR's ability to provide common carrier service to this shipper. (It should be noted, the MTA did in fact evict Packard Fencing. Packard Fencing obtained another site located adjacent to the portion of the CIT line that is adjacent to Badolato Stone, approximately 800 feet to the west of Badolato Stone. Unfortunately, as discussed in ¶ 15 below, the MTA unauthorizedly sold to a non-carrier the portion of the CIT line that serves Badolato Stone and Packard Fencing, and that non-carrier removed the track material and railroad bridge that it acquired from the MTA, thereby making it impossible for NSR to provide freight rail service for either of these two shippers.)

14. The double-tracking project was completed in November, 2006. The MTA resumed using the CIT for revenue purposes shortly thereafter. Even though the MTA has put the CIT line back into service, NSR still refuses to deliver rail cars to shippers along the line, specifically, Riffin's rail cars to Riffin in Cockeyville. NSR still retains the pre-paid freight charges Riffin

sent to NSR.

15. **Comment Five:** Riffin would argue the restrictions placed on the use of the CIT line by the MTA, materially “affect Conrail’s [NSR’s] rights and abilities to meet its common carrier obligations.”

16. On March 17, 1995, the MTA sold to Maryland Speciality Wire, a portion of the CIT line, including “all tracks, materials, trestles, bridges, buildings and all other improvements and all the appurtenances belonging thereto,” that had been transferred to the MTA from Conrail. This portion of the CIT line traversed through property owned by Maryland Speciality Wire. (See **Exhibit One**, a photocopy of the March 17, 1995 deed to Maryland Speciality Wire.)

17. On July 21, 2006, Maryland Speciality Wire sold its property to Railroad Crossing I L.L.C. (See **Exhibit Two**, a photocopy of the July 21, 2006 deed from Maryland Speciality Wire to Railroad Crossing I L.L.C. Shortly after Railroad Crossing I took possession of the Maryland Speciality Wire property, Railroad Crossing I removed the track material, underlying grade material, and the bridge which carried the tracks over Beaver Dam Run, thereby severing the remainder of this portion of the CIT line from the main portion of the CIT line.

18. Badolato Stone Products is located approximately 600 feet west of the railroad bridge that Railroad Crossing I removed. Packard Fencing is located approximately 800 feet west of Badolato Stone. The portion of the CIT line that is adjacent to Badolato Stone and Packard Fencing, no longer is connected to the CIT line.

19. **Comment Six:** Riffin would argue the MTA’s unauthorized sale of a portion of the CIT line to a non-carrier (Maryland Speciality Wire), violated 49 U.S.C. §10901. Riffin would further argue that this sale of a portion of the CIT line, particularly in light of the subsequent removal of the track material, underlying grade material and railroad bridge, and the consequent severing of the ability to provide rail service to two shippers who have made it known that they desire freight rail service, materially “affects” NSR’s ability to provide freight rail service to these two shippers, and materially interferes with NSR’s public convenience and necessity obligations. Riffin would propose to elicit evidence, via discovery, of these unlawful activities.

20. On page 7 of its Petition, the MTA argues its Operating Agreement with Conrail granted

Conrail a perpetual freight operating easement. [It should be noted, neither the Operating Agreement nor the Quit Claim Deed said the easement was irrevocable.] On page 8 of the Operating Agreement, the following language appears:

“Term (a) Except as otherwise herein provided, this Agreement shall commence on the date of the sale of the CIT and continue in perpetuity until superseded by the execution of another mutually acceptable operating Agreement, which may amend, modify, supersede or terminate this Agreement.”

21. On page 19a of the Operating Agreement, the following language appears:

“In the event that the Route is not used for rail freight service for sixty (60) consecutive months, Conrail, at its expense, shall promptly take all steps necessary before the Interstate Commerce Commission to file for and pursue abandonment of its easement and common carrier obligations over the entire Route and shall execute an absolute release unto MTA, without further consideration, of its freight service easement in recordable form ... ”

22. **Comment Seven:** Riffin would argue the Operating Agreement language cited in ¶¶ 19 and 20, *supra*, have the potential to severely limit the duration of the freight easement, and eviscerate the core concept of the word ‘perpetual,’ which is to be everlasting. The language quoted in ¶19 above, indicates the parties may terminate the easement at any time. The language quoted in ¶20 above, indicates Conrail, or its successors in title, **shall** institute a proceeding to abandon its freight operating rights if the CIT line is not used for freight service for 60 months. This language does not vest the freight railroad with any discretion. Even if the freight railroad did not desire to abandon the CIT line, the freight railroad would be compelled to abandon its freight easement. Riffin finds it to be interesting that the MTA agreements with Fleischmann’s Vinegar, Imerys and BGE, prohibit these shippers from requesting freight rail service for seven years, thereby ensuring (absence Riffin’s or any other new shipper’s request for freight rail service), that the freight easement would terminate five years from the date the MTA agreements were signed. In addition, if NSR continues to refuse to deliver rail cars to Riffin, or to any other shipper along the line, for three more years, this forced abandonment clause would be activated.

23. On page 6 of the Operating Agreement, in ¶ 4(b), the Agreement states the MTA shall be responsible for all maintenance of the CIT line. On page 10 of the Operating Agreement, in ¶ 6(e), the Agreement states that if the MTA does not receive sufficient appropriations to fund operation of the CIT line, then the MTA shall be relieved of its obligation to maintain the CIT line.

24. **Comment Eight:** Riffin would argue the MTA's ability to renege on its maintenance-of-way obligations, with little or no advance warning, could subject the freight rail carrier to totally unexpected costs and maintenance-of-way obligations, without sufficient time to amass the necessary material or labor resources. In addition, if the MTA suddenly shut down, there would be no NSR personnel who would be familiar with the signaling equipment on the CIT line, and thus would be unable to maintain any of the signals or grade crossing equipment.

25. On page 1a of the Operating Agreement, in ¶ 2(a), the MTA reserves the right to make any changes in the CIT line, **at its sole discretion**. While the additional language states these changes shall not affect the freight rail carrier's ability to meet its common carrier obligations, the use of this right by the MTA to make changes, has demonstrated that the freight rail carrier's ability to meet its common carrier obligations has been severely adversely impacted. As stated above, the MTA's double-tracking project made it totally impossible for NSR to provide rail service for approximately one year. Likewise, the MTA's sale of a portion of the CIT line to Maryland Speciality Wire, has made it impossible for NSR to provide freight rail service to Badolato Stone and Packard Fencing. Moreover, shortly after the MTA acquired the CIT line, the MTA ordered the removal of the railroad bridge which carried the CIT line over York Road in Cockeysville, at MP 13.9, and further ordered the removal of all rails and ties between MP 13.8 and MP 15.4, thereby making it impossible for Conrail, or its successor, NSR, to provide freight rail service to shippers such as Riffin or Mark Downs, which are located beyond MP 13.8. (Mark Downs has a private rail siding at MP 14.3. In a February, 2006 letter to the Board in AB 290-237X, Mark Downs stated it had an interest in utilizing freight rail service.)

26. On page 3a of the Operating Agreement, in ¶ 3(b), Conrail is prohibited from removing any tracks [including freight only tracks], and is prohibited from moving any sidetrack material from one location to another, without the prior written approval of the MTA. The MTA, on the other hand, has no such restriction. Riffin has been told a substantial portion of the track that was removed beyond MP 13.8, was relocated by the MTA to its Frederick Branch line.

27. On page 5a of the Operating Agreement, in ¶ 4(a), the MTA reserves the right to qualify freight railroad employees on the CIT line. On page 7a of the Operating Agreement, in ¶ 4(h), the MTA has the right to exclude any freight railroad employee from the CIT line, if the MTA finds that the freight railroad employee has violated one of the MTA's rules [which the freight railroad has no authority to comment on, or to modify]. On page 12a of the Operating

Agreement, in ¶ 6(a), if any portion of the CIT line is damaged by the freight railroad, even if that damage is caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of MTA or its officers, agents or employees, except when caused by the gross negligence of MTA's officers, agents, or employees, the freight railroad shall assume all liability therefore, without limitation.

28. **Comment Nine:** Riffin would argue the Operating Agreement conditions high-lighted in ¶¶ 26 and 27, *supra*, seriously adversely affect a freight railroad's ability to comply with its common carrier obligations. The MTA, not the railroad, is the entity that has the final say on where freight tracks are to be located. The MTA has unilaterally acted to remove track material, then relocate that track material to another line of railroad. The MTA, not the railroad, is the entity that determines whether a railroad employee is qualified to work on the CIT line. The MTA has the right to exclude any railroad employee from the CIT line, if that railroad employee violates a MTA rule. The railroad has no say in determining whether the MTA rule is appropriate, nor does the railroad have any say in whether the railroad employee has actually violated a MTA rule. And finally, the railroad can be held to be totally responsible for any damage caused by the railroad, even when the damage is the direct result of negligence on the part of a MTA employee. [If a MTA dispatcher directs the freight engineer to go down a particular track, then negligently fails to properly throw a switch, causing the freight train to derail, or to run into a MTA train or vehicle, the freight railroad would be totally responsible for all damage, even though the freight railroad was not at fault.]

28. **Comment Ten:** On pages 21a - 22a of the Operating Agreement, the railroad is required to carry \$25 million worth of liability insurance. The insurance policy must be in a form acceptable to the MTA. The railroad is prohibited from operating on the CIT line until this requirement has been met. Riffin would argue \$25 million is excessive, the cost of which drains unnecessary capital from the railroad. [New Jersey Transit, for example, only requires \$10 million in liability insurance, even though the freight trains operate when commuter rail services are being provided.] In addition, the MTA has the unfettered right to reject the railroad's insurance policy, if it is in a form not acceptable to the MTA, thereby preventing the railroad from performing its common carrier obligations.

29. **Comment Eleven:** On page 7 of its Petition, the MTA argued the 5-hour freight operating window was adequate. On numerous occasions Riffin has seen locomotives sitting on

the freight-only CIT line north of Warren Road, in Cockeysville. The only reason these locomotives were left there, was because the locomotive engineer did not have sufficient time to make his run to Cockeysville, then return back to the freight-only portion of the CIT line near North Avenue, in Baltimore. Riffin would ask for discovery, to ascertain how often this occurred, to ascertain whether the freight-operating window allocated to the railroad was in fact adequate, and did not cause undue interference with freight operations.

30. **Comment Twelve:** On page 10 of the Petition, the Petitioner cites language from *Metro-North Commuter R. Co. – Acquisition and Operation Exemption – Line of Norfolk Southern Ry. Co. and Penn Lines LLC*, STB Finance Docket No. 34293 (Service Date: May 13, 2003), wherein the Board indicated any improvements made by the acquiring entity, must comply with railroad clearance requirements. On January 9, 2007, Riffin inspected that portion of the CIT line that the Northern Central [the actual owner and operator of the CIT line prior to Conrail's acquisition of the line] used to interchange traffic with the Baltimore and Ohio Railroad. [On the south side of North Avenue, just south of where the B&O tracks pass under North Avenue.] That inspection revealed the MTA erected a 12" thick concrete wall, approximately 10-feet tall, across the Northern Central right-of-way, and raised the track bed that passes under North Avenue approximately four feet, leaving insufficient overhead clearance for a freight rail car, thereby making it impossible to interchange freight rail cars with CSXT at this point. While these obstacles do not present a problem for NSR [which interchanges cars with CSXT at other locations], these permanent obstacles would present insurmountable problems with any NSR successor in title who may acquire the freight operating rights over the CIT line, and who may desire to interchange with CSXT. Riffin would propose to elicit, via discovery, evidence to substantiate his allegation that MTA changes to the CIT line at this location reduced clearances to below minimum values, and thereby materially adversely affected a freight railroad's ability to provide freight service along this portion of the CIT line.

31. On page 11 of its Petition, the MTA was **very careful** to state the MTA has never held itself out as a common carrier "**as to this line,**". As Riffin pointed out in *Norfolk S.Ry. Co. – Abandonment Exemption – In Baltimore Co., MD*, STB Docket No. AB-290 (Sub-No. 237X), in 1982 the MTA became a common carrier when it acquired eleven lines of railroad from the Penn Central Corporation. Specifically, the MTA publicly acknowledged in a January, 2006 deed of the Frederick Branch line of railroad to the Maryland Midland Railroad, that it was retaining permanent easement rights over the Frederick Branch in order to fulfill its common carrier

obligations over that line. In addition, in FD No. 32609, *Termination of Operating Rights*, filed July 28, 2005, the MTA stated that in 1994 it had granted the Chesapeake Railroad Company operating rights over the MTA's Clayton-Easton Rail Line. The MTA had the common carrier obligations over the Clayton-Easton Rail Line from the date of its purchase, in 1982, until it granted operating rights to the Chesapeake Railroad Company in 1994 (and may have still had common carrier rights and obligations over this line of railroad after it granted the Chesapeake Railroad Company operating rights over this line of railroad.) Furthermore, in 1987, Maryland bought the Canton Railroad Company, thereby acquiring control over a railroad company.

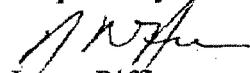
32. **Comment Thirteen:** Petitioner has argued the MTA did not acquire sufficient rights or obligations when it acquired the CIT line to trigger the ICC's jurisdiction over the conveyance. Riffin would argue when the MTA acquired the CIT line in 1990, it was a common carrier over at least two lines of railroad (the Frederick Branch and the Clayton-Easton Rail Line), and controlled a third railroad (the Canton Railroad). Riffin would further argue, the ICC had jurisdiction over the acquisition of the CIT line under two different statutes: 49 U.S.C. § 10901 (a) (3) [acquisition by a carrier of an additional line of railroad] and 49 U.S.C. §11323 *et. seq.*, [acquisition involving the consolidation of the properties of two different carriers (Conrail and MTA)]. Riffin would propose to elicit, via discovery, evidence attesting to Riffin's allegations that the MTA was a common carrier, and had control over a railroad, at the time of its acquisition of the CIT line in 1990.

33. **Comment Fourteen:** From the above, there should be little doubt that the ICC had jurisdiction over the acquisition of the CIT line by the MTA. And the MTA has made it abundantly clear that the MTA did not want, and still does not want, to acquire any common carrier rights or obligations associated with the CIT line. Furthermore, during the period of time that the MTA has had record title to the CIT line, the MTA has (1) sold a portion of the line, together with the associated track material and a functional railroad bridge, to a non-carrier, who has proceeded to unauthorizedly abandon and destroy this portion of the CIT line, thereby making it impossible for a freight railroad to provide freight rail service to two shippers (Badolato Stone and Packard Fence) who have recently (February, 2006) requested freight rail service; (2) has placed the CIT line out-of-service for approximately one year, thereby depriving three active shippers of freight rail service, and making it impossible for NSR to provide freight rail service to Riffin in Cockeysville; (3) has ordered the removal of the railroad bridge which carried the CIT line over York Road, and has removed all of the rails and ties from MP 13.8 to

MP 15.4, thereby making it impossible for NSR to provide freight rail service to Riffin, at MP 14.1, or freight rail service to Mark Downs, which has a private siding at MP 14.3 (and which in a February, 2006 letter to the Board, indicated it had an interest in receiving freight rail service; See AB 290-237X.); (4) has unlawfully induced three shippers to forego their legal right to receive freight rail service, by offering to pay to them money if they agree not to ask for freight rail service, thereby depriving NSR of the opportunity to offer freight rail service to them; and (5) has altered the track material and adjacent structures in a way which reduces track clearances below minimum standards needed to transport rail cars.

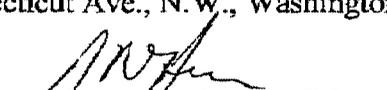
34. **Comment Fifteen:** The MTA's stewardship of the CIT line since its acquisition of the line, and the MTA's cavalier attitude about the common carrier obligations associated with the CIT line, have been highly detrimental to the functionality of the line, and have materially interfered with NSR's ability to provide freight rail service to existing, new and prospective shippers along the CIT line. Consequently, Riffin would argue the most appropriate remedy in this case would be to set aside the unauthorized sale of the CIT line to the MTA, thereby revesting complete control over the line with NSR, and thereby revesting the Board with jurisdiction over the disposition of the CIT line track structure. Setting aside the unauthorized sale of this line of railroad would minimize the likelihood the MTA will cause further irreparable harm to this line of railroad, would allow the MTA to achieve its goal of not acquiring any common carrier rights or obligations associated with the CIT line, and, once title to the CIT line was revested in NSR, would make it possible to offer freight rail service to Badolato Stone and Packard Fencing, once the track structure and railroad bridge had been reinstalled over that portion of the right-of-way that Railroad Crossing I unauthorizedly acquired from the MTA.

Respectfully submitted,


James Riffin

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of January, 2007, a copy of the foregoing Comments of James Riffin, was served by first class mail, postage prepaid, upon Charles A. Spitulnik, Kaplan Kirsch Rockwell, 10th Floor, 1050 Connecticut Ave., N.W., Washington, DC 20036, counsel for the MTA.


James Riffin

011020.718

FD-502 (NOT REQUIRED)
Director of Finance
BALTIMORE COUNTY MARYLAND

Property Account Number:
08-14-065360

Per Joy Bugeon
Authorized Signature

QUITCLAIM DEED

EXHIBIT A

Date 4-25-95 Sec 33-102 A

1995 THIS QUITCLAIM DEED, made this 17th day of MARCH, 1994 by and between the MASS TRANSIT ADMINISTRATION, an agency of the Maryland Department of Transportation, (hereinafter referred to as the "Grantor") and MARYLAND SPECIALTY WIRE, INC. (hereinafter referred to as the "Grantee").

WITNESSETH, that for the consideration of Twenty-Five Thousand Dollars (\$25,000.00) paid by the Grantee to the Grantor, the Grantor does hereby remise, release, and quitclaim without warranties of title, unto the Grantee, its successors and assigns, all the Grantor's right, title and interest in and to and more particularly described as follows:

Beginning for the same at a nail set on the west side of the paving of Railroad Avenue, as now constructed, said point being at the beginning of the 6th line of that parcel of land which by deed dated July 24, 1968 and recorded among the Land Records of Baltimore County in Liber OTG No. 4916, Folio 12 was conveyed by The Northern Central Railway Company and Penn Central Company to Wire Realty, Inc. and said point together with the property herein below described being part of all that property formerly known as the Cockeysville Branch of Consolidated Rail Corporation more specifically identified as within Line Code 1224 in quit claim deed dated May 1, 1990 recorded June 14, 1990, in Liber SM 8506 Folio 307 from Consolidated Rail Corporation, Grantor, to Mass Transit Administration (herein sometimes "MTA"), an agency of the State of Maryland, Grantee, thence leaving the west side of the paving of Railroad Avenue and binding on the 6th, 7th and 8th lines of Liber OTG No. 4916, Folio 12 and on the south side of said Railroad Company's former land (1) by curve to the left with a radius of 332.50 feet the distance of 310.51 feet (the chord of the arc bears north 50 Degrees 08 Minutes 21 Seconds

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County

SIGNATURE Joy Bugeon DATE 4-25-95
RECORDED IN COURT (Land Records) [MSA CE 62-108] 57 SM 14020 05-07-95

011020.719

west 299.35 feet), (2) north 13 Degrees 06 Minutes 26 Seconds east 1.50 feet (3) north 76 Degrees 53 Minutes 34 Seconds west 237.48 feet (4) running thence for a line of division across the Railroad Company's former land north 39 Degrees 54 Minutes 06 Seconds west 66.27 feet to a point on the north side of said Railroad Company's former land and at the end of the 5th line of that parcel of land which by deed dated June 27, 1955 and recorded among the aforesaid Land Records in Liber GLB No. 2727, Folio 360 was conveyed by William J. O'Meara, widower, to Wire Realty, Inc., (5) running thence and binding reversely along said 5th line and on the north side of said Railroad Company's former land south 76 Degrees 53 Minutes 34 Seconds east 172.06 feet to the end of the 9th line of that parcel of land which by deed dated August 5, 1964 and record among the aforesaid Land Records in Liber WJR, No. 4338, Folio 593 was conveyed by David I. Rosen and wife to Wire Realty, Inc., (6) thence binding reversely along said 9th line south 13 Degrees 06 Minutes 26 Seconds west 8.58 feet, (7) thence still binding on the said Railroad Company's former land and reversely along the 8th line of said last mentioned deed, as now surveyed south 76 Degrees 53 Minutes 34 Seconds east 118.14 feet, (8) thence binding reversely along the 7th line of said last mentioned deed and continuing along the 3rd line of that parcel of land which by deed dated May 24, 1967 and recorded among the aforesaid Land Records in Liber OTG No. 4759, Folio 252 was conveyed by Francis G. Geraci and wife to Wire Realty, Inc., by a curve to the right with a radius of 366.00 feet the total distance of 258.32 feet (the chord of the arc

011020.720

bears south 56 Degrees 40 Minutes 24 Seconds east 252.99 feet) to a nail set on or near the westerly edge of the macadam paving of Railroad Avenue (9) running thence for a line of division across said Railroad Company's former land and on or near the westerly edge of the macadam paving herein referred to south 7 Degrees 29 Minutes 47 Seconds east 85.59 feet to the place of beginning.

Containing 0.429 acres of land, more or less.

Subject to a 20 foot right-of-way which by deed and agreement dated May 28, 1969 and recorded among the Land Records of Baltimore County in Liber OTG No. 5016, Folio 459 was conveyed by Wire Realty, Inc. to Baltimore County, Maryland.

Being part of that parcel of land which by deed recorded on November 19, 1980 in Liber EHK Jr. No 6231, Folio 93 was conveyed by Fairfax Leary, trustee of the property of the Northern Central Railway Company, to Consolidated Rail Corporation.

Also, being part of all that property formerly known as the Cockeysville Branch of Consolidated Rail Corporation more specifically identified as within Line Code 1224 in quit claim deed dated May 1, 1990 recorded June 14, 1990, in Liber SM 8506, Folio 307 from Consolidated Rail Corporation, Grantor, to Mass Transit Administration (herein sometimes "MTA"), an agency of the State of Maryland, Grantee.

Together with all tracks, materials, trestles, bridges, buildings and all other improvements and all the appurtenances belonging thereto.

TOGETHER, with all and every the rights, alleys, ways waters, privileges, improvement, appurtenances and advantages to the same belonging or in any wise appertaining.

11020.721

TO HAVE AND TO HOLD the premises and all improvements above described and mentioned and hereby intended to be quitclaimed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Grantee, the heirs or successors and assigns of the Grantee.

AND THE GRANTOR hereby covenants that the Grantor will perform such further acts and execute, acknowledge and deliver any and all such further deeds, assignments and other instruments as may be reasonably requested by the Grantee to confirm, clarify, identify or more precisely describe the real property rights and interest quitclaimed by this Quitclaim Deed.

WITNESS the hands and seals of the said Grantors:

WITNESS:

GRANTOR: MASS TRANSIT ADMINISTRATION
STATE OF MARYLAND

ATTEST:

Wilson E. Richard

BY: John A. Agro, Jr. (SEAL)
John A. Agro, Jr.
Administrator

David W. Baker
Sandra K. Reynolds

GRANTEE: MARYLAND SPECIALTY WIRE, INC.

David E. Kuntz (SEAL)
Name: DAVID E. KUNTZ
Title: VICE PRESIDENT/GENERAL MANAGER

William Donald Schaefer
William Donald Schaefer
Governor

Louis L. Goldstein (SEAL)
Louis L. Goldstein
Comptroller of Maryland

Sandra K. Reynolds
Sandra K. Reynolds
Secretary
Maryland Board of Public Works

Lucille Maurer (SEAL)
Lucille Maurer
Treasurer

Constituting the MARYLAND
BOARD OF PUBLIC WORKS

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①

RECORD AND RETURN TO:
COMMONWEALTH LAND TITLE INSURANCE CO
31 Light Street, Suite 500
Baltimore, Maryland 21202
(410) 752-7070
Attn: Sherry Dorsey/22770-105

EXHIBIT B

DEED

THIS DEED is made this 21ST day of July, 2006 by and between MARYLAND SPECIALTY WIRE, INC., a Delaware corporation (the "Grantor") and RAILROAD CROSSING I, LLC, a Maryland limited liability company ("RRI"), and RAILROAD CROSSING II, LLC, a Maryland limited liability company ("RRII") (collectively, the "Grantees").

WITNESSETH, that in consideration of the sum of Six Million One Hundred Thousand Dollars (\$6,100,000.00), and other valuable consideration, paid to Grantor, the receipt of whereof hereby is acknowledged, Grantor does hereby grant and convey unto RRI, its successors and assigns, in fee simple, a 50% undivided interest, and unto RRII, its successors and assigns, in fee simple, a 50% undivided interest, in and to all that lot of ground situate in Baltimore County, State of Maryland and more particularly described on Exhibit A attached hereto and made a part hereof.

TOGETHER WITH the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the undivided interests set forth above in the described parcel of land and premises unto the Grantees, and their respective successors and/or assigns, in fee simple, forever as tenants in common.

AND Grantor hereby covenants that it has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that it will warrant specially the property hereby granted; and that it will execute such further assurances of the same as may be requisite.

Grantor certifies that the actual consideration paid is the sum total stated above and further certifies that this is not a sale, lease, exchange or other transfer of all or substantially all of Grantor's property or assets.

Grantor certifies under penalties of perjury that Grantor is a Resident Entity as defined by Section 10-912(a) of the Tax-General Article of the Annotated Code of Maryland.

Grantor certifies under penalties of perjury that the "total payment" in accordance with Section 10-912(b) of the Tax-General Article of the Annotated Code of Maryland is \$6,100,000.

REVIEWED SDAT	
BY <u>D. Halling</u>	DATE <u>7-27-06</u>

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IN WITNESS WHEREOF, Grantor has executed this Deed under seal on the day and year herein first written.

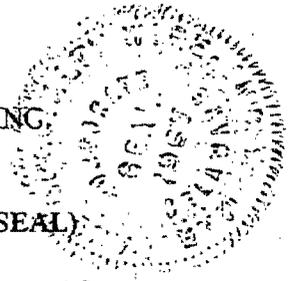
WITNESS:

[Signature]
VIOLET LUMANE

GRANTOR:

MARYLAND SPECIALTY WIRE, INC.

By: *Robert K Hynes* (SEAL)
Robert K. Hynes
Vice President, Chief Financial Officer and Secretary



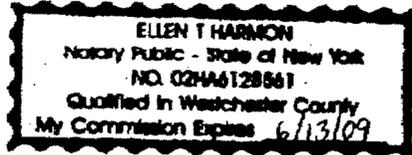
STATE OF NEW YORK
COUNTY OF WESTCHESTER, to wit:

I HEREBY CERTIFY, That on this 18th day July, 2006, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Robert K. Hynes who acknowledged himself to be the Vice President, Chief Financial Officer and Secretary of Maryland Specialty Wire, Inc. and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing in my presence, the name of the corporation by him/herself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Ellen Harmon
NOTARY PUBLIC

My Commission Expires: 6/13/09



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Cranie Higger Rosen, his wife, to Wire Realty, Inc. (n/k/a Maryland Specialty Wire, Inc.).

TRACT 7:

Beginning at the end of the fourth or South 8 degrees 25 minutes 36 seconds West 530.01 feet line of the tract of land containing 0.802 of an acre, more or less, which was conveyed by The Northern Central Railway Company to David Rosen by Deed dated January 16, 1961, said beginning point being on or near the westerly edge of the macadam paving of the private road there situate; extending from said beginning point the following six courses and distances, the first two thereof binding on the fifth and sixth lines of said tract of land containing 0.802 of an acre, more or less, conveyed as aforesaid: (1) North 86 degrees 54 minutes 41 seconds West 100 feet; (2) South 3 degrees 05 minutes 19 seconds West 43.27 feet to a point distant 16 feet, more or less, northwardly radially from the centerline of the rails of the railroad siding, there situate; the following four courses and distances being by remaining land of said Railway Company; (3) Southeastwardly, parallel with said centerline of railroad siding, on a curve to the right having a radius of 366 feet the arc distance of 151.60 feet to a point on or near said westerly edge of macadam paving of private road; the following three courses and distances binding on or near said westerly edge of macadam paving of private road; (4) North 11 degrees 29 minutes 26 seconds West 62.69 feet to a point of curve; (5) northwardly, on a curve to the right, having a radius of 150 feet, the arc distance of 52.14 feet to a point of tangent; and (6) North 8 degrees 25 minutes 36 seconds East 24.89 feet to the place of beginning. Containing 0.1827 of an acre, more or less.

Being the same property by Deed dated May 24, 1967 and recorded among the Land Records of Baltimore County in Liber 4759, folio 252 was granted and conveyed by Francis g. Geraci and Blanche Rhodes Geraci, his wife, to Wire Realty, Inc. (n/k/a Maryland Specialty Wire, Inc.).

TRACT 8:

Beginning for the same at a nail set on the west side of the paving of Railroad Avenue, as now constructed, said point being at the beginning of the 6th line of that parcel of land which by deed dated July 24, 1968 and recorded among the Land Records of Baltimore County in Liber OTG No. 4916, folio 12 was conveyed by The Northern Central Railway Company and Penn Central Company to Wire Realty, Inc. and said point together with the property herein below described being part of all that property formerly known as the Cockeysville Branch of Consolidated Rail Corporation more specifically identified as within Line Code 1224 in quit claim deed dated May 1, 1990 recorded June 14, 1990, in Liber SM 8506, folio 307 from Consolidated Rail Corporation, Grantor, to Mass Transit Administration (herein sometimes "MTA"), an agency of the State of Maryland, Grantee, thence leaving the west side of the paving of Railroad Avenue and binding on the 6th, 7th and 8th lines of Liber OTG No. 4916, folio 12 and on the south side of said Railroad Company's former land (1) by curve to the left with a radius of 332.50 feet the distance of 310.51 feet (the chord of the arc bears North 50 degrees 08 minutes 21 seconds West 299.35 feet), (2) North 13 degrees 06 minutes 26 seconds East 1.50 feet (3) North 76 degrees 53 minutes 34 seconds West 237.48 feet (4) running thence for a line of division across the Railroad Company's former land North 39 degrees 54 minutes 06 seconds West 66.27 feet to a point on the north side of said Railroad Company's former land and at the end of the 5th line of that parcel of land which by deed dated June 27, 1955 and recorded among the aforesaid Land Records in Liber GLB No 2727, folio 360 was conveyed by William J. O'Meara, widower, to Wire Realty, Inc., (5) running thence and

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binding reversely along said 5th line and on the north side of said Railroad Company's former land South 76 degrees 53 minutes 34 seconds East 172.06 feet to the end of the 9th line of that parcel of land which by deed dated August 5, 1964 and recorded among aforesaid Land Records in Liber WJR No. 4338, folio 593 was conveyed by David I. Rosen and wife to Wire Realty, Inc., (6) thence binding reversely along said 9th line South 13 degrees 06 minutes 26 seconds West 8.58 feet, (7) thence still binding on the said Railroad Company's former land and reversely along the 8th line of said last mentioned deed, as now surveyed South 76 degrees 53 minutes 34 seconds East 118.14 feet, (8) thence binding reversely along the 7th line of said last mentioned deed and continuing along the 3rd line of that parcel of land which by deed dated May 24, 1967 and recorded among the aforesaid Land Records in Liber OTG No. 4759, folio 252 was conveyed by Francis G. Geraci and wife to Wire Realty, Inc. by a curve to the right with a radius of 366.00 feet the total distance of 258.32 feet (the chord of the arc bears South 56 degrees 40 minutes 24 seconds East 252.99 feet) to a nail set on or near the westerly edge of the macadam paving of Railroad Avenue (9) running thence for a line of division across said Railroad Company's former land and on or near the westerly edge of the macadam paving herein referred to South 7 degrees 29 minutes 47 seconds East 85.59 feet to the place of beginning.

Containing 0.429 acres of land, more or less.

Being the same property by Quitclaim Deed dated March 17, 1945 and recorded among the Land Records of Baltimore County in Liber 11020, folio 718 was granted and conveyed by the Mass Transit Administration to Maryland Specialty Wire, Inc.

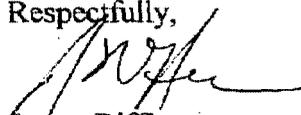
The herein described property consists of the eight (8) separate tracts described above. In describing all of those tracts in the aggregate by using the metes and bound description contained above, it is not intended that the separate tracts shall be merged to become one tract. Rather, such tracts shall remain as separate tracts notwithstanding such description of them in the aggregate.

FROM: James Riffin
TO: Vernon Williams, Secretary
Surface Transportation Board
Washington, D.C.
DATE: January 11, 2007
RE: FD 34975
Petition of Maryland Transit Administration for Declaratory Order

Dear Mr. Williams:

I am faxing a copy of Comments of James Riffin to the Board. On January 12, 2007, an original and ten copies of these Comments will be delivered to the Board.

Respectfully,



James Riffin