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City of New Albany

"The Fair and Friendly City"

Office of the City Attorney

112 East Bankhead Street, Suite A • Post Office Drawer 730 • New Albany, Mississippi 38652
Phone (662) 534 6326 • Fax (662) 531 5205

APR 3 2007

March 30, 2007

Mr Vernon A Williams
Secretary
Surface Transportation Board
1925 K St. NW, Rm 711
Washington, DC 20423

FILING FEE WAIVED

ENTERED
Office of Proceedings

APR 3 - 2007

Via Federal Express

Part of
Public Record

Re: **MISSISSIPPI TENNESSEE HOLDINGS, LLC JOINT PETITION FOR EXEMPTION FROM 49 U.S.C SECTION 10903 FOR ABANDONMENT AND DISCONTINUANCE OF SFRVICE Abandonment Union, Pontotoc, and Chickasaw Counties, Mississippi AB-868X and ~~AB-869X~~**

Dear Mr. Williams:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the City of New Albany, which is a municipal government located in the service area of the rail corridor that runs between the Cities of New Albany and Houston, Mississippi, which is hereinafter referred to as "Commenter".

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Certificate of Notice of Interim Trail Use rather than an outright abandonment authorization between the cities of New Albany and Houston, Mississippi.

Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. Commenter makes the following stipulation: We understand that this railbanking request is not a contract and does not commit us to acquire any property or to accept any liability. This request simply invites negotiation with the railroad company under the umbrella of railbanking. Although part of this filing includes a "Statement of Willingness to Assume Financial Responsibility", we are not accepting any financial responsibility, but merely expressing an interest in possibly doing so.

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. Section 1247(d), and 49 C.F.R. Section 1152.29, the City of New Albany is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by MISSISSIPPI TENNESSEE HOLDINGS, LLC and operated by MISSISSIPPI TENNESSEE RAILROAD, LLC.

Mayor: Tim Kent
Ward 1 Alderman: Jeff Olson • Ward 2 Alderman: Larry Sanford
Ward 3 Alderman: Tennesse Beasley • Ward 4 Alderman: Bill Tucker • Alderman At Large: Dan Skinner
City Clerk: Anne Neal • City Attorney: Robert M. Carter

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The property extends from a point near railroad milepost 326 2 located in the City of New Albany, Mississippi (approximately 1/4 mile north of where the railroad crosses Bankhead Street in the center of the City of New Albany, MS to railroad milepost 281 south of the City of Houston, Mississippi a distance of approximately 45 2 miles. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-868X and AB-869X

The City of New Albany acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of this right-of-way for rail service.

Under date of November 6, 2006 we requested and received additional time which is now about to expire. We have been working diligently since that time and it now appears that our efforts may bear fruit within the very near future through assistance from the Mississippi Department of Transportation. Please grant us an additional one hundred twenty (120) days

By my signature below, I certify service upon MISSISSIPPI TENNESSEE HOLDINGS, L.L.C., 102 Willow Drive, P. O. Box 99, O'Fallon, IL 62269 by U S Mail, postage prepaid, first class this 30th day of March, 2007

Respectfully submitted,

Robert M. Carter
Attorney for the City of New Albany,
as authorized by the Mayor and Board of
Aldermen

RMC:ctm

cc **Mississippi Tennessee Holdings, LLC**
102 Willow Drive
P. O. Box 99
O'Fallon, IL 62269

Mayor Tim Kent
City of New Albany
P. O. Box 56
New Albany, MS 38652

Mr. Randy Kelly, Three Rivers P&D
Post Office Box 690
Pomotoc, MS 38863