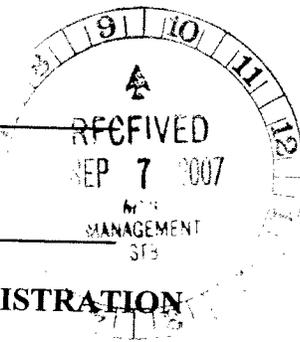


**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



**FINANCE DOCKET NO. 34975**

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

**JAMES RIFFIN'S REPLY TO  
PETITIONER'S AUGUST 21, 2007 LETTER TO BOARD**

**1. BACKGROUND INFORMATION**

1. 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 Cockeysville Industrial Track<sup>1</sup> ("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.

2. On January 11, 2007, James Riffin ("Riffin") filed a Notice of Intent to Participate as a Party of Record, and filed his Initial Comments. In his Initial Comments, Riffin argued 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 MTA; and if so, should / must the unauthorized conveyance be set aside. Riffin further argued that were the

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

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).

3. The Board issued Decisions on March 30, 2007, and April 18, 2007, requesting additional information from the MTA. The MTA filed its responses on April 20, 2007.

4. On May 11, 2007, Riffin filed Supplemental Comments, in response to the material filed by the MTA on April 20, 2007.

5. On August 21, 2007, the MTA filed a letter (“Letter”) with the Board, requesting the Board expedite its consideration of the MTA’s Petition for Declaratory Order. In its Letter, the MTA made the following statements:

A. Riffin did not have leave from the Board to file his Supplemental Comments.

B. Because of the uncertainty created by the issues presented in the MTA’s Petition, the “MTA is prevented from using and improving this asset for its intended passenger transit purposes ... .”

C. Clarification of the issues raised in the Petition, would allow Norfolk Southern to refile its request for authority to abandon the line.

D. There is no shipper activity on the line.

E. The Line is clearly no longer required or used for freight railroad purposes.

## **2. REPLY TO PETITIONER’S AUGUST 21, 2007 LETTER**

6. Riffin supports the MTA’s request that the Board expedite its consideration of this matter. However, Riffin **strongly objects** to the five statements listed above.

### 3. REPLY TO STATEMENTS IN PETITIONER'S AUGUST 21, 2007 LETTER

#### 3 A. RIFFIN'S SUPPLEMENTAL COMMENTS

7. Petitioner argued Riffin did not have leave from the Board to file his Supplemental Comments. Petitioner did not file a timely objection to Riffin's Supplemental Comments, nor has Petitioner asked the Board to disregard Riffin's Supplemental Comments. Riffin would argue that he did not need to request leave from the Board to file his Supplemental Comments, for they were Riffin's reply to the supplemental material filed by the MTA. However, if Riffin did need leave from the Board to file his Supplemental Comments, then he herewith respectfully requests leave from the Board to file his Supplemental Comments, and for justification for his request, would argue his Supplemental Comments should be accepted in order to provide the Board with a more complete record.

8. In his Supplemental Comments, Riffin made the following comments:

A. ¶35: The MTA attempted to characterize the portion of the CIT that was transferred to Maryland Specialty Wire, as not being a line of railroad subject to the Board's jurisdiction, stated this portion of the CIT was a private industrial spur, stated the MTA never owned this portion of the CIT, then attempted to rationalize the sale of this portion of the CIT as a sale of §10906 excepted track. In ¶ 32 of his Supplemental Comments, Riffin quoted from the quitclaim deed transferring ownership from the MTA to Maryland Specialty Wire of that portion of the CIT that was sold to Maryland Specialty Wire. The deed stated the property being transferred was "within Line Code 1224."

In *City of Jersey City, et. al., Petition for Declaratory Order*, FD No. 34818, Served August 9, 2007, the Board held that since the deed to Conrail of the Embankment referred to the property being transferred as Line Code 1420, the property being transferred was in fact a line of railroad. The Board further held that under the 3R Act, after rail lines acquired by Conrail had been operated for 2 years, Conrail had to seek abandonment authority from the ICC, and subsequently from the Board, prior to abandoning the line of railroad. The Board then quoted the following from *Atchison, Topeka and Santa Fe Railway Company - Abandonment Exemption - In Lyon County, KS*, Docket No. AB-52 (Sub-No. 71X), slip op. at 5 (ICC served June 17, 1991: "Because this track was clearly part of a rail line at one time, we find that it cannot be

converted into an exempt spur . . . solely through the railroad’s unilateral decision to change its use of the track segment over time.”

Given the above, Riffin would argue the property sold to Maryland Specialty Wire was part of the line of railroad identified as Line Code 1224. Riffin would further argue that this was an impermissible sale of a line of railroad, for the MTA did not seek authority from the Board to sell the line, nor did Maryland Specialty Wire seek authority to acquire the line. And Riffin would argue that per *City of Jersey City*, the property sold to Maryland Specialty Wire “remains part of the national rail system subject to the Board’s exclusive jurisdiction until appropriate abandonment authority is obtained.” *City of Jersey City* at 7.

B. In its March 30, 2007 Decision, the Board directed the MTA to submit a description of and explanation for any and all obstacles that could potentially inhibit freight rail service on any portion of the CIT. In paragraphs 39 - 50 of his Supplemental Comments, Riffin identified a number of obstacles the MTA failed to disclose to the Board.

On **May 28, 2007**, an additional obstacle was created: The grade crossing at Cockeyville Road, near MTA MP 13.7, was removed by the Baltimore County Department of Highways, Shop 7. After discussions with the individuals who actually removed the grade crossing, Riffin learned the MTA had granted the Baltimore County Highway Department permission to remove the grade crossing. Attached to this filing are two photographs, labeled **Exhibit 6A and Exhibit 6B**. Exhibit 6A is a photograph of the Cockeyville Road grade crossing as it appeared on **May 30, 2007**. The camera is looking north. In the middle ground on the right is the bumper for the Stebbins and Anderson siding, which Riffin has permission to utilize. In the background on the left, is the gray Cockeyville Freight Station. The track leading to the Maryland Speciality Wire property is to the left of this photograph. Exhibit 6B is a photograph taken on the south side of Cockeyville Road, looking south. The rails that were removed from Cockeyville Road are visible in the middle ground.

### **3 B. MTA is prevented from using and improving this asset.**

9. The MTA made the statement: Because of the uncertainty created by the issues presented in the MTA’s Petition, the “MTA is prevented from using and improving this asset for its intended passenger transit purposes ... .” Riffin would argue this statement is blatantly false.

The MTA has used the Cockeyville Industrial Track (“CIT”) line for its light rail purposes since it purchased the line in 1990. It presently continues to use the line for passenger transit purposes. In 2006 the MTA double-tracked all single-track portions of the line that it uses for transit purposes. The uncertainty created by the MTA’s failure to obtain prior Commission approval before purchasing the Line, certainly has **not** impeded in any way the MTA’s use of the Line, nor has it impeded in any way the MTA from improving the Line. In addition, this uncertainty **has not impeded the MTA from removing portions of the infrastructure** that are necessary to provide freight rail service on the Line.

**3 C. Clarification of the issues raised in the Petition,  
would allow Norfolk Southern to refile its request for authority to abandon the line.**

10. Riffin would argue the issues raised in the Petition are not impeding Norfolk Southern from refiling its request for authority to abandon the line.

**3 D. There is no shipper activity on the line.**

**3 E. The Line is clearly no longer required or used for freight railroad purposes.**

11. Prior to the beginning of the MTA’s double-tracking of the CIT in February, 2006, there were three shippers on the Line: Fleischmann’s Vinegar, Imerys and BG&E. In 2005, these three shippers were coerced into signing an agreement with the MTA. In exchange for the MTA agreeing to subsidize these shipper’s trucking costs for 5 years, the shippers agreed not to oppose any abandonment petition filed by Norfolk Southern. Fleischmann’s Vinegar and Imerys have indicated that once the subsidy ends, they would like to reinstitute freight rail service to their facilities.

12. On **August 16, 2005**, Riffin sent a cashier’s check in the amount of \$5,680.00 to Norfolk Southern, with instructions to move 10 rail cars from York, PA to Cockeyville, MD. See **Exhibit 7A**. On **August 19, 2005**, Riffin sent an additional check in the amount of \$3,000.00, to move 2 rails cars from Chicago to York, and to move one rail car from Chicago to Cockeyville, MD. See **Exhibit 7B**. Norfolk Southern has steadfastly refused to deliver these cars to Cockeyville. Two of the cars, MDRX 103 and 104, were heavily vandalized (\$100,000 worth of damage) while sitting in York, waiting for Norfolk Southern to take them to Cockeyville.

13. In an effort to stop any further vandalism damage to MDRX 103 and 104, Riffin had them transported to Cedarhurst, MD by CSX. and Maryland Midland Railroad. On May 12, 2007, Riffin consigned these two cars to Cockeyville. Maryland Midland delivered the cars to Emory Grove, MD. CSX transported the cars from Emory Grove, MD to Bayview, MD. Beginning on June 28, 2007, CSX made several attempts to deliver the cars to Norfolk Southern at the CSX / Norfolk Southern (“NS”) interchange point. Each time the cars were delivered to the CSX / NS interchange point, NS refused to accept the cars. See **Exhibit 8**. On June 29, 2007, Riffin spoke with the Norfolk Southern Baltimore terminal superintendent. The superintendent called Jim Paschall, Senior General Counsel for Norfolk Southern, to ascertain why he was being directed not to take delivery of these two rail cars. Mr. Paschall told the superintendent: “Norfolk Southern no longer provides service to Cockeyville.” When asked why, the superintendent was told because the MTA does not want freight service on the Cockeyville line.

14. In a conversation with the Baltimore track maintenance supervisor, Riffin was told Norfolk Southern was not permitted to perform any kind of track maintenance on the Cockeyville line. Only MTA track maintenance personnel were allowed to perform track maintenance on the Cockeyville line.

15. Attached to Riffin’s Supplemental Comments were letters from four companies located adjacent to the CIT. Each of these companies expressed an interest in receiving freight rail service in Cockeyville.

16. The only reason there is no shipper activity on the CIT, is because NS, at the behest of the MTA, refuses to provide the service! Riffin has clearly demonstrated there is a need for freight rail service on the CIT. Norfolk Southern refuses to provide freight rail service. Riffin has offered to assume NS’ common carrier obligations on the line. Unfortunately, Riffin’s Offer of Financial Assistance (“OFA”) to purchase the CIT from NS became moot, when the Board denied NS’ abandonment petition on April 3, 2006. Were NS to refile its abandonment petition, Riffin would refile his OFA to purchase the line. If NS does not refile its abandonment petition in the near future, and if NS continues to refuse to provide freight rail service on the CIT, Riffin will file a Petition for Interim Alternative Rail Service and a feeder line application to acquire the line.

#### 4. POSSIBLE OUTCOMES IN THIS CASE

17. There are three possible outcomes in this case:

A. The Board could rule the MTA did not acquire sufficient legal interest in the CIT to materially interfere with the freight carrier's ability to provide freight rail service on the CIT, and that the actions of the MTA on the CIT have not / would not materially interfere with the freight carrier's ability to provide freight rail service on the CIT. The Board then could rule the MTA did not need Commission approval prior to acquiring the CIT. Given the amount of rail infrastructure that has been removed by the MTA, a ruling such as this could be construed to be arbitrary, capricious, unsupported by the record, and unwarranted.

B. The Board could decide that in acquiring the CIT, the MTA acquired sufficient legal interest to materially interfere with the freight carrier's ability to provide freight rail service, and thus, if the acquisition were to be authorized, the MTA would also acquire the common carrier obligations associated with the CIT. The Board then could grant the MTA retroactive authority to acquire the CIT, and thus become the common carrier on the CIT, **effective 1990**, the date of the acquisition.

C. The Board could decide that the MTA's stewardship of the CIT has been so reprehensible, that it would not be in the public interest to permit the MTA to acquire the common carrier's obligations associated with the CIT, then set aside the acquisition of the CIT by the MTA.

#### 5. MTA'S 1991 ACQUISITION OF THE BALTIMORE & ANNAPOLIS RAILROAD COMPANY

18. On October 2, 1991, the MTA filed a Notice of Exemption ("NOE") to acquire all of the track and other rail assets of the Baltimore & Annapolis Railroad Company ("B&A"), including 5.78 miles of right-of-way. See *Maryland Mass Transit Administration - Acquisition - Baltimore & Annapolis Railroad Company*, FD No. 31929, filed October 2, 1991. In paragraph 1 of its NOE, the MTA stated: "The MTA is not now a carrier subject to the jurisdiction of the Commission but, upon the effective date of this Notice, the MTA will become a carrier." The NOE was filed pursuant to 49 CFR 1150.33, applicable to non-carriers.

19. The MTA's 1991 acquisition of the B&A presents a dilemma for the Board:

In this case, the quick and easy knee-jerk solution would be to find that the MTA also acquired the common carrier obligations associated with the CIT. Unfortunately, a finding such as this would precipitate additional major complications: If the Board were to find that in acquiring the CIT in 1990, the MTA also acquired the common carrier obligations associated with the CIT, and thus became a common carrier, effective 1990, then two representations made by the MTA in its 1991 NOE to acquire the B&A, (that the MTA was not a common carrier; that the transaction did not involve railroads that connect with each other) would become false. False statements in a NOE render the NOE void *ab initio*. If the 1991 B&A NOE were to be rendered void *ab initio*, then the MTA's 1991 acquisition of the B&A line would have to be set aside. In addition, if the MTA was a carrier when it acquired the B&A line in 1991, and / or if the B&A line connected to another line of railroad owned by the MTA, then the MTA's acquisition of the B&A would be subject to 49 USC §11323 *et seq*, and would be subject to the prior approval requirements of 49 USC 11343. See **Exhibit 10**, which is a copy of the Commission's October 25, 1991 decision in *Maryland Department of Transportation - Continuance in Control Exemption - Maryland Mass Transit Administration*, FD No. 31931. It should be noted, that in a letter dated October 10, 1991, the Railway Labor Executives' Association objected to the exemption of the transaction from the requirements of Section 10903 of the Interstate Commerce Act. See **Exhibit 9**. It should also be noted, that the B&A line does in fact connect with the CIT line via the MTA's Howard Street line. If in acquiring the CIT in 1990, the MTA acquired a line of railroad, then the MTA's acquisition of the B&A line would have connected two lines of railroad together, via the MTA's Howard Street trackage.

## 6. CONCLUSION

20. It would appear that one of two transaction must be set aside: Either the Board must set aside the MTA's acquisition of the CIT, or the Board must set aside the MTA's acquisition of the B&A. When the MTA acquired the CIT, it failed to make any effort to comply with the Commission's regulations. When the MTA acquired the B&A, it made every effort to comply with the Commission's regulations. If the Board were to set aside the CIT acquisition, then the B&A acquisition would have sufficient legal underpinnings to leave it in place. Riffin would respectfully suggest that setting aside the MTA's CIT acquisition would have a stronger basis in law, and would be more supportable.

## 7. ADDENDUM

21. In paragraphs 12 - 16 *supra*, Riffin discussed Norfolk Southern's refusal to deliver rail cars to Cockeyville. In ¶ 16 *supra*, Riffin indicated that if NS continues to refuse to provide rail service to Cockeyville, Riffin will file a Petition for Interim Alternative Rail Service. In *Pyco Industries, Inc. - Alternative Rail Service - South Plains Switching, Ltd. Co.*, FD No. 34802, served January 26, 2006, on p. 4 the Board indicated a shipper and carrier must have done all that they can do to resolve the service issues before coming to the Board for relief. NS and Riffin have reached an impasse. Mr. Pascal, Senior General Attorney for NS, has unequivocally stated that NS will not provide freight rail service to Cockeyville. NS has unequivocally refused to accept any rail cars consigned to Cockeyville. In one last effort to persuade NS to reinstate freight rail service to Cockeyville, on **September 6, 2007**, Riffin sent a letter to Melvin Clemens, Director of the Board's Office of Compliance and Customer Assistance, outlining the service problems on the CIT, and requesting his assistance in resolving those service problems. A copy of that letter is attached hereto as **Exhibit 11**.

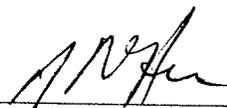
Respectfully submitted,



James Riffin

### CERTIFICATE OF SERVICE

I hereby certify that on this 7<sup>th</sup> day of September, 2007, a copy of the foregoing James Riffin's Reply to Petitioner's August 21, 2007 Letter to Board, was served by first class mail, postage prepaid, upon Charles A. Spitulnik, Kaplan Kirsch Rockwell, Ste 905, 1001 Connecticut Ave., N.W., Washington, DC 20036, counsel for the MTA, and upon Eric Strohmeyer, CNJ Rail Corporation, 833 Carnoustie Drive, Bridgewater, NJ 08807.



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James Riffin



**EXHIBIT 6A**

May 30, 2007 photograph looking north from south side of Cockeysville Road showing: Stebbins & Anderson siding bumper on right; Gray Cockeysville Freight Station on left.



**EXHIBIT 6 B**

May 30, 2007 photograph looking south from south side of Cockeysville Road showing: Rails removed on May 27, 2007 from Cockeysville Road grade crossing by Baltimore County Highway crew from Shop 7, with authority from the MTA.



NORFOLK SOUTHERN

EX 7A

DIRECT INQUIRES TO:

SHANA DWYER
(404) 582-6262 (FAX 589-6732)
125 SPRING ST. S.W. ATLANTA, GA 30303
SHANA.DWYER@NSCORP.COM

PAYMENT DUE

09-30-05

REMIT TO: NORFOLK SOUTHERN RAILWAY

P.O. BOX 532797
ATLANTA GA 30353-2797

AMOUNT DUE

\$4,544.00

WITH THIS PORTION OF FREIGHT BILL

MDRC-1 LLC
1941 GREENSPRING DR
TIMONIUM MD 21093-4113

FREIGHT BILL NO.
2273122768

CUSTOMER NO.
0090210019

CREDIT TERMS DUE DATE
00 Days 09-30-05

FREIGHT BILL DATE
09-30-05

\*\* NS SERIAL : 3623928930 \*\*

IMAGE ID. TWW005H29K2215

Bank of America

Cashier's Check

No. 1973055

Notice to Purchaser - In the event this check is lost, misplaced or stolen, a sworn statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

VOID AFTER 90 DAYS

Date AUGUST 16, 2005

30-1/1140 (NTX)

Banking Center

PADONIA

FORB MDRX 1038104 COLX 1502, 1514, 1520, 1521, 1522, 1527
MDRX 750704, 750331 YORK PA TO ROCKYVILLE MD

5018097 00008 001973055

JAMES RIEFTN

Remitter (Purchased By)

Pay \*\*FIVE THOUSAND SIX HUNDRED EIGHTY DOLLARS AND 00 CENTS\*\*

\$

\*\*5680.00\*\*

To The Order Of

\*\*NORFOLK SOUTHERN\*\*

Bank of America, N.A.
San Antonio, Texas

Authorized Signature

⑈ 1973055 ⑆ ⑆ 1140000 19 ⑆ 001641001015 ⑆

THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK

THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK

Table with columns: Contract, SHIPPER LOAD AND COUNT, Purchase Order No., Description of Articles, Wt, Rate, Freight, Advances, Prepaid. Includes handwritten notes and values.

PAGE 01 OF 02

FREIGHT BILL NUMBER
2273122768

FREIGHT BILL DATE
09-30-05

CUSTOMER NUMBER
0090210019

AMOUNT DUE
\$4,544.00

Ex 7B

Lockbox 532888 - Norfolk Southern - Exceptions - 5:00 PM Web  
Page on 09/02/2005

Envelope



### Check for Check Transaction ID G-2109952

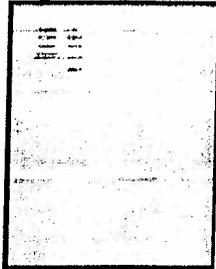
Check



This is a Walk-in Transaction.

Lockbox	ATL-532888	Ledger Date	09/02/2005	Amount	\$ 3,000.00
ABA/RT	052073519	Account	507500619	Check Num	9999
Batch	600	Item	1		

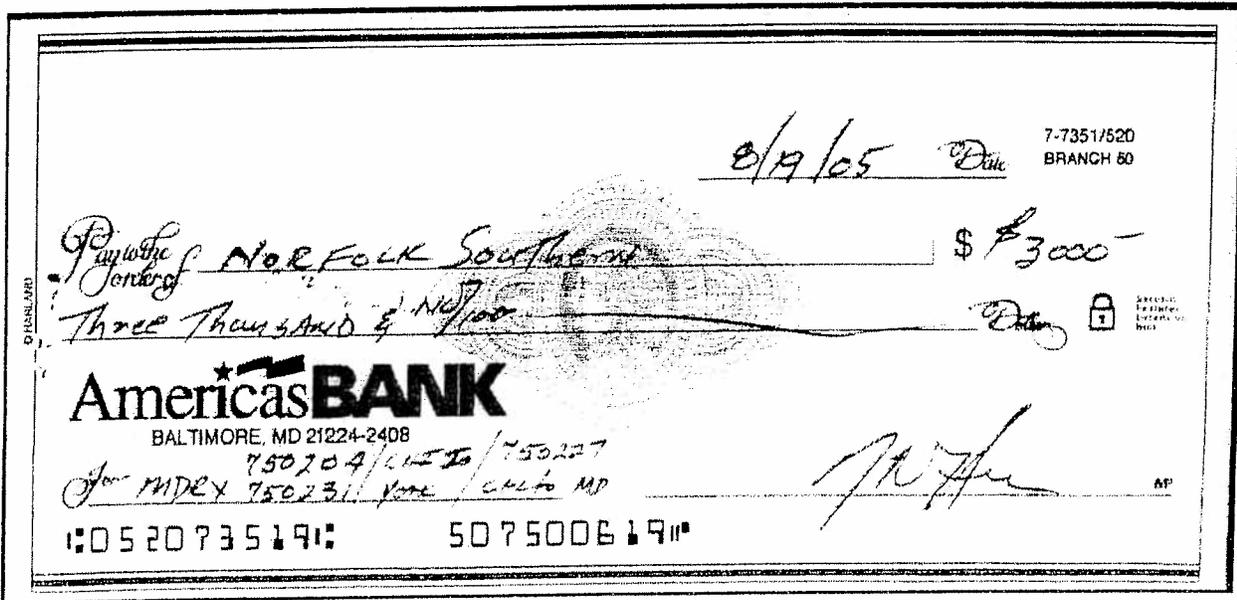
Page 1



#### Transaction-level Keyed Fields

Remitter Name NORFOLK SOUTHERN

[Prev](#) [Next](#)



PNC Bank Atlanta A/R Advantage.

Date: Fri, 13 Jul 2007 18:57:35 -0400  
From: "Crawford, Annesa" <Annesa\_Crawford@CSX.com> Add to Address Book Add Mobile  
Alert  
To: jimriffin@yahoo.com  
CC: "Fisher, Joseph" <Joe\_Fisher@csx.com>, "Wilson, Bill" <Bill\_Wilson@csx.com>

Ex 8

Mr. Riffin-

Per your request:

If you will notice on the car records below we gave both cars to the NS on 06/28 & 07/03 (highlighted in red), we offered the cars to the NS on 07/02 (highlighted in green), and each time the NS gave the cars back to CSXT (highlighted in blue).

1MDRX 103FM5100003742217 BBANS COCKEYSVIMDJAMRIFFIN9XA B IR  
2MDRX 103 F7120622805387076037JAMRIFFIN NGRE01 IRD  
3MDRX 103CSXTBALBV  
3MDRX 103NS  
0 EMOGROVE MD 3742217 9BL 698405  
MDRX 103 F REL EMOGROVE MD FRM BTWOLU JUN 22 1313  
F BO BALCURBAYMD TO BBADO9 JUN 23 1952 DRAFT SYS  
F TRF BALCURBAYMD TO SRTRK9 JUN 24 0204  
F REL BALCURBAYMD FRM BBADO9 JUN 24 1357  
F REL BALCURBAYMD FRM BBADO9 JUN 25 1425  
F REL BALCURBAYMD FRM SRTRK9 JUN 25 1957  
F ARV BALBAYVIEMD FRM BALCURBAYMD JUN 28 0730 Y20227  
DEP JUN 28 0500  
F DEL NS AT BALBAYVIEMD CSXT JUN 28 1914 Y22828  
F REC BALBAYVIEMD CSXT FRM NS JUN 29 1000 CSXT  
F TRF BALBAYVIEMD TO BOFFE9 JUL 02 1530  
F DEL NS AT BALBAYVIEMD CSXT JUL 03 1737 Y22803

1MDRX 103EM510000 BAA 1BALTIMOREMDSETBACK 9BL B IR  
2MDRX 103 7120709605332070091CARMNGA01 IRD  
3MDRX 103CSXT  
0 BALBAYVIEMD 9XA 726168  
MDRX 103 E REC BALBAYVIEMD CSXT FRM NS JUL 09 0915 CSXT

1MDRX 104FM5100003742217 BBANS COCKEYSVIMDJAMRIFFIN9XA B IR  
2MDRX 104 F7120622805387076037JAMRIFFIN NGRE01 IRD  
3MDRX 104CSXTBALBV  
3MDRX 104NS  
0 EMOGROVE MD 3742217 9BL 698405  
MDRX 104 F REL EMOGROVE MD FRM ETWOLU JUN 22 1313  
F REL BALCURBAYMD FRM STFER9 JUN 24 1400  
F TRF BALCURBAYMD TO SRTRK9 JUN 24 1427  
F REL BALCURBAYMD FRM BBADO9 JUN 25 1425  
F BO BALCURBAYMD TO BBADO9 JUN 25 1545 BRAKE SYS  
F REL BALCURBAYMD FRM BBADO9 JUN 25 1546  
F REL BALCURBAYMD FRM SRTRK9 JUN 25 1957  
F ARV BALBAYVIEMD FRM BALCURBAYMD JUN 28 0730 Y20227  
DEP JUN 28 0500  
F DEL NS AT BALBAYVIEMD CSXT JUN 28 1914 Y22828  
F REC BALBAYVIEMD CSXT FRM NS JUN 29 1000 CSXT  
F TRF BALBAYVIEMD TO BOFFE9 JUL 02 1530  
F DEL NS AT BALBAYVIEMD CSXT JUL 03 1737 Y22803

1MDRX 104EM510000 BAA 1BALTIMOREMDSETBACK 9BL B IR  
2MDRX 104 7120709605333070091CARMNGA01 IRD  
3MDRX 104CSXT  
0 BALBAYVIEMD 9XA 726168  
MDRX 104 E REC BALBAYVIEMD CSXT FRM NS JUL 09 0915 CSXT

Thank you,  
Annesa E. Crawford  
Asst. Manager - Customer Operations  
RNx: 426-5212  
(904) 279-5212

# Railway Labor Executives' Association

900 North Capitol St., Suite 850, Washington, D.C. 20001-2027/37-1541, Fax 202/783-3167

October 10, 1991

**RLEA**

Mr. Sidney Strickland, Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

EX9A

Dear Mr. Strickland:

This letter is in opposition to a request by Maryland Mass Transit Administration, identified by the I.C.C. as Finance Docket No. 31929, to be exempted under 49 U.S.C. §10505(g) from the requirements and obligations of 49 U.S.C. 10901-10906.

The Railway Labor Executives' Association (RLEA) submits that this Commission does not have the authority under §10505(g) of the Interstate Commerce Act to exempt any rail carrier from the requirements of Section 10903 of the Interstate Commerce Act. Therefore, RLEA respectfully submits that this Commission must condition any such exemption by requiring applicant to provide those protections mandated by Section 10903 of the Interstate Commerce Act in order to protect employees who may be affected by the proposed transaction.

RLEA respectfully informs this Commission that it intends to participate in whatever proceeding this Commission may institute to consider the proposed request for exemption filed by the applicant herein. A copy of this letter has been served upon applicant.

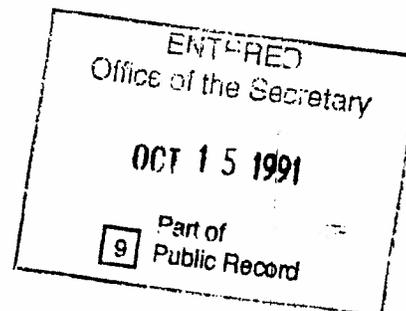
Sincerely yours,

*R.P. McLaughlin*

Ronald P. McLaughlin  
Executive Secretary-Treasurer

cc: Chief Executives - RLEA  
Nat'l. Legis. Reps.

Robert L. Calhoun  
Sullivan & Worcester  
1025 Connecticut Avenue, N.W.  
Suite 806  
Washington, D.C. 20036



E.P. McEntire, Chairman • V.M. Spelman, Vice Chairman • R.P. McLaughlin, Secretary-Treasurer

The Railway Labor Executives' Association is an association of the chief executives of the standard rail labor organizations representing unionized railroad workers in the United States.

# Railway Labor Executives' Association

400 North Capitol St., Suite 850, Washington, D.C. 20001, 202/717-1541, Fax 202/783-3107

October 10, 1991

**RLEA**

EX 9 B

Mr. Sidney Strickland, Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Dear Mr. Strickland:

This letter is in opposition to request by Canton Railroad Company, Inc., identified by the I.C.C. as Finance Docket No. 31930, to be exempted under 49 U.S.C. §10505(g) from the requirements and obligations of 49 U.S.C. §11343-11347.

The Railway Labor Executives' Association (RLEA) submits that this Commission must condition any such exemption by requiring applicant to provide those protections mandated by Section 11347 of the Interstate Commerce Act in order to protect employees who may be affected by the proposed transaction.

RLEA respectfully informs this Commission that it intends to participate in whatever proceeding this Commission may institute to consider the proposed request for exemption filed by the applicant herein. A copy of this letter has been served upon applicant.

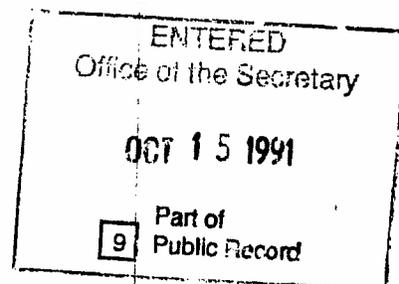
Sincerely yours,

*R.P. McLaughlin*

Ronald P. McLaughlin  
Executive Secretary-Treasurer

cc: Chief Executives - RLEA  
Nat'l. Legis. Reps.

Robert L. Calhoun  
Sullivan & Worcester  
1025 Connecticut Avenue, N.W.  
Suite 806  
Washington, D.C. 20036



E.P. McEnter, Chairman • V.M. Speaksman, Vice Chairman • R.P. McLaughlin, Secretary-Treasurer

The Railway Labor Executives' Association is an association of the chief executives of the standard rail labor organizations representing unionized railroad workers in the United States.

FR-7035-01  
DO

SERVICE DATE

OCT 25 1991

EX 10

INTERSTATE COMMERCE COMMISSION

NOTICE OF EXEMPTION

[Finance Docket No. 31931]

MARYLAND DEPARTMENT OF TRANSPORTATION--CONTINUANCE IN  
CONTROL EXEMPTION--MARYLAND MASS TRANSIT ADMINISTRATION

The Maryland Department of Transportation (MDOT) has filed a notice of exemption to continue to control the Maryland Mass Transit Administration (MTA) upon MTA becoming a carrier. MTA, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 31929, Maryland Mass Transit Administration--Acquisition and Operation Exemption Baltimore & Annapolis Railroad Company, to purchase and operate an approximately 5.78-mile line between the point of connection with CSX Transportation, Inc. (CSXT), at CSXT milepost 0.0, Clifford Junction, MD, and the end of the line, at a point known as Dorsey, near Glen Burnie, MD.<sup>1</sup>

MDOT, an executive department of the State Maryland, owns and controls Canton Railroad Company, Inc., a Class III rail common carrier. MDOT indicates that: (1) this transaction does not involve railroads that connect with each other; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.--Control--Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

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<sup>1</sup> In a related proceeding, Finance Docket No. 31930, Canton Railroad Company, Inc.--Trackage Rights Exemption--Maryland Mass Transit Administration, MTS has agreed to grant trackage rights for the provision of freight service on the line to the Canton Railroad Company, Inc.

EX10

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the commission and served on: Robert L. Calhoun, Sullivan & Worcester, Suite 806, 1025 Connecticut Avenue, N.W., Washington, DC 20036.

Decided: October 15, 1991

By the Commission, David M. Konschnik, Director, Office of Proceedings.



*Sidney L. Strickland, Jr.*  
Sidney L. Strickland, Jr.  
Secretary

TO: Melvin Clemens, Director  
Office of Compliance & Consumer Asst.  
Surface Transportation Board, Ste 1180  
395 E Street, S.W.  
Washington, DC 20423-0001  
(202) 245-0279

FROM: James Riffin  
1941 Greenspring Drive  
Timonium, MD 21093  
(443) 414-6210  
September 6, 2007

Ex 11

RE: Norfolk Southern's refusal to deliver rail cars to Cockeyville, MD.

Dear Mr. Clemens:

1. On numerous times, I have consigned freight rail cars to Cockeyville, MD. Norfolk Southern ("NS") refuses to deliver freight rail cars to Cockeyville. I am herewith requesting your assistance in resolving these service problems.

2. On **August 16, 2005**, I sent a cashier's check in the amount of \$5,680.00 to Norfolk Southern ("NS"), with instructions to move 10 rail cars from York, PA to Cockeyville, MD. See **Exhibit 7A**. On **August 19, 2005**, I sent an additional check in the amount of \$3,000.00, to move 2 rails cars from Chicago to York, and to move one rail car from Chicago to Cockeyville, MD. See **Exhibit 7B**. Norfolk Southern has steadfastly refused to deliver these cars to Cockeyville. Two of the cars, MDRX 103 and 104, were heavily vandalized (\$100,000 worth of damage) while sitting in York, waiting for Norfolk Southern to take them to Cockeyville.

3. In an effort to stop any further vandalism damage to MDRX 103 and 104, I had them transported to Cedarhurst, MD by CSX. and Maryland Midland Railroad. On **May 12, 2007**, I consigned these two cars to Cockeyville. Maryland Midland delivered the cars to Emory Grove, MD. CSX transported the cars from Emory Grove, MD to Bayview, MD. Beginning on **June 28, 2007**, CSX made several attempts to deliver the cars to Norfolk Southern at the CSX / Norfolk Southern ("NS") interchange point. Each time the cars were delivered to the CSX / NS interchange point, NS refused to accept the cars. See **Exhibit 8**. On **June 29, 2007**, I spoke with the Norfolk Southern Baltimore terminal superintendent. The superintendent called Jim Paschall, Senior General Counsel for Norfolk Southern, to ascertain why he was being directed not to take delivery of these two rail cars. Mr. Paschall told the superintendent: "Norfolk Southern no longer provides service to Cockeyville." When asked why, the superintendent was told because the MTA does not want freight service on the Cockeyville line.

4. In a conversation with the Baltimore track maintenance supervisor, I was told Norfolk Southern was not permitted to perform any kind of track maintenance on the Cockeyville Industrial Track ("CIT" or "Cockeyville Line"). Only MTA track maintenance personnel were allowed to perform track maintenance on the Cockeyville Line.

5. Attached to a filing I made on May 11, 2007 in *Verified Petition of the Maryland Transit Administration for Declaratory Order*, FD No. 34975, was a document entitled Supplemental Comments of James Riffin, a copy of which is attached hereto. Appended to this filing were letters from four companies located adjacent to the CIT. Each of these companies expressed an interest in

receiving freight rail service in Cockeyville.

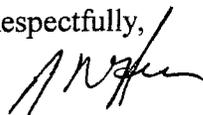
6. The only reason there is no shipper activity on the CIT, is because NS, at the behest of the MTA, refuses to provide the service! I have clearly demonstrated there is a need for freight rail service on the CIT. Norfolk Southern refuses to provide freight rail service. I have offered to assume NS' common carrier obligations on the Line. Unfortunately, my Offer of Financial Assistance ("OFA") to purchase the CIT from NS became moot, when the Board denied NS' abandonment petition on April 3, 2006.<sup>1</sup> Were NS to refile its abandonment petition, I would refile my OFA to purchase the Line. If NS does not refile its abandonment petition in the near future, and if NS continues to refuse to provide freight rail service on the CIT, I will file a formal complaint against NS and I will file a feeder Line application to acquire the Line.

7. Prior to the beginning of the MTA's double-tracking of the CIT in February, 2006, there were three shippers on the Line: Fleischmann's Vinegar, Imerys and BG&E. In 2005, these three shippers were coerced into signing an agreement with the MTA. In exchange for the MTA agreeing to subsidize these shipper's trucking costs for 5 years, the shippers agreed not to oppose any abandonment petition filed by Norfolk Southern. Fleischmann's Vinegar and Imerys have indicated that once the subsidy ends, they would like to reinstitute freight rail service to their facilities.

8. For your convenience, I am attaching a copy of my September 6, 2007 filing in FD 34975.

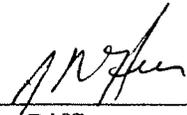
9. While I am not optimistic that you will be able to persuade NS to deliver my rail cars to me in Cockeyville, I do appreciate your efforts in this matter.

Respectfully,

  
James Riffin

### CERTIFICATE OF SERVICE

I hereby certify that on this 6<sup>th</sup> day of September, 2007, a copy of the foregoing Letter to Melvin Clemens, was served by first class mail, postage prepaid, upon James R. Paschall, Senior General Attorney, Norfolk Southern Railway Company, Law Department, Three Commercial Place, Norfolk, VA 23510.

  
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James Riffin

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<sup>1</sup> *Norfolk Southern Ry. Co. - Abandonment Exemption - In Baltimore County, MD, Docket No. AB-290 (Sub-No. 237X), Served April 3, 2006.*