



FOAM PACKAGING, INC

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September 11, 2007

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E. Street, S.W.
Washington, DC 20423-0001

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Public Record

220241

Re: *The Kansas City Southern Railway Company – Abandonment Petition for Exemption –
Line in Warren County, MS; Docket No. AB-103 (Sub-No. 21X)*

*Vicksburg Southern Railroad, Inc. – Discontinuance of Service Petition for Exemption –
Line in Warren County, MS; Docket No. AB-1016X*

220242

Dear Secretary Williams:

Foam Packaging has recently received a copy of the Abandonment Petition and Discontinuance of Service Petition referenced above. At this time, we feel that we must write to inform the Board of certain misrepresentations made by the Petitioners and by Lakes Gaming in its August 30, 2007, correspondence sent in support of the petitions. We wish to protest the abandonment of the line outlined in the referenced dockets. We request that no exemption from the rules and requirements relating to offers of financial assistance and public use conditions be afforded The Kansas City Southern Railway Company and/or Vicksburg Southern Railroad, Inc.

Foam Packaging, Inc. is a family owned Mississippi manufacturer since 1971. The company produces polystyrene egg cartons, serving trays, take-out trays, meat trays, and attic vents. Foam Packaging employees approximately 120 associates. When selecting the company location – rail was an important criterion. Foam Packaging’s original property had an established rail right of way. After an expansion purchase (former Batesville Casket building and land) The Kansas City Southern Railway Company rail line borders Foam Packaging property on the west side.

As you are aware, Foam Packaging is the sole shipper utilizing the line at issue. For the past 26 years Foam Packaging has been permitted to utilize a rail spur at which the railcars are unloaded onto Foam Packaging’s only bulk truck. From there, the company’s necessary raw materials are then driven less than 1/2 mile to the main Foam Packaging plant. Foam Packaging has maintained the spur and the road beside the siding.

In their petitions, the railroad companies aver that Foam Packaging's shipments "can easily be handled at other facilities in Vicksburg or elsewhere" and that Foam Packaging "could relocate its current transfer operations at relatively minor cost." See Petition, pp. 4, 6. However, at no time has anyone from either railroad company, the City of Vicksburg, or Lakes Gaming contacted Foam Packaging to inquire about the additional costs. Such costs will necessarily include the purchase or lease of a facility for use in transferring the materials from railcars to trucks, a right of way over property for the trucks, increased fuel expenses, increased labor for longer distance and/or additional truck drivers, increased liability insurance costs for protection on others' property, and the cost for an additional bulk truck and tanker.

Furthermore, the railroads, The City of Vicksburg, and Lakes Gaming have misrepresented to this Board that they have taken efforts to offer Foam Packaging other arrangements. Specifically, the railroads claim that they have evaluated various locations within Vicksburg "that would be quite suitable for Foam's truck transfer purposes, and from which KCSR would be willing to provide service for Foam." See Petition, p. 9, n. 2. Similarly, Lakes Gaming stated that it understood that the railroads had "proposed alternative sites in the area from which this shipper could transfer its inbound products to trucks, so that the impact of the proposed abandonment would have no adverse impact upon any interested party." See Correspondence from Lakes Gaming, dated August 30, 2007.

Yet, as previously noted, at no time has *anyone* from the railroad, The City of Vicksburg, or Lakes Gaming ever contacted Foam Packaging to discuss alternative methods of shipment, or even to give Foam Packaging written notice that the railroad spur utilized by its facility may be closed. Indeed, the first notice that Foam Packaging received from any of these entities was the copy of the current petitions.¹ Instead, Foam Packaging has been hastily trying to identify any alternative shipment methods, all of which seem to be cost prohibitive. Mr. J. B. Davenport, Treasurer of Foam Packaging, Inc., visited in person and conversed by phone with Mr. Mike Haverty on several occasions in the past. Mr. Haverty is the Chairman and CEO of Kansas City Southern Railway Company. Mr. Haverty assured Mr. Davenport that the line serving the spur utilized by Foam Packaging would not be abandoned by Kansas City Southern Railway Company.

In essence, not one of the interested parties has informed Foam Packaging that this railroad line will be closed and they have *certainly* not proposed any alternative sites for Foam Packaging's use in the event the line is shut down. Instead, there has been only silence, followed by these disingenuous assertions to the Board.

Foam Packaging, Inc. would prefer to maintain its current process for unloading key raw material. Indeed, if the parties are willing to "work with Foam to relocate its truck transfer operations to another, suitable railhead in the Vicksburg area" as they claim in their petitions,

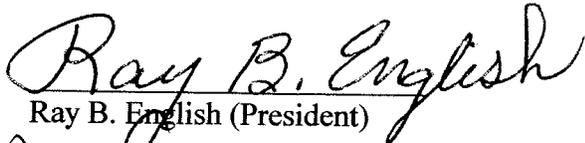
¹ Foam Packaging had learned of the proposal through the local Vicksburg media and immediately began trying to find any alternative methods of shipment or location for its railcars to be unloaded. The railroads' assertion that Foam Packaging has ever used any location in Jackson, Mississippi, for delivery of its raw materials is simply incorrect. See Petition, p. 10, n. 3.

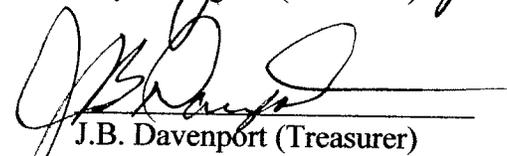
then why have they not contacted Foam Packaging to discuss those options - and how such costs associated with the move could be shared equally among the parties pushing to close Foam Packaging's most economical avenue of receiving raw materials.

We would ask that you please take these matters into consideration when evaluating the railroads' requests to abandon and discontinue service to our facility.

If you have any questions, please do not hesitate to call.

FOAM PACKAGING, INC.


Ray B. English (President)


J.B. Davenport (Treasurer)


Debra Isaac (Plant Manager/COO)

Enclosure

Cc: All Parties of Record

Lakes Entertainment, Inc.

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