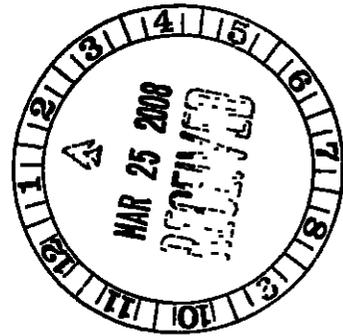


**LAW OFFICES OF
DONALD BARTLETT SMITH
7800 PERRY HWY.
PITTSBURGH, PA 15237**

(412) 630-9742



March 4, 2008

Surface Transportation Board
Secretary, Vernon A. Williams
395 East Street, SW
Washington, DC 20042

221895

221899

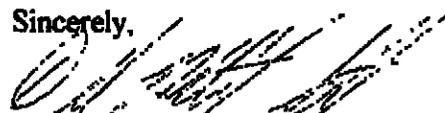
Re Docket Nos · FD-35082 and AB-88 (SUB NO 5X): Request of Victor Wheeler, et al ,
for Oral Hearing/Argument and for Expedited Consideration

Dear Mr Williams:

Please find enclosed the Requests of Petitioners' and Respondents' respectively, for Oral Hearing and Expedited Consideration in the above captioned matters. All parties have requested that these two related cases be considered simultaneously

If you have any questions concerning this matter, please contact me at (412) 630-9742 Thank you for your attention

Sincerely,


Donald Bartlett Smith
Attorney for Petitioners/Respondents

ENTERED
Office of Proceedings

MAR 25 2008

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD
DOCKET NOS. FD-35082 AND AB-88 (SUB NO. 5X)
ABANDONMENT EXEMPTION - IN ERIE COUNTY, PENNSYLVANIA

PETITION OF VICTOR WHEELER, ET AL., FOR DECLARATORY JUDGMENT

AND,

**JOINT MOTION OF THE NORTHWEST PENNSYLVANIA TRAIL ASSOCIATION
AND MATERIAL RECOVERY OF ERIE, INC., FOR THE SUBSTITUTION OF NEW
INTERIM TRAIL USER.**

REQUEST FOR EXPEDITED CONSIDERTION

**Filed by: Attorney Donald Bartlett Smith
7800 Perry Hwy.
Pittsburgh, PA 15237
(412) 630-9742**

BEFORE THE SURFACE TRANSPORTATION BOARD

PETITION OF VICTOR WHEELER, ET AL., FOR DECLARATORY JUDGMENT

AND,

**JOINT MOTION OF THE NORTHWEST PENNSYLVANIA TRAIL ASSOCIATION
AND MATERIAL RECOVERY OF ERIE, INC., FOR THE SUBSTITUTION OF NEW
INTERIM TRAIL USER.**

REQUEST FOR EXPEDITED CONSIDERATION

1. Petitioners, Victor Wheeler and Sandra J. Wheeler; James K. Sisson and Nancy A. Sisson; Bruce D Redfield III, and Tamara J Redfield; and David A. Warner and Tina M. Warner, adult residents of the state of Pennsylvania, respectfully request the Surface Transportation Board ("Board"), for Expedited Consideration in Docket Nos. FD-35082, and AB-88 (SUB NO. 5X), that all named parties have petitioned the Board to consider concurrently.

2. Victor Wheeler, and the other parties joining in these actions as Petitioners and Respondents, respectively, are owners of land over which the Northwest Pennsylvania Trail Association ("NPTA"), and Material Recovery of Erie, Inc., ("Materials"), are currently constructing and promoting an alleged trail. Until such time as this matter is resolved before the Board and before the United States District Court of the Western District of Pennsylvania, which referred this matter to the Board, the ownership of, liability for, and responsibility for this land will remain unresolved and in dispute.

3. NPTA and Materials have chosen to go forward with their activities on the land in question despite the Federal Court's refusal to dismiss the action against them, effectively ruling that Victor Wheeler, et al., have stated a valid claim for enforcement of the outstanding

STB Order that NPTA and Materials are alleged to have violated. The activities of NPTA and Materials have resulted into a disruption of the peace in the neighborhood. The ownership of the land is clouded until such time as the Board acts on this matter, and the legal uncertainty threatens to give rise to additional actions.

4. A final resolution of the matter may require the District Court to again address the case on appeal subsequent to the decision of the Board. This will result in a further delay for all parties and the likelihood of greater damages and disruption.

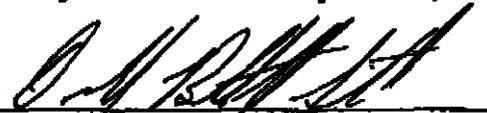
CONCLUSION

For the foregoing reasons, Victor Wheeler, et al., Petitioners and Respondents, in the respective actions now before the Board, hereby request Expedited Consideration in the above captioned matters; and propose a procedural schedule as follows:

- i. End of Discovery: By May 30, 2008;**
- ii Oral Hearing: By September 30, 2008.**

Dated this 4 day of March, 2008.

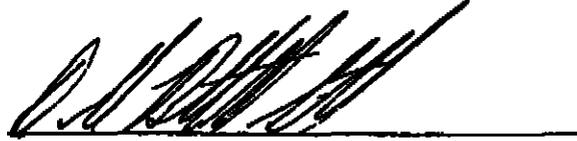
**Respectfully Submitted,
Donald Bartlett Smith
Attorney for Petitioners/Respondents,**

By 

Donald Bartlett Smith, Esq.

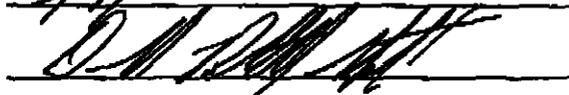
VERIFICATION

I, Donald Bartlett Smith, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this pleading. Executed on March 4, 2008.

A handwritten signature in black ink, appearing to read "Donald Bartlett Smith", is written over a horizontal line. The signature is stylized and somewhat cursive.

CERTIFICATE OF SERVICE

I hereby certify that I have served all parties of record in this proceeding with this document by United States mail.

3/4/06


**Canadian National Railroad Company
935 de La Gauchetiere Street West
Montreal, Quebec
B3B 2M9**

**Robert N Gentile
General Counsel & Secretary
Bessemer and Lake Erie Railroad Company
P O Box 68
135 Jamison Lane
Monroeville, PA 15146**

**William T. Morton, Esq.
4934 Peach St.
Erie, PA 16509**

**Thomas J. Healey
17641 S. Ashland Avenue
Homewood, IL 60430-1339**

**Timothy M Zieziula, Esq.
Knox McLaughlin Gornall & Sennett PC
120 West Tenth Street
Erie, PA 16501-1461**