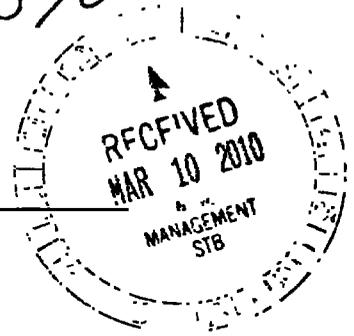


226570

BEFORE THE
SURFACE TRANSPORTATION BOARD



STB DOCKET NO. AB-290 (Sub- No. 311X)

ENTERED
Office of Proceedings
MAR 10 2010
Part of
Public Record

NORFOLK SOUTHERN RAILWAY COMPANY
PETITION FOR EXEMPTION
ABANDONMENT OF RAIL FREIGHT SERVICE OPERATION –
IN THE CITY OF BALTIMORE, MD AND BALTIMORE COUNTY, MARYLAND

ENVIRONMENTAL ASSESSMENT COMMENTS

1. James Riffin (“Riffin”), Zandra Rudo, Carl Delmont, Lois Lowe, and Eric Strohmeyer, collectively, the “Offerors” or “Protestants,” herewith jointly file this Environmental Assessment (“EA”) Comments, and state:

2. On January 5, 2010, Riffin filed a Motion for Protective Order, which contained confidential marketing information, detailing the potential rail freight traffic for the Cockeysville Industrial Track (“CIT”).

3. On February 16, 2010, the STB served the Environmental Assessment prepared by Kenneth Blodgett.

4. **Insufficient traffic.** In ¶2 on p.2 of the EA, Kenneth Blodgett made the following statement:

“There is little prospect of attracting other rail traffic commitments sufficient to support a profitable rail freight operation.”

5. Comments: The statement is unsupported, conclusionary, and appears to have been excerpted without any analysis from pages 13-14 of Norfolk Southern Railway Company's ("NSR") Petition for Exemption, where NSR made the unsupported, conclusionary statement:

"There is no reasonable prospect that a sufficient volume of traffic could be attracted and definitely committed to use restored rail service over the Line for NSR (or any railroad freight service operator) to be able to operate freight service over the Line at a profit."

6. Presumably, Mr. Blodgett has access to the Confidential Information the Offerors provided to the STB in their January 5, 2010 Motion for Protective Order. If so, then Mr. Blodgett either did not note the potential number of rail cars as disclosed in the Confidential Information, or chose to ignore that information, instead relying upon NSR's unsupported, conclusionary statement. Regardless of the reason, in light of the Confidential Marketing Information the Offerors have provided to the STB, the Offerors object to Mr. Blodgett's unsupported, conclusionary statement that "There is little prospect of attracting other rail traffic commitments sufficient to support a profitable rail freight operation." While that may be Mr. Blodgett's personal opinion, it is inappropriate for him to express his personal opinion. The record in this proceeding has not been sufficiently developed to reach the conclusion that there is "[in]sufficient [traffic] to support a profitable rail freight operation." The Offerors would further argue that whether there is "sufficient [traffic] to support a profitable rail freight operation," is the issue that must be decided by the Board prior to rendering a decision regarding whether to grant NSR's Motion to Exempt the Proceeding from the Offer of Financial Assistance procedures.

7. Recyclable commodities. In ¶2 on p.3 of the EA, Mr. Blodgett made the statement:

"Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network."

8. Comments. The Offerors have previously submitted under seal Confidential Marketing Information that reveals the quantity of goods being shipped by truck from shippers adjacent to the CIT, and the impacts shipping these goods by truck, rather than by rail, have on air quality

and the local transportation network. The Offerors have concurrently supplemented the Record with additional Confidential Marketing Information that specifically denotes the quantity of recyclable commodities that are presently shipped via trucks by shippers located adjacent to the CIT.

9. Given the Confidential shipping information provided to the STB by the Offerors, the Offerors would argue that Mr. Blodgett's comments regarding recyclable commodities and impacts on air quality or the local transportation network are not supported by the facts in the record, and thus should be retracted.

10. In ¶4 on p.3, Mr. Blodgett made the statement:

“The railroad bridge over York Road was removed in the early 1990's by the Maryland State Highway Administration with the authorization of MTA in order to correct a dangerous condition.”

11. Had Mr. Blodgett ended his sentence after “of MTA,” he would have recited undisputed facts. Whether removal of the railroad bridge was necessary “in order to correct a dangerous condition” is disputed. Changing a “grade separated” rail crossing to an “at grade” rail crossing would normally be viewed as **creating** a dangerous condition, rather than **correcting** a dangerous condition. There is no evidence in the record to corroborate the conclusion that removing the railroad bridge “correct[ed] a dangerous condition.” There is no evidence to suggest that the railroad bridge was deteriorated, was in need of repair, or lacked sufficient clearance for vehicular traffic. Occasionally, during heavy rainstorms, rainwater accumulated under the bridge faster than the storm drain pipe could convey the water away. This condition could have been eliminated simply by lowering the grade on the north side of the bridge, thereby allowing the rainwater to flow down the roadway to the creek that is about 300 feet north of, and lower in elevation of, where the bridge used to be, or by installing a larger storm drain pipe. Instead, the bridge was eliminated because it was ‘more convenient’ to remove the bridge than it would have been to regrade the roadway on the north side of the bridge.

12. **Impact on the human environment.** In the last paragraph on p.5 of the EA, Mr. Blodgett concluded that “the existing quality of the human environment and energy consumption should not be affected.” either by (a) denial of NSR's Petition, (b) discontinuance of service

without abandonment, or by (c) continued operation by another operator.

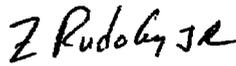
13. **Comment.** The Offerors would argue that abandonment of the Line could significantly adversely affect the human environment and energy consumption. Presently a significant amount of goods is transported by truck, due to NSR's refusal to provide service on the CIT. If continued operation by another operator were to be authorized, then a significant amount of goods presently shipped via truck, could be shipped via rail, which would reduce greenhouse gas emissions and would reduce energy consumption.

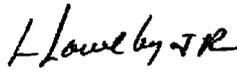
14. We, the undersigned Offerors, declare under the penalty of perjury that the information contained in this Environmental Assessment Comments, is true and correct to the best of our respective knowledge, information and belief. Further, we certify that we are qualified and authorized to file these Comments.

Executed on: March 8, 2010.

Respectfully submitted,


James Riffin


Zandra Rudo


Lois Lowe

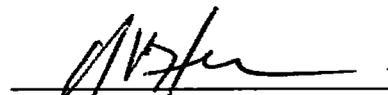

Carl Delmont


Eric Strohmeier

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

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of March, 2010, a copy of the foregoing Environmental Assessment Comments, was served by first class mail, postage prepaid, upon John V. Edwards, Senior General Attorney, Norfolk Southern Corporation, Law Department, Three Commercial Place, Norfolk, VA 23510-9241, and upon Charles A. Spitulnik, STE 800, 1001 Connecticut Avenue, NW, Washington, DC 20036, counsel for the MTA.


James Riffin