

Voting Conference, February 23, 2005

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James Riffin d/b/a The Northern Central Railroad — Acquisition and Operation Exemption —  
in York County, PA  
STB Finance Docket No. 34501

James Riffin d/b/a The Northern Central Railroad — Petition for Declaratory Order  
STB Finance Docket No. 34552

Good morning Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

The draft decision before you addresses several procedural matters, grants the State of Maryland's petition to revoke the acquisition and operation exemption in STB Finance Docket No. 34501, and denies James Riffin's petition for declaratory order in STB Finance Docket No. 34552.

In STB Finance Docket No. 34501, James Riffin doing business as The Northern Central Railroad (Mr. Riffin or Northern Central) invoked the Board's class exemption procedures for authority to acquire and operate approximately 19 miles of rail line extending from near the Maryland-Pennsylvania border to Hyde, in York County, PA. Under the terms of the class exemption procedures, the exemption became effective automatically without specific Board action.

Maryland filed a petition to revoke the exemption because it asserts that there are jurisdictional issues which need to be explored in a more in-depth proceeding and that the notice contained false and misleading information. Moreover, Maryland asserts that Northern Central is using the Board's preemptive jurisdiction to circumvent state law. Maryland claims that

Northern Central is performing grading and construction activities in an environmentally sensitive area in the State of Maryland, and, as a result, Northern Central is in violation of Maryland law. The land at issue is owned by the City of Baltimore and is not on or connected to the national rail system.

The Board has found that the class exemption process is not appropriate for controversial cases in which there is a need for a more detailed record. The draft decision finds that Maryland has raised sufficient concerns regarding Northern Central's proposal to make it inappropriate for Northern Central to use the expedited class exemption procedures in this case. The draft decision notes that the Board has a responsibility to protect the integrity of its processes, and thus, the draft revokes the authority obtained by exemption.

Turning to the petition for declaratory order, the Board has discretion whether to institute such a proceeding. Here, the petition asks the Board to discuss numerous questions regarding Federal preemption of state laws involving operations no longer authorized by the Board because the draft would revoke Northern Central's underlying authority. Therefore, the draft also denies the request for declaratory order because there is no question or controversy. The draft decision declines to speculate on how the Board might rule on the questions raised in the petition for declaratory order if Northern Central had authority to conduct railroad operations.

That concludes my statement. We will be happy to answer any questions you have.