



FOAM PACKAGING, INC.

P. O. BOX 1075 -- HIGHWAY 61 SOUTH
VICKSBURG, MISSISSIPPI 39181
PHONE (601) 638-4871

October 2, 2007

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

ENTERED
Office of Proceedings
OCT - 2 2007
Part of
Public Record

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

220381

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

220382

Dear Secretary Williams:

Enclosed, please find an original and eleven copies of notice given that Raymond B. English intends to participate as a Party of Record in the above entitled proceeding, and of Notice of Intent to file an offer of financial assistance.

Respectfully Submitted,

Raymond B. English

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. AB-103 (Sub- No. 21X)

**KANSAS CITY SOUTHERN RAILWAY COMPANY
ABANDONMENT EXEMPTION
LINE IN WARREN COUNTY, MS**

STB DOCKET NO. AB-1016 (Sub- No. 0 X)

**VICKSBURG SOUTHERN RAILROAD, INC
DISCONTINUANCE OF SERVICE PETITION FOR EXEMPTION
LINE IN WARREN COUNTY, MS**

COMMENTS OF RAYMOND B. ENGLISH

1. Notice is herewith given that Raymond B. English ("English" or "Protestant") intends to participate as a party of record in the above entitled proceeding. All documents, filings or decisions in the above entitled case should be served on English at:

Raymond B. English, President
Foam Packaging, Inc.
P.O. Box 1075 - Highway 61 South
Vicksburg, MS 39181
Telephone: (601) 638-4871

2. English, pursuant to the applicable regulations of the Surface Transportation Board ("STB" or "Board") herewith files his Comments on Kansas City Southern Railway Company's ("KCSR") Abandonment Exemption, and Vicksburg Southern Railroad, Inc.'s ("VSOR") Discontinuance of Service Petition for Exemption (collectively, "Petitions") to Abandon 4.25 miles of rail line, between mileposts 225.6 and 229.85, in Warren County, Mississippi, which Petitions are the subject of the above entitled case, and states:

3. On August 24, 2007, KCSR filed an Abandonment Exemption to abandon, and VSOR filed a Discontinuance of Service Petition for Exemption, to discontinue service over 4.25 miles of railroad line between Mileposts 225.6 and 229.85, in Warren County, Mississippi, ("Line").

4. A. Protestant's Business: English is a non-carrier shipper on the Line.

B. English's interest in the proceeding: English's has an interest in acquiring this line of railroad in order to preserve rail service to his manufacturing facility in Vicksburg, MS, which manufacturing facility is located immediately adjacent to the Line.

C. English does not represent any group or other public interest.

5. Protestant adopts by reference, as if fully reproduced herein, his September 11, 2007 letter to the Board.

6. 49 CFR 1152.22 e (4) states:

"(4) ... If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed."

7. English, when reviewing the Petitions, did not find any reference to what title the Petitioner's may have in the Line. In order to make an informed decision regarding the Net Liquidation Value of the Line, English will need to know whether Petitioner's title is fee simple or reversionary.

8. A close reading of the Board's regulations revealed that when a carrier files a 49 U.S.C. §10502 Petition for Exemption, the notice requirements in 49 CFR §1152.60 (d) do not require that the carrier provide notice of the proposed abandonment to any shipper or "significant user" on the line. This is in stark contrast with 49 CFR §1152.20 (a) (2) (i), which states an applicant must file its notice of intent upon significant users of the line. Because there is no requirement that a carrier serve notice upon significant users of a line if the carrier intends to abandon a line via the 49 CFR §1152.60 Special Rules Applicable to Petitions for Abandonments Under the 49 U.S.C. 10502 Exemption Procedure, it is possible for a carrier to receive authority to abandon an actively used line, without any shippers on the line learning of the pending abandonment, prior to the line actually being abandoned. Fortunately, in this case, counsel for KCSR sent the Protestant a copy of its Petition, which the Protestant received several days after it was filed with the Board. Unfortunately, most shippers, including the Protestant, are unfamiliar with the

Board's procedures. And given the speed with which Petitions for Exemption are processed, it is very difficult for an affected shipper to ascertain what the shipper's options are, prior to a deadline being missed.

9. With the above in mind, your Protestant would suggest the Board consider instituting a rule making procedure, to amend 49 CFR §1152.60 (d), to add the following:

“(d) A petitioner for an abandonment exemption must serve a copy of the petition on the persons receiving notices of exemption under §1152.50(d), and all users of the line.”

10. In drafting §1152.60 (d), it would appear the author of that section failed to take into account that the notice requirements in §1152.50 (d), did not include any shippers on the line, because no one had used the line for the previous two years. §1152.60, on the other hand, is not limited to those situations where there have not been any shippers using the line during the previous two years. §1152.60 is also applicable to lines where there are active shippers, as in the case at bar.

11. While 49 CFR 1152.22 (e) (4) states the Petitioner is required to indicate the nature of its title in the Line, and while 49 CFR 1121.3 (a) states a party filing a petition for exemption shall provide its case-in-chief, the Petitioner's failure to indicate the nature of its title in the Line could be easily rectified if the Petitioner were to amend its filing, to include this information.

Respectfully submitted,

Raymond B. English
Raymond B. English

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of October, 2007, a copy of the foregoing Comments of Raymond B. English, was served by first class mail, postage prepaid, upon William A. Mullins, Baker & Miller PLLC, Ste 300, 2401 Pennsylvania Ave, N.W., Washington, DC 20037, attorney for Kansas City Southern Railway Company, and upon Craig Richey, 315 W. 3rd Street, Pittsburg, KS 66762, attorney for Vicksburg Southern Railroad, Inc.

Raymond B. English
Raymond B. English