

22282

CITY OF BALTIMORE

MARTIN O'MALLEY, Mayor



DEPARTMENT OF LAW

RALPH S. TYLER, City Solicitor
101 City Hall
Baltimore, Maryland 21202

ENTERED
Office of Proceedings

OCT 20 2004

Part of
Public Record

October 15, 2004



Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, D.C. 20423

Re: Finance Docket No. 34501, *James Riffin d/b/a The Northern Central Railroad - Acquisition and Operation Exemption - In York County, PA*

Dear Secretary Williams:

It has come to the attention of the Mayor and City Council of Baltimore (the "City of Baltimore") that on or about September 17, 2004, James Riffin, doing business as The Northern Central Railroad, filed a "Notice of Intent to Construct, Operate and Maintain a Railroad Facility" (the "Notice of Intent") wherein Mr. Riffin proposed to construct and operate a railway line in portions of Baltimore County, Maryland, including property belonging to the City of Baltimore. The Notice of Intent was not served upon the City of Baltimore and indeed the City of Baltimore only discovered its existence because of information provided to the City by the Attorney General's Office of the State of Maryland. For the reasons set forth below, the City of Baltimore writes to express its support of the State of Maryland's Motion to Strike this Notice of Intent.

The Notice of Intent was filed by Mr. Riffin as an addition to his Answer to the Petition of the State of Maryland to Revoke the Verified Notice of Exemption. The Verified Notice of Exemption at issue in this proceeding was and has always been previously presented to the Surface Transportation Board (the "Board") by Mr. Riffin as a proposal to acquire a railway line located entirely within York County, Pennsylvania. Apparently, Mr. Riffin now seeks to expand his project into an entirely different political jurisdiction.

The City of Baltimore owns property in Baltimore County near Beaver Run Lane (the "property") that serves as a watershed buffer for the Loch Raven Reservoir. The Loch Raven Reservoir is a principal source of drinking water for the City of Baltimore, as well as portions of Anne Arundel, Baltimore and Howard Counties. According to the Notice of Intent, Mr. Riffin plans to construct and operate a railway line directly on or across a portion of the property. This proposal would be totally inconsistent with the important public health purpose underlying the present use of this property.

The City of Baltimore's dealings with Mr. Riffin began on or about September 10, 2004 when Inspector Kenneth Church from the Baltimore City Department of Public Works ("DPW") issued a "Stop Work Order" to Mr. Riffin for grading and bulldozing operations being performed on the property without the City's approval. A copy of Inspector Church's field inspection report and "Stop Work Order" is attached below as Exhibit A.

On September 10, 2004, Mr. Riffin wrote two letters to DPW, copies of which are attached below as Exhibit B. Although Mr. Riffin indicated in one letter that he was seeking permission to restore the property to its condition prior to the unauthorized grading and bulldozing operations, at the same time in the other letter he indicated that he wanted to acquire a "railroad right of way across a portion of Baltimore City's watershed property." On September 30, 2003, George L. Winfield, Director of DPW, wrote back to Mr. Riffin to inform him that the City of Baltimore could not approve a request for a right of way to place and operate railroad tracks due to the particular public purpose being served by the property. A copy of this letter is attached below as Exhibit C.

Despite this clear indication by the City of Baltimore that it has no intent to enter into an agreement with Mr. Riffin for the conversion of its watershed buffer zone into a commercial enterprise, the City of Baltimore remains concerned that Mr. Riffin is attempting to make use of an expedited procedure before this Board to further what has become an ever-changing business proposal that has already caused some environmental damage and could cause substantially more.

For these reasons, the City of Baltimore offers its support not only for the State of Maryland's Motion to Strike the Notice of Intent, but also more generally for the State's Petition to Revoke the Verified Notice of Exemption. The City agrees with the State of Maryland that Mr. Riffin's various proposals should not be pursued under this Board's expedited class exemption procedure.

Thank you for the Board's consideration of this letter and the attached exhibits. Please direct all communications regarding this matter to the undersigned attorneys at this office.

In keeping with the Board's procedures, an original and ten copies of this correspondence are enclosed. The undersigned attorneys certify that copies have also been mailed to all parties to this proceeding.

Respectfully submitted,



Dawn S. Lettman
Assistant City Solicitor



Adam S. Levine
Assistant City Solicitor
Baltimore City Law Department
100 N. Holliday Street
Baltimore, MD 21202
(410) 396-3933
(410) 396-3925

Attorneys for the City
of Baltimore

Attachments

cc: James Riffin dba NCRR
Charles Spitulink, Esq, and Alex Menendez, Esq.,
counsel for the State of Maryland
Adam D. Snyder, Assistant A. G., Maryland Dept. of the
Environment
Ralph Tyler, City Solicitor
Sandra R. Gutman, Chief Solicitor

George L. Winfield, Director, DPW
Paul Barnes, Right of Ways Section, DPW
Ralph Cullison, Environmental Services Div., DPW

EXHIBIT A

CITY OF BALTIMORE

MARTIN O'MALLEY, Mayor



DEPARTMENT OF PUBLIC WORKS
BUREAU OF GENERAL SERVICES
CONSTRUCTION MANAGEMENT DIVISION
703 Abel Wolman Building
Baltimore, Maryland 21202

EROSION & SEDIMENT CONTROL FIELD INSPECTION REPORT

Inspection Date 9-10-04 Weather Clear Inspector Ken Church Phone (410) 396-4468 7:30 a.m. - 3:30 p.m.

Site Location Beaver Run Lane W S B L

Owner's Name & Address Mayor & City Council

Contractor's Name & Address James Riffin
1941 Greenspring Dr Timonium MD 21093

Person Contacted (Include Title) James Riffin Phone # 443-414-6210

Facility Type: () Building Construction () Highway Construction (X) Other Clearing Land

Plan # Contract # Permit #

Complaint

YOU ARE HEREBY ORDERED IN ACCORDANCE WITH THE PROVISIONS OF APPLICABLE CITY CODE OR ORDINANCE TO CORRECT THE CONDITIONS LISTED BELOW.

Contractor has been asked to stop work on site owned by Baltimore city. Contractor has no permits or approved plans to build or disturb areas being disturbed. Contractor must stabilize areas immediately. A STOP WORK order was issued to Mr. James Riffin. Site will be monitored for stabilization. No work at all is to be performed until a right of return is obtained from Mr. Paul Barnes (Baltimore city Public works right of way)

When right of way is permitted asphalt spread in path is to be removed. Areas are to be seeded and mulched

Inspection Results

In Compliance Noncompliance
Correct deficiencies by

OR

Violation will be issued. Stop Work Order will be issued. 9-10-04

Site to be reinspected on Random

Received by [Signature]

Date 9-10-04

Inspector Kenneth Church

CITY OF BALTIMORE

MARTIN O'MALLEY, Mayor



DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE DIRECTOR
PERMITS
204 Abel Wolman Municipal Building
Baltimore, Maryland 21202
STOP WORK ORDER NO. _____

STOP WORK ORDER

INSPECTOR <i>Kenneth Church</i>		PHONE 398-4650 BETWEEN 8:30:00 & 4:00:00		LOCATION OF PROPERTY
WARD	SECTION	BLOCK	LOT	<i>across from 10919 York Rd.</i>
OWNER'S NAME/ADDRESS <i>James Riffin 1941 Greenspring Dr TIMONIUM MD 21093</i>			CONTRACTOR'S NAME/ADDRESS	

Pursuant to:

- () Section 111.1 and 118.0 of Article 32, Baltimore City Code (1987)
- () Section 10.04-86 of Article 10.04; City of Baltimore Department of Public Works, Specifications for Material, Highways, Bridges, Utilities and Incidental Structures (1979) and amendments.
- () Section 4, (GP-5.07) of Standard Specifications for Construction & Materials, Maryland Department of Transportation, State Highway Administration (January 1982).

You are ordered, upon receipt of this notice to stop all construction activities, except those necessary to correct violations cited below. Normal construction activities cannot be resumed until the recipient of this notice receives a Notice to Proceed, in writing, from the Erosion and Sediment Control Section, Baltimore City Department of Public Works. Failure on your part to comply fully with this Notice will make it necessary to take action in accordance with the provisions of law.

VIOLATIONS

1. Working without proper permits. (X)
Rectify by obtaining all required permits.
2. Working without proper erosion & sediment controls and without an approved erosion and sediment control plan. (X)
Rectify by obtaining an approved erosion and sediment control plan from the aforementioned Erosion and Sediment Control Section and implementing all measures as per approved plans.
3. The following conditions are in violation of ()
Permit No. _____ Plan No. _____
 - a) Lack of erosion and sediment control measures ()
Rectify by implementing all measures as per the aforementioned approved plan.
 - b) Failed to correct violations noted on Notice No. _____ ()
dated _____

<i>Kenneth Church</i> Server	<i>9/10/04</i> Date	<i>[Signature]</i> Person Served
---------------------------------	------------------------	-------------------------------------

EXHIBIT B



*THE NORTHERN CENTRAL
RAILROAD*



1941 Greenspring Drive
Timonium, Maryland 21093

Telephone: (410) 453-6208
Fax: (410) 453-6208
September 10, 2004

FROM: James Riffin, CEO
The Northern Central Railroad

TO: Paul Barnes Phone: (410) 396-5023
Chief, Watershed right-of-ways Fax: (410) 837-8225
Baltimore, MD 21202

RE: Right of entry onto Baltimore City watershed property.

Dear Mr. Barnes:

I would like permission to enter upon a portion of the Baltimore City watershed property in the vicinity of point 74-14, which point is at the east end of Beaver Run Lane in Cockeysville, Maryland, for the following purposes:

1. To seed and mulch bare earth adjacent to the west side of Beaver Dam Run, which bare earth is approximately 100 feet north of point 74-14.
2. To remove bituminous asphalt fill material that was inadvertently placed on watershed property immediately north of point 74-14.
3. To redistribute (flatten out) earthen material that was graded into a 'berm' adjacent to Beaver Dam Run, immediately north of point 74-14.
4. To seed and mulch whatever bare earth remains after the earthen material has been redistributed.

Sincerely,

James Riffin, CEO
The Northern Central Railroad



*THE NORTHERN CENTRAL
RAILROAD*



1941 Greenspring Drive
Timonium, Maryland 21093

Telephone: (410) 453-6208
Fax: (410) 453-6208
September 10, 2004

FROM: James Riffin, CEO
The Northern Central Railroad

TO: George L. Winfield, Director Phone: (410) 396-3310
Public Works of Baltimore City Fax: (410) 539-6119
Baltimore, MD 21202

RE: Construction of a railroad right-of-way on a portion of Baltimore City Watershed.

Dear Mr. Winfield

The Northern Central Railroad, a Maryland Class III railroad, has a desire to construct a railroad right-of-way across a portion of Baltimore City's watershed property, located in Cockeysville, Maryland. The proposed right-of-way would be parallel with, and on the west / north side of Beaver Dam Run, beginning at point 74-13, passing by point 74-14, then continuing on to point 74-1, where the proposed right-of-way would intersect, then join the former Northern Central right-of-way.

At your convenience, I would like to enter into negotiations with the appropriate individual(s) regarding acquisition of a legal interest in the land that would constitute the proposed right-of-way. Please have the appropriate individual either call me, or write to me, suggesting a time and place where we might meet to discuss this matter.

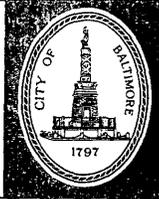
Sincerely,

James Riffin, CEO
The Northern Central Railroad

EXHIBIT C

CITY OF BALTIMORE

MARTIN O'MALLEY, Mayor



DEPARTMENT OF PUBLIC WORKS

GEORGE L. WINFIELD, Director
600 Abel Wolman Municipal Building
Baltimore, Maryland 21202

September 30, 2004

Mr. James Riffin, CEO
1941 Greenspring Drive
Timonium, Maryland 21093

Dear Mr. Riffin:

The Department of Public Works is in receipt of your letter dated September 10, 2004, wherein you request to construct a railroad right-of-way across a portion of the Loch Raven Reservoir area, adjacent to Beaver Run Dam.

The City of Baltimore obtained the buffer lands surrounding the Loch Raven Reservoir for the purpose of maintaining a forested buffer between the reservoir and any human activity, either developmental or agricultural.

The Bureau of Water and Wastewater, Environmental Services Division upon review of your request has determined that the granting of a railroad right-of-way would diminish the buffer that protects the water quality at the watershed. Therefore, the City cannot approve your request to construct the railroad across the watershed property.

Thank you and if you have any questions concerning this matter, please feel free to contact Mr. Ralph Cullison, Chief, Environmental Services Division at (410) 396- 0539.

Sincerely,


GEORGE L. WINFIELD
DIRECTOR

GLW/PB:ipl

cc: Mr. J. Keith Scroggins
Mr. Joseph Kostow
Mr. Paul Barnes

