

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

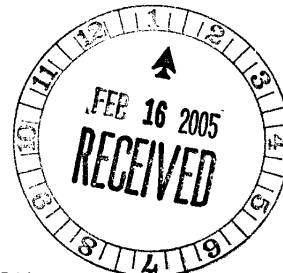
FINANCE DOCKET NO. 34662

**CSX TRANSPORTATION, INC., PETITION FOR
DECLARATORY ORDER**

**COMMENTS IN SUPPORT OF SULFUR PRODUCTS MUTUAL
ASSISTANCE RESPONSE TEAM IN SUPPORT OF PETITIONER**

ORIGINAL

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Lawrence W. Bierlein
McCarthy Sweeney & Harkaway, PC
2175 K Street, NW
Washington, DC 20037
(202) 775-5560
(202) 775-5574
lwbierlein@mshpc.com

General Counsel, Sulfur Products
Mutual Assistance Response Team

Dated: February 16, 2005

The Sulfur Products Mutual Assistance Response Team (SMART) is an unincorporated association representing the interests of the producers and distributors of sulfur dioxide, sulfuric acid, oleum, and related sulfur products. These basic building blocks of the chemical industry are shipped in all modes of transportation, including by rail by CSX, and are regulated under the nationally uniform hazardous materials program administered by the U.S. Department of Transportation (DOT).

Pursuant to the Board's Decision served February 8, 2005, SMART offers these comments in support of the position and legal precedents cited by CSX Transportation, Inc., in its petition for a declaratory order.

Moving these and similar products safely, securely, and expeditiously is the job of the Nation's carriers, including rail carriers subject to the Board's jurisdiction and also under close control of national and allied State officials charged with inspection and enforcement of DOT's comprehensive hazmat regulatory program, developed in consideration of employee and public safety, and security.

We do not believe it appropriate, safe, or secure, for carriers in any mode of transportation to be subject to routing, time-of-day, or other limitations developed by and with the perspective of a single jurisdiction such as the District of Columbia. By their nature, such limitations balkanize the country, merely pushing traffic from one jurisdiction into another. Such fragmentation of the Nation's transportation system is exactly what the Commerce Clause, the preemption doctrine, and the variety of national laws and regulatory programs under that Clause were meant to preclude.

SMART, as an association of members affected by such local impediments to transportation, urges the Board to issue the declaratory order requested by CSX Transportation, Inc.

Respectfully submitted,



Lawrence W. Bierlein
McCarthy Sweeney & Harkaway, PC
2175 K Street, NW
Washington, DC 20037
(202) 775-5560
(202) 775-5574 (fax)
lbierlein@mshpc.com
General Counsel, Sulfur Products
Mutual Assistance Response Team

Dated: February 16, 2005

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Comments were delivered by messenger, mail, and fax this 16th day of February 2005, on:

Mayor Anthony A. Williams
District of Columbia
1350 Pennsylvania Ave., N.W., Suite 600
Washington, D.C. 20004

Leonard Becker
Office of General Counsel to the Mayor
1350 Pennsylvania Ave., N.W., Suite 327
Washington, D.C. 20004

George Valentine, Esq.
Office of the Attorney General
District of Columbia Government
441 Fourth Street, N.W., Sixth Floor South
Washington, D.C. 2001

Robert Utiger, Esq.
Office of the Attorney General
District of Columbia Government
441 Fourth Street, N.W., Sixth Floor South
Washington, D.C. 2001

G. Paul Moates
Terence M. Hynes
Matthew J. Warren
Sidley Austin Brown & Wood LLP
1501 K Street, NW
Washington, DC 20005

Irvin B. Nathan
Mary Gabrielle Sprague
Arnold & Porter LLP
555 Twelfth Street, N.W.
Washington, DC 20004

Ellen M. Fizsimmons
Peter J. Shudtz
Paul R. Hitchcock
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

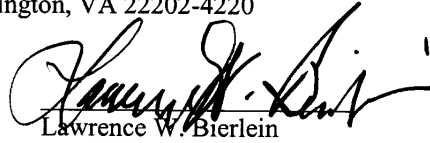
Department of Transportation
Office of the General Counsel
Room 10428
400 Seventh Street, SW
Washington, DC 20590

Federal Railroad Administration
S. Mark Lindsey, Chief Counsel
Mail Stop 10, 7th Floor
1120 Vermont Avenue, NW
Washington, DC 20590

Research & Special Programs Administration
Attn: Joseph Solomey, Assistant Chief Counsel
Room 8417
400 Seventh Street, SW
Washington, DC 20590

Department of Homeland Security
Border and Transportation Security
Attn: Deputy Chief of Staff Clark
3801 Nebraska Avenue, NW
Washington, DC 20528

Transportation Security Administration
Chief Counsel, TSA-2
601 South 12th Street
Arlington, VA 22202-4220



Lawrence W. Bierlein

February 16, 2005