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November 19, 2007

VIA ELECTRONIC FILING

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

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

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

Dear Secretary Williams:

By letter filed November 8, 2007, Foam Packaging, Inc., submitted an Affidavit Of J.B. Davenport ("Affidavit"). While it would be appropriate to reject or strike the Affidavit because it is procedurally improper,¹ or because it reargues an issue which Foam Packaging already voluntarily withdrew from this case,² The Kansas City Southern Railway Company ("KCSR") will not ask the Board to do so.

¹ The Affidavit is a reply to comments made by The Kansas City Southern Railway Company ("KCSR") in KCSR's November 5, 2007 "Response To The October 16 Filings of Raymond B. English." Because the Affidavit constitutes a "reply to a reply" it is improper under 49 CFR 1104.13(c) and could be rejected. Likewise, because the Affidavit contains evidence that, if relevant, should have been submitted in Foam's earlier filings in this proceeding, it is also improper. New York City Economic Development Corporation – Adverse Abandonment – New York Cross Harbor Railroad In Brooklyn, NY, STB Docket No. AB-596 (STB served May 12, 2003)(granting motion to strike because it was not new evidence, should have been presented earlier, and was not responsive). For either of these reasons the Board could, on its own motion, reject or strike the Affidavit.

² Mr. English, the President of Foam, previously requested that Mr. Davenport's comments regarding alleged conversations with Mr. Haverty be stricken from the record. See October 16 "Raymond B. English's Response To KCSR's Letter Threatening Sanctions" ("English

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If the Board accepts the Affidavit, KCSR notes that the assertions in the Affidavit, which vary from the original allegations in Foam Packaging's September 12 filing about Mr. Davenport's supposed multiple conversations with KCSR's Chairman Mike Haverty and from Mr. English's later re-casting of the original allegations, lack sufficient detail to enable KCSR to locate any records or for Mr. Haverty or his staff to recall any such occurrences as alleged in the Affidavit. Moreover, the assertions stated therein are simply irrelevant with respect to the underlying merits of the abandonment request. As Mr. English has previously stated, the issue regarding Mr. Haverty's alleged comment is "tangential" to the abandonment proceeding. On that issue, KCSR agrees with Mr. English.

If there are any questions about this matter, please contact me directly, either by telephone: (202) 663-7823 or by email: wmullins@bakerandmiller.com.

Respectfully submitted,



William A. Mullins

cc: Parties of Record

Response")("Since the only issue before the Board is the OFA exemption request, Mr. Haverty's statement regarding abandonment of the Line would no longer be materially relevant to the issue English is asking the Board to address. Consequently, in an effort to remove this tangential issue from center stage, *English will ask that the Board strike the September 11 Statement reproduced in H 3, supra.*") (emphasis added). English Response ¶ 8.