

LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1666
CHICAGO, ILLINOIS 60604-1228
TELEPHONE (312) 236-0204
mcfarland@aol.com

ENTERED
Office of Proceedings
April 24, 2019
Part of
Public Record

THOMAS F. MCFARLAND

April 24, 2019

By e-filing

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: Finance Docket No. 36292, *Chicago, Rock Island & Pacific Railroad, LLC --
Alternative Rail Service -- C&J Railroad Company*

Dear Ms. Brown:

Hereby transmitted is a Rebuttal Under 49 C.F.R. § 1146.1(b)(3) for filing with the Board
in the above referenced matter.

Very truly yours,



Thomas F. McFarland
Attorney for Petitioner

TMcF:kl:enc:1807\efSTB1

cc: All parties of record

BEFORE THE
SURFACE TRANSPORTATION BOARD

CHICAGO, ROCK ISLAND & PACIFIC)
RAILROAD, LLC -- ALTERNATIVE) FINANCE DOCKET
RAIL SERVICE -- C&J RAILROAD) NO. 36292
COMPANY)

REBUTTAL UNDER 49 C.F.R. § 1146.1(b)(3)

CHICAGO, ROCK ISLAND & PACIFIC
RAILROAD, LLC
165 West South Street, Suite 210
P.O. Box 601
Hernando, MS 38632

Petitioner

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204 (office)
mcfarland@aol.com

Attorney for Petitioner

DATE FILED: April 24, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

CHICAGO, ROCK ISLAND & PACIFIC	)	
RAILROAD, LLC -- ALTERNATIVE	)	FINANCE DOCKET
RAIL SERVICE -- C&J RAILROAD	)	NO. 36292
COMPANY	)	

REBUTTAL UNDER 49 C.F.R. § 1146.1(b)(3)

Pursuant to 49 C.F.R. § 1146.1(b)(3), CHICAGO, ROCK ISLAND & PACIFIC RAILROAD, LLC (CRIP), hereby files rebuttal of a Response filed by C&J RAILROAD COMPANY (C&J) on April 22, 2019.

CORRECTION

First, CRIP wants to correct a misstatement in its Petition: at the request of Coahoma County, Mississippi, CRIP intends to provide contract carrier service over the Lula-Swan Lake, MS rail line (except for the .25-mile Segment near Swan Lake), not common carrier service as mistakenly stated at pages 3-5 of CRIP's Petition filed on April 15, 2019. CRIP regrets its error in that respect.

REBUTTAL

C&J's Response has clarified that C&J obtained Board operating authority over the .25-mile Segment at the request of Illinois Central Railroad Company (IC) solely to comply with IC's requirement that C&J interchange with IC through the RAILINC system by becoming a rail carrier. (Response at 4). In addition, C&J has now stated that it does not object to CRIP

operating over the Segment, and further that CRIP does not require C&J's permission to operate over the Segment. (*Id.* at 2, 6).

C&J's statements negate the emergency conditions that prompted filing of CRIP's Petition for Prescription of Alternative Rail Service. Operations are already underway for CRIP to transport the railcars that have been held on the Lula-Swan Lake rail line over the Segment for interchange to IC and beyond as directed by the owners of the railcars.

In view of the foregoing, there is no need for mediation as requested at page 5 of the Response.

EFFECT OF C&J's AGREEMENT TO CRIP's OPERATIONS OVER THE SEGMENT

The effect of C&J's agreement to CRIP's operation over the Segment without a need for C&J's permission for such operation is an agreement to a change of operators over the Segment. Accordingly, the Board should treat CRIP's Petition and C&J's Response as a request for an exemption for a change of operators under 49 C.F.R. § 1150.31(a)(3). Alternatively, CRIP's Petition can be treated as a request for an exemption for operation of the Segment under 49 C.F.R. § 1150.31(a).

CONCLUSION AND REQUESTED RELIEF

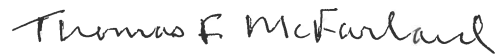
WHEREFORE, for the reasons stated, the Board should (1) correct the misstatements in the Petition for Prescription of Alternative Rail Service as requested herein; (2) find that any emergency that may have resulted in prescription of Alternative Rail Service no longer exists; and (3) find that in view of C&J's statements in its Response that it does not oppose CRIP's operation over the Segment, CRIP's Petition and C&J's Response should be treated as a request for an exemption for a Change of Operators under 49 C.F.R. § 1150.31(a)(3), or, alternatively,

that CRIP's Petition be treated as a request for an exemption for its operation of the Segment under 49 C.F.R. § 1150.31(a).

Respectfully submitted,

CHICAGO, ROCK ISLAND & PACIFIC
RAILROAD, LLC
165 West South Street, Suite 210
P.O. Box 601
Hernando, MS 38632

Petitioner



THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1112
(312) 236-0204 (ph)
mcfarland@aol.com

Attorney for Petitioner

DATE FILED: April 24, 2019

CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2019, I served the foregoing Rebuttal Under 49 C.F.R.

§ 1146.1(b)(3) by e-mail and first-class, U.S. mail, postage prepaid, on the following:

B. Lyle Robinson, Esq.
Taylor, Wellons, Politz & Duhe, APLC
100 Webster Circle, Suite 104
Madison, Mississippi 39110
lrobinson@twpdlaw.com

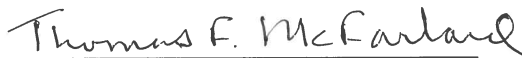
Reggie Howell
C&J Railroad Company
111 Quarter Master Court
Jeffersonville, IN 47130
cjrr565@aol.com

Charles Ross, Esq.
Wise Carter Child & Caraway, P.A.
P.O. Box 651
Jackson, MS 39205-0651
cer@wisecarter.com

Tom Ross, Esq.
Hunt Ross & Allen, P.A.
123 Court Street
Clarksdale, MS 38614
tomross@huntnross.com

Robert Riley
Chicago, Rock Island & Pacific
Railroad, LLC
165 West South Street, Suite 210
Hernando, MS 38632
robert.riley@rockislandrail.com

Thomas J. Litwiler, Esq.
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, IL 60606-3208
tlitwiler@fletcher-sippel.com



Thomas F. McFarland