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BALL JANIK LLP

A T T O R N E Y S

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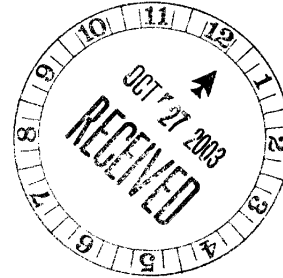
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LOUIS E. GITOMER
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October 27, 2003



Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 700
Washington, D. C. 20423

RE: Docket No. AB-565 (Sub-No. 14X), *New York Central Lines, LLC—Abandonment Exemption—in Montgomery and Schenectady Counties, NY*
Docket No. AB-55 (Sub-No. 629X), *CSX Transportation, Inc.—Discontinuance of Service Exemption—in Montgomery and Schenectady Counties, NY*

Dear Secretary Williams:

Enclosed are the original and 10 copies CSX Transportation, Inc.'s Response to the Petition to Revoke in the above-entitled proceeding. Also enclosed are three diskettes containing the Response.

Please time and date stamp the additional copy of this letter and the Response, and return it to our messenger. Thank you for your assistance.

If you have any questions, call or email me.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'Louis E. Gitomer'.

Louis E. Gitomer
Attorney for CSX Transportation, Inc.

Enclosures

ENTERED
Office of Proceedings

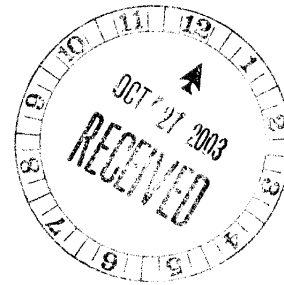
OCT 27 2003

Part of
Public Record

209221

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-565 (Sub-No. 14X)



NEW YORK CENTRAL LINES, LLC-ABANDONMENT EXEMPTION-IN MONTGOMERY
AND SCHENECTADY COUNTIES, NY

~~Docket No. AB-55 (Sub-No. 629X)~~

CSX TRANSPORTATION, INC.-DISCONTINUANCE OF SERVICE EXEMPTION-IN
MONTGOMERY AND SCHENECTADY COUNTIES, NY

RESPONSE TO PETITION TO REVOKE

ENTERED
Office of Proceedings
OCT 27 2003
Part of
Public Record

Natalie S. Rosenberg, Esq.
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Attorneys for: NEW YORK CENTRAL
LINES, LLC and
CSX TRANSPORTATION, INC.

Dated: October 27, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-565 (Sub-No. 14X)

NEW YORK CENTRAL LINES, LLC-ABANDONMENT EXEMPTION-IN MONTGOMERY
AND SCHENECTADY COUNTIES, NY

Docket No. AB-55 (Sub-No. 629X)

CSX TRANSPORTATION, INC.-DISCONTINUANCE OF SERVICE EXEMPTION-IN
MONTGOMERY AND SCHENECTADY COUNTIES, NY

RESPONSE TO PETITION TO REVOKE

New York Central Lines, LLC ("NYC") and CSX Transportation, Inc. ("CSXT") respectfully request that the Surface Transportation Board (the "Board") deny the Petition to Revoke Exemption filed on October 7, 2003, as supplemented October 17, 2003 (the "Petition") by Cushing Stone Company, Inc. ("Cushing").¹ The Petition does not address the criteria necessary to justify the revocation of Respondents' Notice of Exemption. The Petition also fails to justify rejection of Respondents' Notice of Exemption for failure to properly certify compliance with pre-filing publication requirements. Therefore, Respondents strongly urge the Board to deny the Petition.

BACKGROUND

NYC and CSXT filed a Notice of Exemption under 49 C.F.R. 1152 Subpart F on March 5, 2003 (the "Notice") in order to abandon and discontinue service over a 6.3-mile line of



railroad between South Amsterdam, milepost QGW 159.6, and Rotterdam Junction, milepost QGW 165.9, in Montgomery and Schenectady Counties, NY (the "Line"). Respondents sought to abandon and discontinue service over the Line because there had been no traffic on the Line since May 14, 2000.² Notice of the abandonment and discontinuance of service was served by the Board and published by the Federal Register on March 25, 2003. *New York Central Lines, LLC—Abandonment Exemption—in Montgomery and Schenectady Counties, NY*, STB Docket No. AB-565 (Sub-No. 629X) (STB served March 25, 2003); 68 FR 14473-14474 (March 25, 2003).

In advance of beginning the abandonment process, Respondents determined that no traffic had moved over the Line since May 14, 2000. They then investigated the potential for traffic on the Line, and determined that there was none. See Exhibit A, Verified Statement of David S. Geraci. Respondents' investigation included discussions between Ms. Debbie L. Layne, Senior Account Manager, Emerging Markets Division of CSXT and Mr. Tesiero owner of Cushing. The only commodity that Cushing considered shipping by rail was ballast to CSXT. However, CSXT has determined that the ballast from Cushing does not meet engineering specifications. Mr. Tesiero was so advised and also told that Respondents would likely abandon the Line. See Exhibit B, Verified Statement of Ms. Debbie L. Layne.

Prior to filing the Notice, Respondents published a notice in *The Daily Gazette* on February 21, 2003, in accordance with the requirements of 49 C.F.R. § 1105.12. The Daily Gazette has a total daily circulation of 51,542 households and reaches 134,080 readers. In Schenectady County, the Daily Gazette reaches 45.7% of the households and 59.3% of the

¹ NYC and CSXT will jointly be referred to as "Respondents."

² Cushing makes no claim that it intends to use the Line to ship the commodities it produces. There has been no rail service on the Line for nearly three and one-half years.

readers. In Montgomery County, the Daily Gazette reaches 21.7% of the households and 27.3% of the readers. See Exhibit C.

The Board granted a late-filed request by the New York State Office of Parks, Recreation and Historic Preservation on April 14, 2003, for the issuance of a notice of interim trail use for the entire line under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and for a public use condition under 49 U.S.C. 10905. *New York Central Lines, LLC—Abandonment Exemption—in Montgomery and Schenectady Counties, NY*, STB Docket No. AB-565 (Sub-No. 629X) (STB served April 23, 2003). An extension to negotiate trail use was granted by decision served October 16, 2003.

ARGUMENT

Respondents respectfully request that the Board deny Cushing's request to reject the Notice as void *ab initio*.³ Cushing has not made any argument under 49 U.S.C. § 10502(d) that revocation of the abandonment and discontinuance of service exemption is required to carry out the rail transportation policy at 49 U.S.C. § 10101. Therefore, Respondents respectfully request the Board to deny revocation of the exemption.

1. The Notice is not void *ab initio*.

Cushing argues that in the Notice, Respondents' certification that they had complied with the publication requirements of 49 C.F.R. § 1105.12 is false and misleading because Respondents did not publish their newspaper notice in a newspaper of general circulation in

³ Although Cushing has titled its pleading as a "Petition to Revoke Exemption" and at places in the Petition asks the Board to revoke the exemption, it finally becomes apparent by the end of the Petition that Cushing is actually seeking the rejection of the Notice as void *ab initio* based on the claim that the Notice contains false and/or misleading information. The Petition is made harder to decipher by the citation to non-existent or irrelevant regulations as support for Cushing's

Montgomery County, NY. Cushing has concluded that the Daily Gazette is not a newspaper of general circulation in Montgomery County because the Montgomery County Board of Supervisors has resolved that The Recorder and Courier-Standard Enterprise are the newspapers that Montgomery County will use to publish its legal notices. See Exhibit B to the Petition. Based on this one argument, Cushing claims that it, and “similarly situated parties” were denied the opportunity to file comments, a stay, an offer of financial assistance, a petition to reopen, or a request for public use. Cushing also argues that Federal Register publication is no substitute for proper newspaper publication. On top of these make-weight irrelevant claims, Cushing attempts to use a local ordinance to pre-empt the Board’s rules.

Cleverly, Cushing does not state that it did not receive notice of the abandonment and discontinuance. Indeed, Ms. Debbie L. Layne of CSXT discussed the prospects for the Line with Mr. John Tesiero, President of Cushing and the same John Tesiero who submitted an affidavit with the Petition. See Exhibit B, Ms. Layne’s verified statement. Ms. Layne told Mr. Tesiero that “CSXT would likely abandon the Line.” Cushing was on actual notice of the potential abandonment and discontinuance of service, and should have been diligent to protect its interests.⁴

Respondents disagree with Cushing’s interpretation of 49 C.F.R. § 1105.12 which requires that “the applicant shall publish a notice in a newspaper of general circulation in each county in which the line is located and certify to the Board that it has done this by the date its notice ... of exemption is filed.”

position. See citations to “49 C.F.R. 1152(d)” and “49 C.F.R. 1152.12” at first page of unnumbered Petition.

⁴ Respondents contend that Cushing has no interest in the Line since it has not been used in nearly three and one-half years.

Respondents published the appropriate notice in the Daily Gazette. See the letter dated March 5, 2003 and filed March 13, 2003, from Ms. Natalie S. Rosenberg to the Board's Secretary, the Honorable Vernon A. Williams, and the attached certification from Ms. Amy Hills. Section 1105.12 requires publication in a newspaper of general circulation in each county, not publication in the newspaper designated by a county board of supervisors for all "local law, legal notices, advertisements for bids and other matters required by law to be published." See Resolution No. 4 attached to the Petition in Exhibit B.

The issue raised by Cushing is whether the Daily Gazette is a newspaper of general circulation in Montgomery County, NY. The Daily Gazette is read by about 27.3% of the adults in Montgomery County and reaches about 21.7% of the households in Montgomery County. See Exhibit C, The Gazette Newspapers Readership/Circulation, <http://www.dailygazette.com/adv/reader.htm>. Respondents claim that the Daily Gazette's level of readership in Montgomery County, NY makes it a newspaper of general circulation. Moreover, a newspaper of general circulation may not be one chosen by the local government as the newspaper for its official notices. Cushing is wrongly attempting to subject the primacy of Federal law in the area of abandonment⁵ to the regulations of the Montgomery County Board of Supervisors. Adopting Cushing's argument would subject all of the railroads in the United States to the additional burden of reviewing every local law and resolution to determine the locally acceptable newspaper for the publication of notices. The Board should allow common sense to prevail. The situation could arise where a local government is hostile to a potential abandonment and concludes that no newspaper provides an appropriate vehicle for notice.

⁵ *Chicago and N.W. Transp. Co. v. Kalo Brick & Tile Co.*, 450 U.S. 311 (1981); *Hayfield Northern R. Co., Inc. v. Chicago and North Western Transp. Co.*, 467 U.S. 622 (1984).

There are newspapers throughout the United States that are of general circulation in counties other than where they are headquartered. As an example, would Cushing argue that the Washington Post was not a newspaper of general circulation in Montgomery County, MD, or that the New York Times was not a newspaper of general circulation in Westchester County, NY? The Gazette Daily may not have the largest circulation in Montgomery County, NY, but it is generally available. Indeed, the Montgomery County Chamber of Commerce considers the Daily Gazette one of the newspapers that service Montgomery County. See Exhibit D, Section titled Communication, last page.

Respondents complied with 49 C.F.R. § 1105.12 by publishing notice in the Daily Gazette prior to filing the Notice. Although the Daily Gazette may not be the required newspaper for Montgomery County local government, it is still a newspaper of general circulation in Montgomery County as well as Schenectady County. As has been demonstrated, the Notice does not contain any false or misleading information and should not be rejected.

2. There is no basis to revoke the exemption.

“The Board may revoke an exemption, to the extent it specifies, when it finds that application in whole or in part of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 10101 of this title.” 49 U.S.C. § 10502(d).

Under 49 U.S.C. 10502(d), an exemption may be revoked, in whole or in part, if the Board finds that: (1) it contains false and/or misleading information, *see, e.g., Save the Rock Island Committee, Inc. v. St. Louis Southwestern Railway Co.*, Docket No. AB-39 (Sub-No. 18X) (ICC served Apr. 1, 1994); (2) regulation is necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. 10101, *see, e.g., Indiana Hi-Rail Corporation--Lease and Operation Exemption--Norfolk and Western Railway Company Line Between Rochester and Argos, IN, and Exemption from 49 U.S.C. 10761, 10762, and 11141*, Finance Docket No. 32162 *et al.* (STB served Jan. 30, 1998) (Hi-Rail); or (3) revocation is necessary to

ensure the integrity of the Board's processes, *see, e.g., Minnesota Comm. Ry., Inc.--Trackage Exempt.--BN RR. Co.*, 8 I.C.C.2d 31 (1991) (*Minnesota*).

When, as here, an exemption has become effective, a revocation request is treated as a petition to reopen and revoke and, under 49 CFR 1115.3(b), the petitioner must specify whether revocation is supported by material error, new evidence, or substantially changed circumstances. The petitioner has the burden of proof and must articulate reasonable, specific concerns to satisfy the revocation criteria. *See Wisconsin Central Ltd.--Exemption Acquisition and Operation--Certain Lines of Soo Line Railroad Company*, Finance Docket No. 31102 (ICC served July 28, 1988); *Minnesota*, 8 I.C.C.2d at 35; and *I&M Rail Link LLC--Acquisition and Operation Exemption--Certain Lines of Soo Line Railroad Company d/b/a Canadian Pacific Railway*, STB Finance Docket No. 33326 et al. (STB served Apr. 2, 1997), *aff'd sub nom. City of Ottumwa v. STB*, 153 F.3d 879 (8th Cir. 1998).

Track Tech, Inc.--Abandonment Exemption--in Adair and Union Counties, IA, STB Docket No. AB-493 (Sub-No. 7X) (STB served November 1, 1999).

The only basis cited by Cushing for revoking the exemption is the argument that the Notice contains false and misleading information, which Respondents have already rebutted. Cushing does not address material error, changed circumstances or new evidence. Nor does Cushing argue that any of the elements of the Rail Transportation Policy of 49 U.S.C. § 10101 requires regulation of the abandonment of the Line.

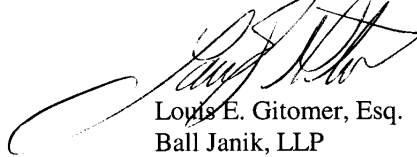
Cushing has not presented grounds to revoke the exemption. Respondents respectfully request the Board to deny Cushing's request to revoke the exemption of the abandonment and discontinuance of service over the Line.

CONCLUSION

Cushing has not demonstrated that the Board should either reject or revoke the Notice.

Respondents respectfully request that the Petition be denied.

Respectfully submitted,



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Washington, DC 20005
(202) 638-3307

Natalie S. Rosenberg, Esq.
CSX Transportation, Inc.
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Jacksonville, FL 32202
(904) 359-1253

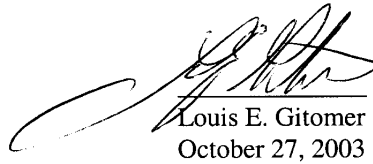
Attorneys for: NEW YORK CENTRAL
LINES, LLC and CSX
TRANSPORTATION, INC.

Dated: October 27, 2003

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this Response in Docket No. AB-565 (Sub-No. 14X), *New York Central Lines, LLC—Abandonment Exemption—in Montgomery and Schenectady Counties, NY*, and Docket No. AB-55 (Sub-No. 629X), *CSX Transportation, Inc.—Discontinuance of Service Exemption—in Montgomery and Schenectady Counties, NY*, was served via hand delivery to:

John J. Faso, Esq.
Manatt, Phelps & Phillips, LLP
1501 M Street, N.W., Suite 700
Washington, DC 20005



Louis E. Gitomer
October 27, 2003

EXHIBIT A

VERIFIED STATEMENT

OF

DAVID S. GERACI

My name is David S. Geraci and I am a Project Manager in the Finance Department of CSX Transportation, Inc. ("CSXT"). My office is located at 500 Water Street, Jacksonville, Florida, 32202. My duties include managing, researching, analyzing and filing for line rationalizations including abandonment's, discontinuance's of service, sales and leases in accordance with Surface Transportation Board requirements. I began my railroad career in August of 1995 as a Yardmaster and have been promoted three times as a company official which has led me to my current position as Project Manager – Asset Management, CSXT Finance Department which became effective January 1, 2001.

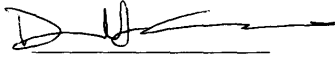
In August, 2002, I was asked to investigate the potential for abandoning the West Shore Industrial Track between Mileposts QGW 159.6 and QGW 165.9 (the "Line") in light of the fact that there had been no shipments on the line since May 14, 2000. I reached out to certain representatives in CSXT's commercial and industrial development groups to confirm that there was no immediate potential for traffic on the Line. After learning from Ms. Debbie Layne that no such potential existed, I began the process of filing a Notice of Exemption to abandon the Line. CSXT's Notice of Exemption was filed on February 28, 2003. The Surface Transportation Board (the "Board") granted CSXT's Notice of Exemption and the New York State Office of Parks, Recreation and Historic Preservation (the "State") requested a Notice of Interim Trail Use, which was granted by the Board. Because CSXT has been negotiating with the State for trail purposes, CSXT has not yet consummated the abandonment authority granted by the Board.

On or about September 30, 2003, I was contacted by Mr. John Faso, an attorney representing Cushing Stone. I explained to Mr. Faso that proceeding with the abandonment/trail negotiations appeared to be in CSXT's best interests. I also informed him, however, that CSXT had not yet consummated the abandonment and, as a result, Cushing Stone has a few options. First, I expressed that CSXT would be more than willing to sell the Line to Cushing Stone post-abandonment for Cushing Stone's use as an industrial track. I went on to explain that CSXT would have no interest in proceeding with the abandonment or trail negotiations to the extent that a viable, quantifiable business opportunity existed on the Line. I invited Cushing Stone to present CSXT with a business plan including a carload commitment. I indicated that CSXT would be more than willing to consider their proposal and weigh it against the costs of continuing to maintain the Line. To date, CSXT has received no such business plan.

VERIFICATION

I, David S. Geraci, verify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed October 15, 2003

A handwritten signature in black ink, appearing to read 'D. S. Geraci', with a horizontal line extending to the right.

David S. Geraci

EXHIBIT B

VERIFIED STATEMENT

OF

DEBBIE L. LAYNE

My name is Debbie L. Layne and I am a Senior Account Manager in the Emerging Markets Division for CSX Transportation, Inc. ("CSXT"). My office is located at 2 N. Charles Street, 11th Floor, Baltimore, Maryland 21201. My duties include negotiating, pricing and selling freight transportation services. I began my railroad career in 1987 as an analyst and have been promoted to Sr. Acct. Mgr, in 2000.

In September, 2002, I learned that CSXT was considering abandoning the West Shore Industrial Track between Mileposts QGW 159.6 and QGW 165.9 (the "Line") in light of the fact that there had been no shipments on the line since May 14, 2000. Because I have responsibility for aggregates, I was asked to talk to Mr. John Tesiero, the owner of Cushing Stone, a business located on the Line. I contacted Mr. Tesiero in September, 2002 and informed him over the telephone that CSXT was considering the Line for abandonment and I asked him if there was any potential for rail traffic on the Line. Mr. Tesiero indicated that the only commodity that he had shipped by rail was ballast purchased by CSXT in the past. Mr. Tesiero indicated that he would like to keep the rail in place due to the hope that CSXT may once again purchase ballast from Cushing Stone in the future.

I contacted a CSXT employee involved with the procurement of ballast and learned that the ballast produced by Cushing Stone does not meet the CSXT engineering specifications for mainline ballast. As a result, I informed Mr. Tesiero that CSXT would not be able to purchase ballast from his company in the future. As a result, I indicated that CSXT would likely abandon the Line.

In August, 2003, I was contacted by Ed Bailey of Cranesville Block about shipping on the Line. When I told him that the Line was being abandoned, he acted surprised. I was surprised that he did not know because it was my understanding that Mr. Tesiero, who I had spoken with about the abandonment, was at least a partial owner of Cranesville Block.

VERIFICATION

I, Debbie L. Layne, verify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed October 20, 2003

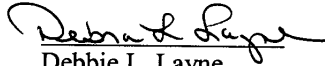

Debbie L. Layne

EXHIBIT C



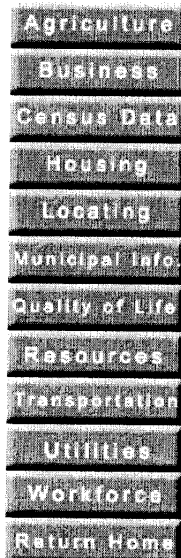
Tel: 518.842.8200

Montgomery County Partnership, Inc.

PUTTING BUSINESS AT THE CENTER OF IT ALL



E-mail |



A Quality Way of Life

Health Care

Education

Cultural

Recreation

Communication

Montgomery County is located in the Mohawk Valley Region of New York State, 27 miles west of Albany. We are within 750 miles of over half of the population of the US and Canada, more than half of all business establishments and more than 60 percent of North America's manufacturing facilities and skilled workers. We welcome your interest in our county, and offer you any assistance you require in locating here. For further information or additional demographics, contact:

Montgomery County Chamber of Commerce

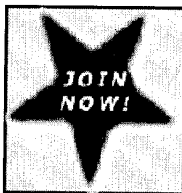
PO Box 309

Amsterdam, NY 12010

518-842-8200

Fax: 518-843-8327

Health Care



Web Site Design
and Hosting
by iPartners, Inc.

Health care options available in Montgomery County include St. Mary's Hospital a Amsterdam Memorial Hospital, both located in Amsterdam. St. Mary's Hospital provides acute inpatient care, a cardiac care center, natural family planning and prenatal care, mental health and alcoholism services, oncology, outpatient surgery, wellness programs, and a birthing center. Amsterdam Memorial offers emergency services, a general medical and a women's health center, rehabilitation services, adult day care and respite, acute care, pediatrics and ambulatory surgery, and wellness programs. Health care choices are supplemented by a number of private physicians, specialists, and providers of eye care, hearing, chiropractic and acupuncture care.

St. Mary's Hospital, founded in 1903 by the Sisters of St. Joseph of Carondelet, is the largest acute care hospital in the region. The hospital cares for over 130,000 patients each year. St. Mary's range of services is designed to fulfill the total health care needs of the community, while being the lowest cost provider.

More than hospital, St. Mary's has become a health care system with three primary care centers and additional sites in the planning stages. St. Mary's was the first hospital in the region to develop community primary care centers. These centers, with doctor's office settings, include the provision of specialty medical services and laboratory services as well as occupational health services.

Amsterdam Memorial Hospital, incorporated in 1888, is a medical health complex

that provides outpatient, ambulatory care and acute inpatient medical, surgical a long term health-care services to over 100,000 patients each year. The Amsterdam Memorial Hospital medical complex is one of the region's largest employer, employing over 560 nurses, therapists, technicians and support professionals.



Education

Secondary education in Montgomery County is provided by the Greater Amsterdam, Fonda-Fultonville, Canajoharie, Fort Plain, and St. Johnsville school districts, the Board of Cooperative Educational Services and private schools such as Montgomery Academy, St. Mary's Institute and St. Stanislaus School. A number of approved day care centers serve the area and a complete up-to-date listing can be obtained from the Children Services Network in Amsterdam.

Post Secondary and Graduate in Montgomery County is served by Fulton-Montgomery Community College; Union College and Schenectady County Community College in Schenectady County; and Skidmore College in Saratoga County. In addition, there are 13 other colleges and universities in the Capital Region, offering students and residents an unlimited choice of educational and career opportunities. Ten are located in nearby Albany County including the University at Albany; Albany Medical College; Albany Law School and Albany College of Pharmacy, both part of Union College; Siena College; and the College of Saint Rose. Other colleges and universities within the six-county Metropolitan Statistical Area are Rensselaer Polytechnic Institute and Hudson Valley Community College in Rensselaer County.

Total public school enrollment K-12 (1996-1997): 8,8097

Percent of students going to college(1995-1996):56.5%

Dropout rate (1995-1996): 3.5%

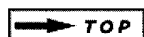
Total non-public school enrollment K-12 (1996-1997): 767

Source: Capital District Business Review, Special Report,: Market Facts & Stats.

Montgomery County's New York Lottery Aid to education for 1997-98 was \$6.9 million

Sources of Public School Revenue
Fiscal Year ended June 30, 1996 (in thousands)

	All Sources	State	Federal	Real Prop. Tax	Non-prop Tax	Other
Montgomery County	75,562	41,404	4,727	25,852	----	3,579



Cultural Amenities

Montgomery County is located just thirty-five miles from Albany, the crossroads of the Capital Region. The Capital Region is the home for two resident professional theaters, community and college theaters, a professional symphony orchestra, choral societies, a chamber music group and a resident contemporary dance company. Famous artists from around the world visit the region and perform at such theaters as Proctor's in Schenectady, the Troy Music Hall and the Saratoga Performing Arts Center (SPAC) in Saratoga Springs. SPAC is the summer home of the New York City ballet and opera companies and the Philadelphia Orchestra. Also within an hour's drive of the Capital Region is Tanglewood—summer home for the Boston Symphony. The list below describes the major arts centers within the region and their offerings.

Art Theaters and Performance Centers

Capital Repertory Company/Market Theater (Albany): A 250-seat playhouse in its ninth season offering comedies, dramas, new plays, and classics.

Cohoes Music Hall (Cohoes): This 111-year old restored historic theater hosts such events as Revivals, new works and experimental music.

Empire State Plaza Performing Arts Center (Albany): Also known as the "Egg", it houses two theaters including 966-seat main theater and showcases top performing acts in music, drama, dance and houses the professional Empire State Youth Orchestra.

The Pepsi Arena (Albany): Opened in January of 1990, the 15,000 seat civic center is the site of concerts, conventions, collegiate and professional sports and other special events.

Palace Theater (Albany): This elegant theater seating 2,800 is highlighted with chandeliers and murals and is host to a variety of musical events year round and home of the Albany Symphony Orchestra.

Proctor's Theatre (Schenectady): The interior of this former movie/vaudeville palace, built in 1926, features the elegance and grandeur of early 20th century architecture. The theater now hosts live drama, dance, music, and touring Broadway plays and is home for the Schenectady Symphony Orchestra.

Saratoga Performing Arts Center (Saratoga Springs): The outdoor amphitheater seating 5,000 with lawn space for an additional 20,000 features performances by the New York City Ballet, the Philadelphia Orchestra, New York City Opera, Newport Jazz Festival, and special music concert events.

Starlite Music Theater (Latham): A 2,972-seat theater in the round, featuring world class talent, comedy shows, country music, and musicals.

Troy Savings Bank Music Hall (Troy): A Victorian theater built in 1871 and acclaimed nationally for its exceptional acoustics it is home of the Troy Chromatic and host to numerous music drama events.

County Cultural Amenities

Our county boasts six libraries and the Montgomery County Department of History and Archives, all of which are rich resources for local history and genealogical research.

Nearly 90 churches, synagogues and places of worship are available for the spiritual needs of the community.

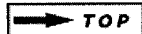
Montgomery County is fortunate to have a number of agencies that provide services to the less fortunate. For example, the Independent Living Center provides services to those with disabilities in conjunction with the New York State Office of Vocational and Educational Services for Individuals with Disabilities. Independent Living provides advocacy, living skills training, transportation, equipment and consultation to nearly 500 individuals and their families.

A strong United Way supports another 16 agencies, which serve youth, seniors and the community at large. United Way agencies in Montgomery County are:

- Amsterdam YMCA
- Big Brothers/Big Sisters of Montgomery County
- Boy Scouts of America
- Catholic Youth Organization
- Community Maternity Services
- Court Appointed Special Assistants Program (child advocacy in family court)
- Mohawk Pathways Girl Scouts
- St. Johnsville Youth Center
- Horace J. Inman Senior Citizens Center
- United Cerebral Palsy Association
- Alternatives to Incarceration
- American Red Cross, Montgomery County Chapter
- Catholic Family and Community Services
- Legal Aid Society of Mid-New York
- Montgomery County Literacy Volunteers of America
- The Greater Amsterdam Clergy Relief Association

In addition, a growing Hispanic Population in Amsterdam is served by Centro Civico, which provides youth educational programs, mentoring and internship programs, bi-lingual advocacy and business assistance counseling.

Other service agencies include the SPCA Animal Shelter, Catholic Family and Community Services, American Cancer Society, Cerebral Palsy Association, Association for Retarded Children, Heart Association, Amsterdam Housing Authority, Fulmont Development Facility, Transitional Services, Office for the Aged, Dial-A-Ride, Meals for the Elderly, Veteran's Affairs, Rape Crisis and Domestic Violence, as well as numerous county and state agencies.



Recreation

The scenic beauty of Montgomery County is without comparison. The county is bisected by the Mohawk River and the remains of the Erie Canal. It offers a number of outdoor activities, from stock car racing at Fonda Speedway, to quieter pursuit at any one of seven recreation areas for hiking, bicycling, fishing, boating or just relaxing. A new Riverlink Park will be a \$5 million+ facility in Amsterdam connecting the office/retail establishments at Riverfront Center with the river. The park will offer dining, a performance space, boat dock, promenade and other amenities in a landscaped environment.

Golfers can enjoy one of three 18-hole courses, including one designed by Robert Trent Jones. There are no less than 18 sites of historic and cultural interest, including a martyr's shrine, and sites related to the Mohawk Indians, and of course the Revolutionary War.

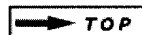
Agriculture is a main industry in Montgomery County, as evidenced by a landscape dotted with dairy farms and produce stands. It's not uncommon to see a horse drawn wagon making its way along a country road- indicative of the Amish population which has settled in our area. Buy their farm-fresh produce, a homemade quilt or baked goods.

Our architecture ranges from farmhouses to more stately Victorians, to Revolutionary-era homes to mill buildings that are remnants of the Industrial Revolution.

Shopping malls and retail centers can be found in the town of Amsterdam and in the downtown areas of our villages. Quaint stores offer personal service and one-of-a-kind items. Dine out at one of our many restaurants, or take in a movie at a theater, or on summer nights, try the drive-in!

Our tourism slogan is "Montgomery County Loves Company," which you will find true by the hospitality you will receive, especially at our 10 hotel/motel and four bed and breakfasts.

Other cultural resources are less than an hour's drive away, including the horse racing excitement and concerts offered at Saratoga Springs or sporting events, performances and museums in Albany, the state capitol.

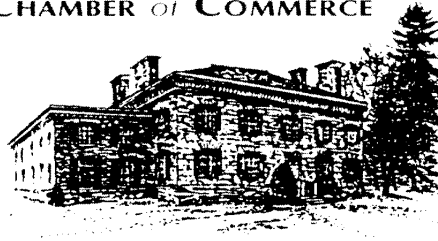


Communications

Keep informed on area events through the daily newspaper, The Recorder, the weekly Courier Standard Enterprise or My Shopper. The area is also serviced by the Albany Times Union and Schenectady's Daily Gazette. WBUG and WCSS provide excellent local radio coverage of area events.



MONTGOMERY COUNTY
CHAMBER *of* COMMERCE



Gazette Services

THE GAZETTE NEWSPAPERS

READERSHIP/CIRCULATION

Advertising Info

READERSHIP					
Counties	Total Adults	Daily Gazette Readers	Daily Coverage	Sunday Gazette Readers	Sunday Coverage
Schenectady	112,335	66,630	59.3%	72,025	64.1%
Saratoga	151,845	32,325	21.2%	29,965	19.7%
Montgomery	37,280	10,180	27.3%	12,420	33.8%
Albany	230,550	7,830	3.4%	5,145	2.2%
Rensselaer	115,490	670	0.5%	1,665	1.4%
Fulton	41,180	8,115	19.7%	10,015	24.3%
Schoharie	23,860	5,670	23.7%	9,010	37.7%
TOTAL		134,080		142,445	

Source: 2000, 2001 Scarborough Research. Release 2 Aug 2001 - July 2002.
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CIRCULATION					
Counties	Households	Daily Circ.	Daily Household Penetration	Sunday Circ.	Sunday Household Penetration
Schenectady	59,195	27,059	45.7%	27,592	46.6%
Saratoga	80,096	10,582	13.2%	10,968	13.7%
Montgomery	19,821	4,299	21.7%	4,410	22.2%
Albany	120,224	3,743	3.1%	2,877	2.4%
Rensselaer	59,516	229	0.3%	335	0.6%
Fulton	21,898	2,755	12.6%	3,070	14.0%
Schoharie	11,966	2,488	20.8%	3,214	26.8%
TOTAL		51,542		52,773	

Source: ABC Audit September 30, 2002.



Most Caring Athletes and Coaches



NON SEQUITUR VIEW



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EXHIBIT D