

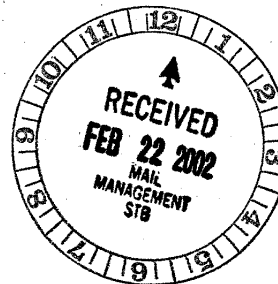
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THE LAW OFFICES OF  
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BY HAND AND FAX  
 565-9002

February 22, 2002

Honorable Vernon A. Williams  
 Secretary  
 Surface Transportation Board  
 1925 K Street, N.W.  
 Washington, D.C. 20423-0001

RE: STB Docket No. AB-565 (Sub-No. 3X), New York Central  
 Lines, LLC-Abandonment Exemption-in Berkshire County, MA

STB Docket No. AB-55 (Sub-No. 595X), CSX Transportation,  
 Inc., Discontinuance of Service Exemption-in Berkshire  
 County, MA

Dear Mr. Williams:

I am writing on behalf of the Housatonic Railroad, Inc. ("Housatonic") offeror in the above-captioned proceeding, to reply to the letter filed February 21, 2002, by New York Central Lines, L.L.C., and CSX Transportation, Inc., (hereafter collectively referred to as "CSXT"). Because CSXT's letter asks the Board to reject Housatonic's OFA, Housatonic will treat this filing as a Petition to Reject.

Housatonic was very surprised to receive CSXT's Petition since the expedited nature of the Board's Offer of Financial Assistance procedures do not contemplate the filing of any form of replies or other responsive pleadings. STB Docket No. AB-167 (Sub-No. 766N), Conrail Abandonment of the Weehawken Branch-In Hudson County, NJ (decision served Feb. 16, 2001). Because CSXT has now challenged Housatonic's filing by way of a Petition, Housatonic is entitled to and does submit this reply in order to present the Board with the most complete record possible. 49 CFR 1104.13.

CSXT's dual arguments that Housatonic did not explain the disparity between CSXT's valuation and its offer and that

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Housatonic's offer is such a low percentage of CSXT's valuation as to be bogus are misplaced in two respects. First, as CSXT knows well, Board and Interstate Commerce Commission precedent do not require that an offer be detailed. It need only show that the offeror is financially responsible and that the offer is reasonable. Conrail Abandonments Under NERSA, 365 I.C.C. 472 (1981). Moreover, precedent does not require that the offer provide a precise computation of how the offeror arrived at its proposed valuation but rather that the offer contain a generalized explanation of its amount. If anything, Housatonic's multi-page quarter inch thick offer goes well beyond the bounds of what is required at this early stage of a financial assistance proceeding.

Because Housatonic did not expect to submit and the Board's regulations do not require it to submit a detailed critique of CSXT's appraisal at such an early stage in these proceedings, it has not done so. But because CSXT has made an issue of this point, Housatonic submits with this letter a four page summary and transmittal letter of a "Technical Desk Review" of CSXT's appraisal prepared by Norman Benedict Associates, Inc., and moves for its admission into evidence.

Second, regarding the amount of the offeror's valuation, Housatonic is not aware of and CSXT has not cited any precedent holding that an offer must be at least some minimal percentage of the abandoning railroad's appraised value to be accepted by the Board. In fact, the Board recently found reasonable a \$5,000 offer for a 3.72 mile line of railroad valued by the abandoning carrier at \$1.6 million. See, STB Docket No. AB-33 (Sub-No. 170), Union Pacific Railroad Company - Abandonment - In Polk County, IA (served January 30, 2002) (the Board rejected the offer solely on the grounds that the offeror had not submitted any information such as financial statements or letters of credit documenting its financial responsibility).

Could it be that Housatonic's offer (which is more than twice the value established under the purchase option provisions of the 1982 trackage rights agreement and exceeds Housatonic's NLV calculations) is proper and that CSXT's \$225,000 per mile valuation for a right of way through an economically depressed city of 45,793 people<sup>1</sup> where wetlands regulations effectively prohibit development of the most of the right of way is

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<sup>1</sup> According to the 2000 census.

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excessive? That is a proper issue for Board determination should the parties fail to resolve their differences through negotiation and the Board be asked to arbitrate those differences. It is premature for CSXT to ask the Board to prejudge this issue.

Accordingly, Housatonic respectfully requests that the Board disregard CSXT's petition, accept the summary of the "Technical Desk Review" prepared by Housatonic's appraiser, find its offer acceptable, and order negotiations to commence between the parties.

Please date stamp and return one copy of this letter for our files.

Sincerely yours,



John D. Heffner

Enclosure

cc: David Konschnik, Esq. (by fax)  
Louis E. Gitomer, Esq. (by hand)  
Natalie S. Rosenberg, Esq. (by fax and mail)  
Edward J. Rodriguez, Esq.

**TECHNICAL DESK REVIEW OF:**

**LIMITED SUMMARY APPRAISAL REPORT OF:  
CSX ABANDONED RAILROAD CORRIDOR  
PITTSFIELD, MASSACHUSETTS  
APPRAISAL NO: 104**

**APPRAISAL BEING REVIEWED WAS PREPARED BY**

**MR. DAVID J. SCHULTE, MAI  
REALTY ADVISORS, LLC  
PONTE VEDRA BEACH, FLORIDA**

**REVIEWED FOR**

**ATTORNEY EDWARD J. RODRIGUEZ  
EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL  
THE HOUSATONIC RAILROAD COMPANY, INCORPORATED**

**PROPERTY OF**

**CSX TRANSPORTATION, INCORPORATED**

**KNOWN AS**

**ABANDONED CSX RAILROAD CORRIDOR  
EXTENDING SOUTH FROM THE PITTSFIELD/LANESBOROUGH TOWN LINE**

**APPRAISED AS OF**

**NOVEMBER 30, 2001**

**APPRAISED FOR**

**MR. MARK C. HOLDER, MAI  
CSX REAL PROPERTY, INC.  
JACKSONVILLE, FL 32202**

**APPRAISAL REVIEWED BY**

**NORMAN BENEDICT ASSOCIATES, INC.  
2795 WHITNEY AVENUE: HAMDEN, CONNECTICUT 06518  
(203) 248-5511 TEL, (203) 248-7771 FAX nbavalue@iconn.net EMAIL**



## Norman Benedict Associates, Inc.

Norman R. Benedict, MAI-CRE  
Jarvis W. Nichols, GAA  
N.R. Benedict Jr., CRE-GAA

2795 Whitney Avenue  
Hamden, CT 06518  
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(203) 248-7771 Fax  
nbavalue@icomm.net Email

February 14, 2002

Mr. Edward J. Rodriguez, Esquire  
Executive Vice President and General Counsel  
The Housatonic Railroad Company, Incorporated  
8 Davis Road West  
P.O. Box 687  
Old Lyme, Connecticut 06371

Re: Technical Desk Review of:

Limited Summary Appraisal Report Completed by:

Mr. David J. Schulte, MAI  
Schulte Realty Advisors, LLC  
7044 Cypress Bridge Drive South  
Ponte Vedra Beach, Florida 32082

Review Report Prepared for:

Mr. Mark C. Holder, MAI  
CSX Real Property, Inc.  
301 West Bay Street, Suite 800  
Jacksonville, Florida 32202

Located at:

Abandoned CSX Railroad Corridor  
Extending South from the Lanesborough/Pittsfield Town Line

Property of:

CSX Transportation, Incorporated

Known as:

Abandoned CSX Railroad Corridor  
Extending South from the Pittsfield/Lanesborough Town Line

Dear Attorney Rodriguez:

In accordance with your request, I am delivering to you my technical desk review of 24 pages. This is in accordance with your request of February 1, 2002 to review the indicated appraisal. I have comprehensively read the report, examined the calculations, and analyzed the methodology employed, as well as the value conclusions derived. This review summarizes my observations and opinions on a category/component basis, setting forth my conclusions which were derived through the development of a desk review. This report has been prepared in accordance with the requirements of The Housatonic Railroad Company, Incorporated and in compliance with the regulations of the Uniform Standards of Professional Appraisal Practices (USPAP).

The PURPOSE of this review is to provide my opinion of the quality of the appraisal completed and the appropriateness/reliability of the value conclusions presented. It is my understanding that the INTENDED USE of this review is to assist you in evaluating the nature and reliability of the appraisal and the value conclusions which it presented. This is part of the process of reestimating a value of the property. It is my further understanding that the INTENDED USER of this review is yourself or The Housatonic Railroad Company, Incorporated. This review is subject to the underlying assumptions and limiting conditions which are presented within the attached review and/or its Addenda.

The NON-VALUATION SECTION of the appraisal report presented several potential insufficiencies, inadequacies and possible errors which ultimately may have impacted on the value estimated. Initially, and potentially most notable, are important questions relevant to the actual area of the property appraised. In the Summary of Important Facts and Conclusions, the appraiser noted a length of 2.5 miles and an area of 18.13 acres which would imply a width of this corridor of 59.83 feet. This statement is reiterated in the Identification of the Subject Property. However, in the Property Description section, the area is estimated as measuring 17.36 acres, with a typical width of 82.50 feet, which would indicate a length of 1.74 miles. Clearly, there are conflicts directly within the appraiser's own report which allow one to question the accuracy of the value conclusions derived. Moreover, an examination of the "Val Maps" appears to indicate a length of 1.91± miles, which calls the appraiser's eventual conclusions into even greater question.

Other Non-Valuation section problems also appeared to possibly be present. The most notable of these pertains to the Highest and Best Use section. This section appeared to be split into portions and appeared not only under the Highest and Best Use category, but also in the valuation category towards the conclusion of the report. It presented alternatives which, in my opinion, are not realistic and did not take into account current reasonable socio economic conditions. Moreover, it did not appear to address the typical liquidation scenario of the subdivision of the corridor and sale to abutters. Subsequently, inasmuch as the conclusions pertinent to the Highest and Best Use are questionable, it once again allows one to question the reliability of the Valuation section.

The neighborhood section is another point about which important questions are present. It appears to be based predominantly on "boiler plate" which is copied in the Addenda of the report, with two summarized/generalized paragraphs in the body of the report. It never draws any direct conclusions pertinent to the property appraised and any relevance to its value. Moreover, although there are brief neighborhood descriptions in the three property description sections, these are overly brief and not fully inclusive. They don't mention anything about negative influences present pertaining to improvements or surrounding undeveloped/water related influences. It provides the reader, who might be unaware of this property, with an inaccurate picture of what is truly present. Combined with the other points addressed in the previous two paragraphs, it further compounds problems relevant to estimating an accurate indication of the value of the property appraised.

The final point of importance pertains to the description of the property appraised. For the most part, it is simply described as "the section of this corridor consists of one continuous run". From a rudimentary perspective, it does not address shape, topography, subsurface soil conditions or the like. It does not address any questions pertinent to limitations which might be derived from

easements, restrictions, right-of-ways or other encumbrances such as the predominance of water related influences. Finally, it does not address the availability or provision of utilities or public services. Once again, although it is recognized that this is a "Limited Summary" appraisal, these are important points which should have been addressed so that an accurate value analysis could be derived.

The VALUATION SECTION of the report also presented a diversity of points which should be addressed. Initially, given the complexity and nature of this property, even though it is recognized that a "Limited Summary" appraisal was completed, this section was overly brief. In two pages, it summed up all of the possible value influences derived from four different groupings of data pertaining to three differing types of properties. It presented conclusions in a somewhat speculative and overly concise manner, with virtually no explanation of the conclusions. Moreover, it appeared to derive answers of an extreme level of accuracy, down to pennies per square foot, which does not seem reliable.

In addition, the Valuation section appears to leave out a diversity of important facts. It did not appear to wholly or accurately adjust the value of the appraised land to account for the severe restrictions which the direct and/or indirect influence of water related factors may present. It made no allowance for other items of consideration such as subsurface soil conditions, utilities, public services and the like. Among other important points, it did not appear to address the basic point of supply and demand and question how the basic lack of demand/need for the appraised, especially given its physical influences, would impact on value. Simply stated, it is my opinion that it did not provide for a reliable indication of the value of the property appraised under the value as defined.

In CONCLUSION, my technical desk review of the report completed by Mr. David J. Schulte of the Abandoned CSX Railroad Corridor was found to be unsatisfactory. The Non Valuation section of the report presented a wide diversity of insufficiencies and inadequacies of both a major and minor perspective. These most notably included inconsistencies pertaining to the area being appraised, the conclusions presented in the Highest and Best Use section, the nature of the neighborhood description provided and the nature of the land description provided. The Valuation section also presented a diversity of insufficiencies and inadequacies. These initially incorporated the prestated concerns pertaining to the accuracy of land area and Highest and Best Use conclusions employed, but additionally involved concerns about the methodology and nature of valuation adjustments employed. In summary, it is my opinion that the Market Value of the property appraised, of \$450,000.00, as presented in the report reviewed, is not appropriate, and that the value alternatively developed within our report, which is \$61,000.00±, is more appropriate.

Respectfully submitted,

*N.R. Benedict, Jr.*

N.R. BENEDICT, JR., CRE-GAA  
ASSOCIATE  
MA General Appraisers License #5580

norman benedict associates, inc.

(203) 248-5511

TOTAL P.04