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September 11, 2003

ENTERED
Office of Proceedings

SEP 12 2003

Part of
Public Record



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

Re: STB Docket No. AB-55 (Sub-No. 568)
CSX Transportation, Inc. – Abandonment
Exemption in Franklin County, Pennsylvania

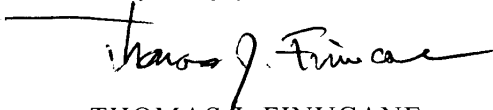
Dear Mr. Williams:

I represent the Borough of Chambersburg. Enclosed herewith please find the original and 10 copies of the Borough's response to the Foxes' motion for stay. Please file the original and 9 copies and return one stamped copy to me in the envelope provided.

If you have any questions or need additional information, please contact me.

Thank you for your cooperation.

Very truly yours,



THOMAS J. FINUCANE
Borough Solicitor

TJF:cml
Enclosure

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



DOCKET NO. AB-55 (SUB-NO. 568X)

CSX TRANSPORTATION, INC.
ABANDONMENT EXEMPTION
IN FRANKLIN COUNTY, PENNSYLVANIA

IN RE: MOTION OF FREDERICK A. FOX, KAYE A. FOX AND
FREDERICK ARMSTRONG FOX FOR AN ORDER STAYING
CSXT'S RIGHT TO EXERCISE ITS ABANDONMENT AUTHORITY
FOR THE PORTION OF ITS LINE THAT EXTENDS FROM FOURTH
STREET TO MAIN STREET IN THE BOROUGH OF
CHAMBERSBURG, FRANKLIN COUNTY, PENNSYLVANIA,
PENDING THE BOARD'S DISPOSITION OF THE FOXES'
PETITION FOR PERMISSION TO FILE AN AMENDED OFFER OF
FINANCIAL ASSISTANCE OR, ALTERNATIVELY, TO REOPEN
THE DECISION SERVED BY THE BOARD ON MARCH 9, 1999,
PURSUANT TO 49 CFR 1152.25(E), TO PERMIT THE FILING OF A
NEW OFFER OF FINANCIAL ASSISTANCE, NUNC PRO TUNC

BOROUGH OF CHAMBERSBURG'S REPLY TO STAY MOTION

September 11, 2003

Thomas J. Finucane
Finucane Law Office LLP
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No. PA 07290

Reply to Motion for Stay

Now comes the Borough of Chambersburg, by its Solicitor,
Thomas J. Finucane, Esq. and replies to the Motion for Stay as follows:

Background. Petitioners in the above matter, Frederick A. Fox, Kay A. Fox and Frederick Armstrong Fox (“the Foxes”) filed a stay motion which is pending before the Board. The Borough of Chambersburg (“Borough”), a Pennsylvania Municipal Corporation, objects to the stay being granted.

Object of Stay. The stay requested by the Foxes is to prevent CSX Transportation, Inc. (“CSXT”) from transferring to the Borough the CSXT right of way between Fourth Street and Main Street (the “Right of Way”) in Chambersburg, Pennsylvania.

CSXT Required by Existing Contract to Convey Right of Way.

CSXT was required by written agreement to convey the right of way to the Borough. This fact was not referred to in the Foxes Motion for Stay of the Petition to make an OFA for the Right of Way.

CSXT entered into an agreement March 18, 1999 (the “Agreement”) which required (in paragraph 3 B) as follows: “CSXT shall convey to

the Borough by quitclaim deed all CSXT ownership interests in the rights of way in the Borough as defined in Exhibit A. The conveyance to the Borough shall be in lieu of eminent domain proceeding.”

Exhibit A of the Agreement included the Right of Way.

The Agreement is attached as Exhibit B to the Borough’s Answer to the Foxes Petition and is incorporated herein by reference.

Is it too late for the Borough to acquire the Right of Way? No. The Agreement provided 5 years for the Borough and CSXT to implement the Right of Way transfer. Page 4 of Exhibit A to the agreement provided in part:

“4th Street to Main – This shows the estimated cost (\$104,000.00) to sell the line from 4th Street to Main. This also includes the siding that serves Chambersburg Engineering. CSXT will continue to serve Chambersburg Engineering as long as maintenance responsibility of the tract and bridge is assumed by another party. The Borough is willing to assume ownership providing there are funds available to maintain the track and bride. **CSXT and the Borough have five (5) years to effect this transaction.**” (emphasis added)

Foxes have no interest in the land abutting the Right of Way. The Foxes are individuals. One of them, Frederick Armstrong Fox, is the sole owner of New Franklin Properties, LLC ("New Franklin"), a Pennsylvania Limited Liability Company. New Franklin, not the Foxes, own the land abutting the Right of Way. New Franklin is a separate legal entity from Frederick Armstrong Fox.

Additional reasons to deny motion.

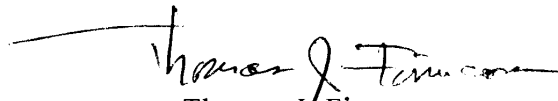
1. Foxes do not have approval for an offer of financial assistance ("OAF") not was one timely filed under 49 U.S.C. 1152.27(c)(1).
2. Foxes do not now use nor do they claim to use the rail track on the Right of Way.
3. Foxes statements concerning potential settlement of matters between the Borough and the Foxes is not relevant to these proceedings.
4. The Borough's acceptance of the CSXT offer, as set forth in Exhibit A to the Answer to the Foxes OFA Petition and incorporated herein by reference, was sent to CSXT by express mail on September 11,

2003. The acceptance makes the petition of the Foxes and therefore their stay request moot.

Wherefore the Borough of Chambersburg requests that the Motion for Stay be denied.

Dated: September 11, 2003

Respectfully submitted,



Thomas J. Finucane
Attorney for Borough

CERTIFICATE OF SERVICE

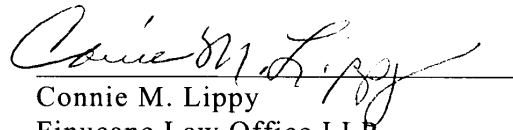
I, Connie M. Lippy, a secretary in the law offices of Finucane Law Office LLP, hereby certify that I have served this day the foregoing document, by overnight mail service, postage prepaid, in Chambersburg, Pennsylvania, to the person and address indicated below:

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September 11, 2003



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