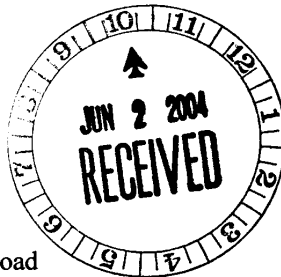




1941 Greenspring Drive
Timonium, Maryland 21093

*THE NORTHERN CENTRAL
RAILROAD*



Telephone: (443) 414-6210
Fax: (410) 667-3533

21167

FROM: James Riffin, CEO
The Northern Central Railroad

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

**BY FAX AND OVERNIGHT
DELIVERY**

RE: James Riffin d/b/a The Northern Central Railroad - Acquisition and Operation
Exemption - Line of Railroad in York County, Pennsylvania, Finance Docket No.
34501.

DATE: May 28, 2004

**ENTERED
Office of Proceedings**

JUN -2 2004

Dear Secretary Williams:

**Part of
Public Record**

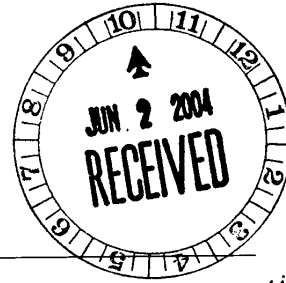
I am enclosing an original, ten (10) copies, and a 3.5" diskette of Riffin's Answer to
Comments of the State of Maryland, in the above referenced proceeding.

Thank you for your assistance.

Sincerely,

James Riffin, CEO
The Northern Central Railroad

Before the
Surface Transportation Board
Finance Docket No. 34501



**JAMES RIFFIN d/b/a THE NORTHERN CENTRAL RAILROAD-
ACQUISITION AND OPERATION EXEMPTION - LINE OF RAILROAD IN
YORK COUNTY, PENNSYLVANIA**

211167

**RIFFIN'S ANSWER TO
COMMENTS OF THE STATE OF MARYLAND**

~~ENTERED~~
Office of Proceedings

JUN -2 2004

~~Part of~~
Public Record

1. On May 18, 2004, the State of Maryland ("Maryland") filed Comments of the State of Maryland ("Comments") with respect to the Verified Notice of Exemption filed in this proceeding on April 28, 2004 ("Pennsylvania NOE"). What follows are James Riffin d/b/a The Northern Central Railroad's ("Riffin") responses to those comments.

2. **Comment:** Maryland requested the Board undertake an investigation of the representations made by Riffin in his Pennsylvania NOE.

Response: Maryland failed to indicate which representations it wanted the Board to investigate. The Applicant obviously is Riffin. Maryland has communicated with counsel for York County, PA, and has reviewed York County's Web Site regarding the line which is the subject of Riffin's Pennsylvania NOE. Maryland has already verified York County is the owner of the right-of-way, that to date, no agreement has been reached with York County, and that York County sent Riffin, as an exemplar, a copy of the lease agreement it had executed with the previous operator of the line. The operator of the line will be Riffin. The line is located in York County, PA. Riffin will interchange with the Genesee and Wyoming Railroad ("GWR"). [Maryland or the Board could call Tom Lanni, general manager of the GWR, (717-771-1726) to verify GWR is willing to interchange with Riffin.] Projected annual revenues are just that: projections. Actual annual revenues will be determined sometime in the future. Riffin proposes to operate one freight train per day on the line. This will not exceed the thresholds established in 49 CFR §§1105.7 (e) (4) or (5).

Maryland pointed out that there are four historic structures on the line. One of these structures, the Colonial Courthouse, is located in York, PA, on that portion of the line which is owned and operated by the GWR. The other three structures are located adjacent to the line Riffin proposes to operate on. The New Freedom train station has recently been converted into a restaurant. The Hanover Junction train station is utilized as a museum. Riffin's train will pass by these train stations, but will have no adverse impact on the structures. Riffin's train will pass through the Howard Tunnel. When necessary, Riffin will replace rails and ties that are located in the tunnel. Replacing the rails and ties will not have an adverse impact on the tunnel.

3. **Comment:** Maryland objects to Riffin using the expedited class exemption procedures under 49 CFR §1150.31 for his Pennsylvania NOE.

Response: The Board, in its April 20, 2004 decision revoking Riffin's March 8, 2004 Notice of Exemption (Finance Docket No. 34484), did not state it was revoking that NOE because the NOE contained false or misleading statements. The Board revoked that NOE because the Board felt a NOE proceeding was inappropriate for controversial cases in which a more detailed record is required. Decision p.3. The Board then suggested if Riffin wanted to pursue his desire to operate line in Baltimore County Maryland, he could file a full application or an individual exemption.

Maryland, in its Motion to Revoke Riffin's March 8, 2004 NOE, objected to Riffin acquiring or operating the Baltimore County portion of the line which was the subject of that NOE. Maryland did not raise any objection with regard to Riffin acquiring or operating the York County portion of the line. In its Comments to Riffin's York County NOE, Maryland does not object to Riffin acquiring or operating the York County line. Maryland's Comments merely requested that the Board seek additional, unspecified, information from Riffin.

Riffin's York County NOE has been decidedly **uncontroversial**. The York County Commissioners, York County Development Authority, York County Solicitor and Clerk (town manager), all have been extremely supportive of Riffin's goal to reinstitute service over the York County line. The residents Riffin has spoken with along the line, have indicated they would like

to see train service reinstated on the line. A number of individuals have indicated they would utilize Riffin's freight service once it is available.

Historically, Maryland has been adamant in its efforts to *discontinue* rail service on the Baltimore County portion of the former Northern Central line. In 1972, when hurricane Agnes destroyed portions of the line, Maryland *supported* Penn Central's efforts to abandon the Baltimore County portion of the line. Even today, Maryland is doing all it can to facilitate the abandonment of that small portion of the line which Norfolk Southern currently operates on.

Pennsylvania, on the other hand, has been just as adamant in its efforts to *maintain* service on the York County portion of the former Northern Central line. It vigorously contested Penn Central's efforts to abandon the York County portion of the line. When it lost that battle, it purchased the line, then spent millions of dollars repairing those portions of the line that hurricane Agnes had destroyed. It has been very supportive of previous rail carrier's efforts to maintain service on the line, frequently offering financial incentives to those carriers. Alas, the line has languished.

Riffin believes he can succeed where others have failed.. He has the equipment one needs to rehabilitate the track (tamperers, etc.). He has a small, but growing, number of rail cars and power units. He has located a number of highly energetic, knowledgeable individuals who share Riffin's passion to reinstitute service over the York County line. And he has spoken with individuals who are willing to utilize the line once freight service is available.

4. Maryland implies Riffin's efforts to acquire and operate line is part of a scheme designed to obstruct Maryland's efforts to sample the air in one of Riffin's office buildings.

Response: Riffin has been attempting to acquire and operate line for over five years. His first attempt was on Maryland's Eastern Shore, where he attempted to reinstitute service on portions of abandoned line between Greensboro and Easton and between Hurlock and the Choptank river. In July, 2003, **long before** Maryland and Riffin got into a dispute regarding the air quality in one of Riffin's office buildings, Riffin filed a NOE to acquire and operate that

portion of the former Northern Central line which lies in Baltimore County, Maryland (Finance Docket No. 34375). At the time of that filing, Riffin did not know Maryland had a secret agenda to facilitate abandonment of rail service along the former Northern Central line between Baltimore and Cockeysville, Maryland. (Norfolk Southern has operating rights over this portion of the line, which is also used by Maryland's Mass Transit Administration for its light rail service.) If Riffin's proposal to acquire and operate the Baltimore County portion of the line were to be realized, this could thwart Maryland's goal of abandoning the portion of the line between Baltimore and Cockeysville, and would cause Maryland much anguish (and money). (Riffin has been told if freight service over this line is maintained, Maryland would have to spend millions of dollars installing remotely controlled switches on this line.) In its efforts to facilitate abandonment of this line, Maryland has offered millions of dollars in financial incentives to those few shippers who still use the line, in its efforts to persuade those shippers to give up their rail service. In exchange for Maryland's financial incentives, a number of those shippers have agreed not to contest the abandonment of that rail service.

5. **Comment:** Maryland alleged its efforts to thwart's Riffin's goal of acquiring and operating line in York County, PA, are meant to protect the health and safety of the citizens of Maryland.

Response: Riffin does not believe his proposal to operate line wholly within the state of Pennsylvania, will have an adverse impact on the health and safety of the citizens of Maryland. Any concern about polluting the waters of Maryland is ill founded, for the line Riffin proposes to operate in Pennsylvania, is in a watershed which drains north toward York, Pennsylvania. Noise emanating from the train will be far removed from any of Maryland's citizenry. All grade crossings will be in Pennsylvania, therefore no Maryland motorist is likely to have an encounter with the train at a crossing.

6. **Comment:** Maryland questioned whether Riffin's proposal was *bona fide* and feasible.

Response: Riffin believes his proposal to operate the Pennsylvania line is physically feasible. Whether it will be economically profitable, will be determined sometime in the future. Now that Riffin has authority from the Board to acquire and operate the Pennsylvania line, Riffin

will begin the process of executing a lease from York County for use of the line; will begin the process of moving equipment and material to Pennsylvania, so that he can begin rehabilitating the line, and will begin the process of moving his rail cars and power units to the line, so that he has the 'wherewithal' to actually offer freight service to those shippers who have a desire to utilize rail service.

7. **Comment:** Maryland's search of Pennsylvania's *corporate* records did not reveal any Riffin *corporation* registered with the state of Pennsylvania to do business in Pennsylvania.

Response: Riffin is not a corporation, it is a sole proprietorship. As such, it need not register as a corporate entity. As Maryland correctly pointed out, Riffin is not affiliated with "Northern Central Railway, Inc." (This entity is owned by Ken Bitten, an individual Riffin has met and spoken with.)

8. **Comment:** Maryland indicated Riffin has not executed a lease with the York County Commissioners for use of the Pennsylvania line.

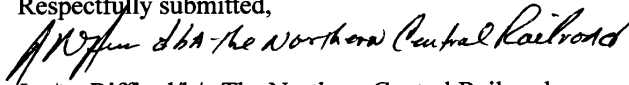
Response: As Maryland correctly pointed out, Riffin made his initial presentation to the York County Commissioners on April 12, 2004. On April 16, 2004, David Craun, York County's solicitor, sent Riffin a copy of the lease it had executed with the previous operator of the line (Ken Bitten's Northern Central Railway, Inc.). During the past five weeks, Riffin has acquired topographical and property tax maps for the corridor of the line, has ascertained to some degree what the right-of-way consists of (and what it does not encompass), has traversed the entire 19-mile line (a number of times), several miles of Genesee and Wyoming's connecting line, the entire 7-mile Stewartstown Railroad connecting line, with maps in hand, noting grades, curves, and the condition of the lines, has identified and spoke with some of the adjacent property owners, has had a number of conversations with Genesee and Wyoming personnel, has arranged to meet with a representative of the union which represents Genesee and Wyoming's operating and maintenance-of-way personnel, has arranged to store some of his rail equipment, cars and material on an adjacent property owner's sidings, has spoken with previous and prospective shippers, has identified sites which are available, and could be utilized for additional

industrial and commercial uses that would utilize rail service, and has inspected and instituted negotiations for the purchase of additional rail cars and power units. In short, Riffin has been rather busy. Now that he has authority from the Board to acquire and operate the Pennsylvania line, he will begin to execute relevant documents, and will set in motion activities related to rehabilitating the line and offering freight services along the line.

CONCLUSION

The Board's regulations specify what information is to be submitted with a NOE application. It specifically states a *brief* synopsis of the proposed activities is to be submitted with the NOE. Riffin believes his NOE complied with those regulations. Maryland has indicated it would have desired to review more information than Riffin submitted. Riffin hopes this additional information will satisfy Maryland's desire for more information. If the Board, or Maryland, would like additional information, it need only indicate what additional information it would desire to review. (Riffin loves to talk about all the minute details associated with building a railroad. His friends are suffering from "information overload," and have politely asked Riffin to spare them from more details. If Maryland, or its counsel would like to spend a few hours (or days) with Riffin as he goes about building this railroad, they would be welcomed.)

Respectfully submitted,



James Riffin d/b/a The Northern Central Railroad

CERTIFICATE OF SERVICE

I hereby certify, that on this 28th day of May, 2004, a copy of the foregoing Riffin's Answer to Comments of the State of Maryland, was mailed, postage prepaid, to Charles A. Spitulnik, of McLeod, Watkinson & Miller, Suite 800, One Massachusetts Avenue, NW, Washington, DC 20001, counsel for the State of Maryland.



James Riffin