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November 27, 2006

EXPEDITED ACTION REQUESTED

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

ENTERED
Office of Proceedings

NOV 27 2006

Part of
Public Record



Re: Finance Docket No. 34963, James Riffin, dba The Raritan Valley Connecting Railroad—Acquisition and Operation Exemption; Petition of Norfolk Southern Corporation and Norfolk Southern Railway Company For Housekeeping Stay and Commencement of a Proceeding.

Dear Secretary Williams:

I enclose for filing in the above captioned proceeding an original and ten copies of a Petition of Norfolk Southern Corporation and Norfolk Southern Railway Company For A Housekeeping Stay of the Effectiveness of the Notice of Exemption and For Commencement of a Proceeding.

Because this petition seeks a stay of the effectiveness of a notice of exemption that will soon become effective, Norfolk Southern respectfully request *expedited consideration* of the enclosed petition.

Sincerely,


Richard A. Allen

Enclosures

cc: David Konschnik (by fax)
James Riffin (by Federal Express)
Steven C. Armbrust, Esq.
John K. Enright, Esq.
John V. Edwards, Esq.

ENTERED
Office of Proceedings

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Public Record

Before The
Surface Transportation Board

Finance Docket No. 34963



JAMES RIFFIN, DBA THE RARITAN VALLEY CONNECTING RAILROAD-
ACQUISITION AND OPERATION EXEMPTION – ON RARITAN VALLEY
CONNECTING TRACK (Line Code 0326, Sub. No. 1038), BETWEEN THE
NORTHERLY SIDELINE OF THE LEHIGH VALLEY LINE (AT FORMER
DELAWARE & BOUND BROOK MP 57.25), MANVILLE BOROUGH, AND THE
INTERSECTION OF THE LINE WITH THE SOUTHERLY SIDELINE OF THE
FORMER RARITAN VALLEY LINE, NOW NEW JERSEY TRANSIT'S RARITAN
VALLEY COMMUTER LINE, IN BRIDGEWATER TOWNSHIP (AT FORMER
DELAWARE & BOUND BROOK MP 58.50), ALL IN SOMERSET COUNTY, NEW
JERSEY, A DISTANCE OF APPROXIMATELY 1.25 MILES

**PETITION FOR OF NORFOLK SOUTHERN CORPORATION AND NORFOLK
SOUTHERN RAILWAY COMPANY FOR A HOUSEKEEPING STAY OF THE
EFFECTIVENESS OF THE NOTICE OF EXEMPTION AND FOR
COMMENCEMENT OF A PROCEEDING**

Norfolk Southern Corporation and Norfolk Southern Railway Company

(collectively, "NS") hereby petitions the Board to issue a housekeeping stay of the effectiveness of the Notice of Exemption filed in this proceeding on November 21, 2006 and to commence a proceeding in order to permit NS to show that the Notice of Exemption seeks to acquire common carrier operating authority that may in fact belong to NS and to permit the Board fully to consider the issues presented.

The Notice of Exemption seeks an exemption from 49 U.S.C. §10901 to authorize for James Riffin, dba The Raritan Valley Connecting Railroad, to acquire and operate as a common carrier 1.25 miles of railroad line in Somerset County, NJ. The Notice asserts that Mr. Riffin does not own the line and is not certain what entity has title to it, but that

“[a]greements are being negotiated.” Notice of Exemption at 1. The Notice further states:

In a deed dated August 24, 1995, recorded in the Land Records of Somerset County, New Jersey, at Liber BK 2031 folio 320 *et al.*, Conrail transferred all of its title and interest in this portion of the former D&BB line, to Joseph C. Horner, an individual. Mr. Horner in turn has leased this line to Bridgewater Resources, Inc. (“BRI”). If Conrail received authority from the Interstate Commerce Commission to abandon this line segment, then BRI has title to the line. If the Commission did not approve abandonment of this line segment, then Conrail would still have title to the line segment.

Notice of Exemption at 2.

The attached verified statement of Robert D’Zuro, an employee of Consolidated Rail Corporation (“Conrail”), states that Conrail never filed an application or petition for exemption to authorize the abandonment or discontinuance of the line segment that is the subject of the Notice of Exemption.

It is NS’ belief that, in the absence of abandonment or discontinuance authority, Conrail retained common carrier operating authority over the line and that such authority was transferred to NS pursuant to the Transaction Agreement approved by the Board in *CSX Corp., et al.—Control—Conrail Inc., et al.*, 3 S.T.B. 196 (1998) (“*Conrail Control*”). Furthermore, even in Conrail retains the common carrier authority, NS understands that Conrail is not negotiating to sell it to Mr. Riffin. Accordingly, the Notice of Exemption is based on incorrect premises

NS further believes that the Class Exemption in 49 C.F.R. §1150.31 invoked by the Notice of Exemption is not available to Mr. Riffin because Mr. Riffin is already a carrier by virtue of his recent purchase of a rail line from CSX Transportation, Inc. pursuant to an offer of financial assistance and the Board’s decision in, *CSX Transportation, Inc.—Abandonment Exemption—In Allegheny County, MD—In the*

Matter of An Offer Of Financial Assistance, STB Docket No. AB-55 (Sub.-No. 659X) (served August 18, 2006). Mr. Riffin's acquisition of a rail line in Somerset County, NJ would not be a transaction subject to 49 U.S.C. §10901 or the Class Exemption established by 49 C.F.R. §1150.31.

A housekeeping stay of the effectiveness of the Notice of Exemption until further order of the Board is warranted to permit NS to provide more complete information to the Board regarding the correctness of the legal and factual assumptions underlying the Notice and to give the Board adequate time fully to consider the issues presented. NS has not had sufficient time to do so because the Notice of Exemption was filed only six days ago, on November 21, 2006, just before the Thanksgiving holiday, and was not served on NS or Conrail. The Notice of Exemption itself acknowledges the Mr. Riffin himself is uncertain about which entity has title to the line.

Furthermore, issuance of a housekeeping stay should not prejudice Mr. Riffin or any other party. The Notice of Exemption acknowledges that Mr. Riffin has not concluded the agreements he would need to acquire and operate the line, and there is no indication that any such agreements are imminent.

The Board has frequently issued housekeeping stays in similar circumstances to permit a more complete development of the record and to give it sufficient time fully to consider the issues presented before a notice or decision is permitted to take effect. *See City of Alameda - Acquisition Exemption - Alameda Beltline Railroad*, 2005 STB LEXIS 618, *2-3, STB Finance Docket No. 34798 (Dec. 15, 2005) (“A housekeeping stay of the effective date of the exemption is appropriate to allow time for the parties to provide additional information and for the Board to consider the issues presented in the stay

request.”) *See also, e.g., Keokuk Junction Railway Company d/b/a Peoria & Western Railway - Lease and Operation Exemption - BNSF Railway Company Between Vermont and Farmington, IL*, STB Finance Docket No. 34918 (August 10, 2006); *Buffalo Southern Railroad, Inc. - Acquisition and Operation Exemption - Line in Croton-On-Hudson, NY*, STB Finance Docket No. 34903 (July 3, 2006); *General Railway Corporation d/b/a Iowa Northwestern Railroad Company - Operation Exemption - Line of Dickinson Osceola Railroad Association*, STB Finance Docket No. 34037 (May 25, 2006).

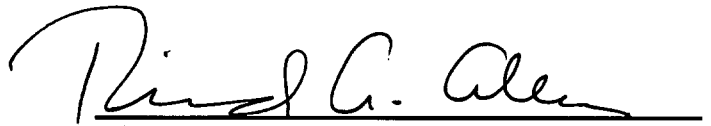
Indeed, in Ex Parte No 659, *Public Participation in Class Exemption Proceedings* (served October 19, 2006), the Board recently lengthened the time before which a notice of exemption filed under 49 C.F.R. §1150.31 may take effect for the very purpose of giving the public and the Board more time to address issues that may be presented by such a notice. Pursuant to that decision, the new notice period went into effect on November 23, 2006. Although it is not entirely clear, it would appear that the new period applies to the Notice of Exemption in this proceeding and would not take effect until 30 days after November 21, 2006, or December 21, 2006. In any event, NS submits that the circumstances in this case warrant the issuance of a housekeeping stay until further order of the Board.

NS also requests the Board to institute a proceeding to consider the issues presented by the Notice of Exemption and this petition and to establish a procedural schedule for the submission of evidence and comments by all interested parties.

CONCLUSION

The Board should issue a housekeeping stay of the effectiveness of the Notice of Exemption filed in this proceeding until further order of the Board and should institute a proceeding and establish a procedural schedule for the submission of evidence and comments by all interested parties.

Respectfully submitted,



John V. Edwards
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CORPORATION**
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*Attorneys for
Norfolk Southern Railway Company*

November 27, 2006

CERTIFICATE OF SERVICE

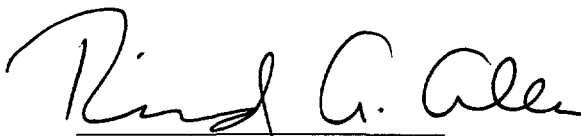
I certify that I have this 27th day of November, 2006, caused copies of the foregoing Petition of Norfolk Southern Corporation and Norfolk Southern Railway Company to Petitioner's Second Discovery Requests to be served by first class mail, postage prepaid, and, in the case of James Riffin, by overnight delivery, on the following:

John K. Enright
Assistant General Counsel
Consolidated Rail Corporation
1000 Howard Blvd.
Mt. Laurel, NJ 08054-2355

John V. Edwards
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Commercial Place
Norfolk, Virginia 23510-2191
(757) 629-2657

Steven C. Armbrust
Counsel
CSX Transportation, Inc.
500 Water St., J-150
Jacksonville, FL 32202
(904)359-1229

James Riffin
1941 Greenspring Drive
Timonium, MD 21093
(By Federal Express)


Richard A. Allen

Before The
Surface Transportation Board

Finance Docket No. 34963

JAMES RIFFIN, DBA THE RARITAN VALLEY CONNECTING RAILROAD – ACQUISITION AND OPERATION EXEMPTION – ON RARITAN VALLEY CONNECTING TRACK (Line Code 0326, Sub. No. 1038), BETWEEN THE NORTHERLY SIDELINE OF THE LEHIGH VALLEY LINE (AT FORMER DELAWARE & BOUND BROOK MP 57.25), MANVILLE BOROUGH, AND THE INTERSECTION OF THE LINE WITH THE SOUTHERLY SIDELINE OF THE FORMER RARITAN VALLEY LINE, NOW NEW JERSEY TRANSIT'S RIARTIAN VALLEY COMMUTER LINE, IN BRIDGEMWATER TOWNSHIP (AT FORMER DELAWARE & BOUND BROOK MP 58.50), ALL IN SOMERSET COUNTY, NEW JERSEY, A DISTANCE OF APPROXIMATELY 1.25 MILES.

VERIFIED STATEMENT OF ROBERT D'ZURO

1. My name is Robert D'Zuro. I am a paralegal employed in the law department of Consolidated Rail Corporation ("Conrail"). I am giving this statement in support of a motion to stay the subject proceeding being filed this date by Norfolk Southern Corporation.
2. I have been employed as a paralegal by Conrail since February 28, 1995. During most of my employment with Conrail, I have been the principal paralegal assigned to assist with abandonment proceedings filed by Conrail with the Surface Transportation Board (and previously the Interstate Commerce Commission). As part of that responsibility, I maintain and update as necessary the legal files for all of the abandonments that have been filed (or considered for filing) by Conrail since its creation in 1976.
3. In connection with the subject Notice of Exemption, I have reviewed the abandonment files with respect to The Raritan Valley Connecting Track (the "Line"). A Notice of Insufficient Revenue was filed by Conrail with respect to the Line on or about October 31, 1985. I also located in the file a memo from Charles Mechem, Esq., a former attorney in Conrail's Law Department, dated April 17, 1986, which identified the Line as one of several for which Mr. Mechem had "not drafted or filed applications (for abandonment) for one or more of several reasons, including – (a) low priority... (b) lack of exhibits, and/or (c) lack of senior management approval." There is no application or notice of abandonment or of discontinuance of service in the file; accordingly, it appears that Conrail never filed for abandonment or discontinuance of service with respect to the Line. There is an e-mail from a Conrail property manager, dated December 2, 1988, confirming that a notice of abandonment or discontinuance of service for the Line was never filed.

VERIFICATION

I, Robert D'Zuro, verify under penalty of perjury that I have read the foregoing verified statement and know its contents, and that it is true and correct to the best of my knowledge and belief. I further certify that I am qualified and authorized to make this statement.

Executed on November 27, 2006

Robert D'Zuro
Robert D'Zuro