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September 9, 2003

BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

ENTERED
Office of Proceedings

SEP - 9 2003

Part of
Public Record

Re: ***Central Michigan Railway Company – Abandonment Exemption – In Saginaw County, MI, Docket AB-308 (Sub-No. 3X)***

Dear Secretary Williams:

Enclosed please find an original and eleven (11) copies of a Motion for Expedited Decision, submitted by Central Michigan Railway Company ("CMR") for filing in the above-captioned case. Please time and date stamp the eleventh copy of this letter and the attached pleading to be returned to the messenger.

Copies of this filing are being served by first-class mail, or by more expeditious service, upon all parties of record. Please do not hesitate to contact me directly if you have any questions regarding this letter or the enclosed materials.

Sincerely,

William A. Mullins

Enclosures

cc: Central Michigan Railway Co.
All Parties of Record

208877

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB-308 (SUB-NO. 3X)

**CENTRAL MICHIGAN RAILWAY COMPANY
- ABANDONMENT EXEMPTION -
IN SAGINAW COUNTY, MI**

MOTION FOR EXPEDITED DECISION



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September 9, 2003

Attorneys for
Central Michigan Railway Company

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB-308 (SUB-NO. 3X)

**CENTRAL MICHIGAN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN SAGINAW COUNTY, MI**

MOTION FOR EXPEDITED DECISION



Central Michigan Railway Company (“CMR”) hereby moves the Surface Transportation Board (“STB” or “Board”) to expedite its consideration of CMR’s Petition for Exemption in order to render a decision on or before October 31, 2003. In support of its motion, CMR shows the following.

SUMMARY

CMR has petitioned for an exemption from the Board’s abandonment regulations in this matter to facilitate a state-sponsored expansion of Interstate 75. In order for that expansion to occur, CMR’s rail bridge which crosses I-75 must be removed. The State of Michigan has already accepted a bid to remove the bridge, but that acceptance is premised on the bridge removal occurring by the end of 2003. If the work cannot be done by that time, the state will have to obtain new budget authority for the project and the contract will have to be re-bid, resulting in substantial delay in accomplishing the safety and congestion-reduction goals of highway project.

Accordingly, CMR asks that the Board enter a ruling in this matter by October 31. CMR submits that the public interest clearly lies in granting expedited consideration to allow this

major state road project to move forward in a timely fashion. There is no countervailing public interest consideration that would warrant further delay.

DISCUSSION

The line in issue was once a heavily-used route for overhead traffic, but now handles only minimal local traffic. The line handled 2600 cars in 2000 and 2100 cars in 2001. In October 2001, CMR's interchange with another carrier was relocated, resulting in movement of overhead traffic to an alternate routing. As a consequence, the line now serves only one local shipper, Plastatech Engineering, Ltd. ("Plastatech").

To serve Plastatech, CMR must cross over a somewhat deteriorated rail bridge that spans Interstate 75. That bridge is a choke point across I-75, as illustrated by the photographs contained in the environmental report filed in this docket (copies included as Exhibit A hereto). Because of this constriction of the roadway, the Michigan Department of Transportation ("MDOT") needs to remove the bridge to widen the roadway, as part of an ongoing state project to reduce congestion and to promote traffic safety by widening I-75.

The state has already accepted a bid for the removal of the bridge, but that bid is premised on being able to conduct the work this year. If the work cannot be done this year, the state will have to obtain new budget authority for the work and will have to re-bid the contract, resulting in substantial delays in achieving the benefits of the project. If CMR were denied the right to abandon the line, it is estimated that it would cost at least \$5.0 million to replace CMR's bridge with a longer span that would accommodate widening the highway.

Plastatech received 57 carloads in 2001 and 81 carloads in 2002, yielding total revenues to CMR of only \$66,500. CMR Petition at 27. Plastatech's August 20 filing in this matter states that Plastatech received only 3 more carloads in the first half of 2003 than in 2002. Plastatech

also suggests that it is “likely” that Plastatech will begin to receive additional raw materials by rail “in the near future,” bringing its total shipping volume to perhaps 127 carloads. Plastatech Reply at 4. No new users of rail service are expected to locate on the line. CMR Petition at 6.

Even assuming that Plastatech’s unverified and vague projections of “likely” traffic “in the near future” were correct, requiring that a new bridge be built so CMR could continue to serve Plastatech would be tremendously wasteful. As CMR noted in its petition for exemption, the state has agreed to pay CMR approximately \$3.0 million for lost business and lost business opportunities if the line is abandoned as the state has requested. If, however, the Board were to prevent abandonment of this track in order to maintain service to Plastatech, it would cost approximately \$5.0 million to build a replacement bridge to maintain service to Plastatech. CMR Petition at 5. Assuming, as Plastatech asserts, that the state would ultimately be compelled to pay this cost, the citizens of Michigan would be forced to spend an extra \$2.0 million just to maintain rail service to Plastatech.¹

Clearly, a public cost of nearly \$2.0 million to allow CMR to continue handling the small volume of traffic now received by Plastatech is not justified. Plastatech received only 138 carloads over the previous 2 calendar years. Even assuming that Plastatech did increase its rail shipping volume “in the near future,” the extra \$2.0 million that would have to be spent to build a new bridge to maintain service to Plastatech would amount to an almost \$15,750 per carload subsidy² to Plastatech. These costs far outstrip the annual costs of alternative service that

¹ Even then, because CMR is losing money on handling traffic for Plastatech, CMR likely still would seek abandonment authority through an abandonment application.

² (\$2.0 million divided by 127 carloads = \$15,748.03 per carload).

Plastatech asserts it would incur.³ With no indication that Plastatech is somehow vital to the state or local economy, no justification for mandating such a huge public subsidy of Plastatech has been shown.

CMR submits that the public interest lies in allowing this abandonment to move forward expeditiously.⁴ In essence, the Board must balance the interests of the people of Michigan, as represented by their state transportation planners, against the interests of Plastatech to earn more profits for its shareholders. The public interest obviously lies with the state, and with allowing it to improve the safety and efficiency of Interstate 75 in Saginaw without unnecessary delay.

CONCLUSION

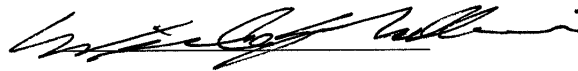
CMR requests that the Board issue a decision in this matter by October 31, to allow the state to proceed without unnecessary delay in accomplishing its project to alleviate congestion and improve safety along Interstate 75 in Saginaw. Forcing the state to expend an additional \$2.0 million or more on this project by requiring construction of a new rail bridge to serve

³ Plastatech Reply at 5. CMR, however, believes that these costs are significantly overstated. CMR has offered to make transloading of the PVC resin available to Plastatech. In conjunction with that service, CMR would continue its current practice of storing PVC shippers' cars on line, without car hire charges, so that Plastatech could continue to order in carload volumes. Also, had Plastatech been willing to discuss the issue, CMR would have been able to offer Plastatech a rate reduction in conjunction with the transload operation, using cost savings from the abandonment to help offset costs of the trucking portion of the transload operation. Inasmuch as Plastatech received all of its PVC resin by truck prior to the year 2000, and much of that moved via a rail-truck transload with NS at Willis, Michigan, the feasibility of CMR's transload plan cannot be challenged realistically.

⁴ In other cases involving road projects, the Board and the ICC have acted expeditiously to allow public projects to move forward. *See Montana Rail Link-Abandonment Exemption-In Lake County, MT*, STB Docket No. AB-575 (Sub-No. 1X) (served Nov. 29, 2002); *Soo Line Railroad Company—Abandonment Exemption—In Hennepin County, Minnesota*, No. AB-57 (Sub-No. 40X) (served May 14, 1998); *Burlington Northern Railroad Company—Abandonment Exemption—In Washington County, OR*, Docket No. AB-6 (Sub-No. 363X)(served Dec. 5, 1994).

Plastatech's small volume of local traffic would be a tremendous waste of public resources. The Board should proceed to conclusion on this matter as quickly as possible to avoid harm to the public through unnecessary delay to the state's congestion mitigation and safety improvement project.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William A. Mullins", written over a horizontal line.

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Attorneys for
Central Michigan Railway Company



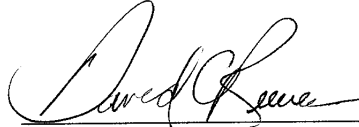
Bridge Viewed From I-75 - Looking South



Bridge Viewed From I-75 - Looking South

CERTIFICATE OF SERVICE

I certify that on September 9, 2003, I served copies of the foregoing Motion for Expedited Consideration upon all parties of record, by first class mail or more expedited service, charges prepaid.

A handwritten signature in black ink, appearing to read "David C. Reeves", is written over a horizontal line.

David C. Reeves
Attorney for
Central Michigan Railway Company