



Surface Transportation Board
Washington, D.C. 20423-0001

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ENTERED
Office of Proceedings
February 24, 2023
Part of
Public Record

MEMORANDUM

TO: Cynthia T. Brown, Chief, Section of Administration, Office of Proceedings

FROM: Martin J. Oberman, Chairman

RE: Ex Parte Communication Related to Docket No. FD 36500

DATE: February 24, 2023

On February 10, 2023, I received a letter from Michael Homsey III expressing views related to the application by Canadian Pacific Railway Limited (Canadian Pacific) to purchase Kansas City Southern and its railroad affiliates (KCS). I have enclosed a copy of the letter to this memorandum. Because Canadian Pacific filed a notice of intent to file an application to acquire KCS on March 23, 2021, and an application to acquire KCS on October 29, 2021, in Docket No. FD 36500, this communication is a prohibited ex parte communication pursuant to the Board's decision in Petition of Fieldston Co., Inc. to Establish Procedures Regarding Ex Parte Communication in Railroad Merger Proceedings, Docket No. EP 619 (STB served Jan. 8, 1997). Please place this memo and the enclosed material in the public docket of Docket No. FD 36500.

3 February 2023

Michael Homsey III
10414 Bird River Road
Baltimore, Maryland 21220
410-335-6996
mhomsey@hotmail.com

Surface Transportation Board
Attn: Martin J. Oberman (Chairman)
(May be reviewed by STB staff)
395 E Street SW
Washington, DC 20423
(202) 245-0245

Martin,

I am very concern that Canadian Pacific (CP) and Kansas City Southern (KCS) are not disclosing to their financial counterparts that a third party can claim parts of the railroad system that they operate over. The Pennsylvania Railroad Company (PRR), which includes all of PRR's subsidiaries, issued a Grant that allows the owner of the Grant to reprocess any appurtenances or appliances (right-of-ways, land, etc) when appurtenances or appliances are not used by the PRR railroad business. Kansas City Southern leadership is aware of trackage that would be impacted, but I assume their leadership's financial benefit out ways committing Financial Fraud. See attached words from Grant and Grant title chain.

Sincerely,


Michael Homsey III

Attached: Words from the Pennsylvania Railroad Company's Grant



Discloser: to the best of my knowledge and ability, below are the Grant words dealing with the Indenture Right-of-way disposition of The Pennsylvania Railroad Company's property (appurtenances, appliances, land, Right-of-ways, et cetera) to James Gardner's assignees. Over the years, parties may have engaged in financial fraud by not disclosing this grant to counterparties.

Michael Homsey III

Date: 9 February 2021

[Book 39 Pages 115-117: Blair County, Pennsylvania] 'With the free and uninterrupted right and privilege of passing at all times hereafter forever over through and along the same with or without locomotives, passengers, freight baggage mail or other cars and so forth. Excepting and Reserving houses unto the said James Gardner his heirs and assigns for his and their own use and benefit all buildings which are wholly or partially erected on the said strip of land and all coal minerals ores oils and stone in upon and under the said above described strip of land and the right to mine dig bore for and carry away the same; the said right to be exercised in such a manner as not to damage destroy obstruct or in any manner interfere with or endanger the right of way and ~~other rights hereby granted on the road bed superstructures, cuts slops or embankments of the said railroad [The Pennsylvania Railroad Company] or any of the appurtenances or appliances there on or there to belonging or appertaining;~~ and the said right reserved as aforesaid to be subject to the right of the said Railroad Company to use any stone and other materials on the said strip of land which the said Company shall require in the construction, reconstruction, repair or improvements of said railroad and any of the appurtenances or appliances hereto or thereon. ~~Provided however that this grant and conveyance are made upon the~~

~~condition and with the understanding and agreement between the parties hereto that the lot or piece of ground hereby granted shall at all times hereafter be used for the purposes incident to the operation and management of said railroad [The Pennsylvania Railroad Company] and upon the further condition that at any time hereafter if the lot or piece of ground shall be diverted by the said Railroad Company [The Pennsylvania Railroad Company] from the uses aforesaid with the intention of wholly and permanently continuing such diversions from said uses that then the said lot or piece of ground shall revert to the said James Gardner, his heirs and assigns, and that he or they shall have the right to enter into and upon, and to repossess the same as if his or their first and former estate and title in the same as though this Indenture had never been made.'~~

Grant Tidal Chain:

- (1) The Pennsylvania Railroad Company and James Gardner's Indenture & Grant: Blair County Pennsylvania Book 39 Page 111.
- (2) Joseph Homsey Sr's deed: Blair County Pennsylvania Book 373 Page 589.
- (3) Michael Homsey Jr's deed: Blair County Pennsylvania Book 567 Page 576.
- (4) Michael Homsey 3rd's deed: Blair County Pennsylvania Book 1131 Page 159 with Betty Agnes Eleanore Homsey's LAST WILL AND TESTAMENT dated 1 June 2019: Baltimore Country Maryland Register of Wills. Note: An oversight in drafting the Michael Homsey 3rd's deed resulted in appurtenances (Grant and Right-of-way attached to property) being inadvertently left out of deed.