

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

July 3, 2008

THOMAS J. LITWILER
(312) 252-1508
tlitwiler@fletcher-sippel.com

VIA ELECTRONIC FILING

Ms. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: **Finance Docket No. 35116**
R.J. Corman Railroad Company/Pennsylvania Lines Inc. --
Construction and Operation Exemption -- Clearfield County, PA

Finance Docket No. 35143
R.J. Corman Railroad Company/Pennsylvania Lines Inc. -- Acquisition
and Operation Exemption -- Line of Norfolk Southern Railway Co.

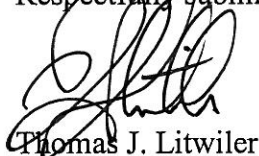
Docket No. AB-167 (Sub-No. 1004N)
Conrail Abandonment of the Snow Shoe Industrial Track
in Centre and Clearfield Counties, Pennsylvania

Dear Secretary Quinlan:

Attached for filing in the above-captioned proceedings is the **Reply of R.J. Corman Railroad Company/Pennsylvania Lines Inc. to Petition to Hold Proceedings in Abeyance**, dated July 3, 2008.

Should any questions arise regarding this filing, please feel free to contact me. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,



Thomas J. Litwiler
Attorney for R.J. Corman Railroad Company/
Pennsylvania Lines Inc.

TJL:tl
Attachment
cc: Parties on Certificate of Service

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35116

R.J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES INC.
-- CONSTRUCTION AND OPERATION EXEMPTION --
CLEARFIELD COUNTY, PENNSYLVANIA

FINANCE DOCKET NO. 35143

R.J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES INC.
-- ACQUISITION AND OPERATION EXEMPTION --
LINE OF NORFOLK SOUTHERN RAILWAY COMPANY

DOCKET NO. AB-167 (SUB-NO. 1004N)

CONRAIL ABANDONMENT OF THE
SNOW SHOE INDUSTRIAL TRACK
IN CENTRE AND CLEARFIELD COUNTIES, PA

**REPLY OF R.J. CORMAN RAILROAD COMPANY/
PENNSYLVANIA LINES INC. TO PETITION
TO HOLD PROCEEDINGS IN ABEYANCE**

Ronald A. Lane
Myles L. Tobin
Thomas J. Litwiler
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEYS FOR R.J. CORMAN RAILROAD
COMPANY/PENNSYLVANIA LINES INC.**

Dated: July 3, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35116

R.J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES INC.
-- CONSTRUCTION AND OPERATION EXEMPTION --
CLEARFIELD COUNTY, PENNSYLVANIA

FINANCE DOCKET NO. 35143

R.J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES INC.
-- ACQUISITION AND OPERATION EXEMPTION --
LINE OF NORFOLK SOUTHERN RAILWAY COMPANY

DOCKET NO. AB-167 (SUB-NO. 1004N)

CONRAIL ABANDONMENT OF THE
SNOW SHOE INDUSTRIAL TRACK
IN CENTRE AND CLEARFIELD COUNTIES, PA

**REPLY OF R.J. CORMAN RAILROAD COMPANY/
PENNSYLVANIA LINES INC. TO PETITION
TO HOLD PROCEEDINGS IN ABEYANCE**

R.J. Corman Railroad Company/Pennsylvania Lines Inc. ("RJCP") hereby replies to the petition of People Protecting Communities ("PPC") to hold these proceedings in abeyance.¹ The relief sought by PPC is not necessary or appropriate to accommodate any legitimate interests, and its arguments are inconsistent with governing legal precedent, including findings by the Board's Section of Environmental Analysis ("SEA") in a similar case within the last month. Allowing these matters to proceed will facilitate, not disrupt, the environmental review that the SEA will conduct pursuant to the National Environmental Policy Act ("NEPA"),

¹ PPC simultaneously sought leave to late file its abeyance petition. RJCP does not object to that request.

and PPC and other interested parties will have full opportunity to participate in that review. PPC's petition should be denied.

BACKGROUND

On May 20, 2008, RJCP filed the petition for exemption in Finance Docket No. 35116 (the "RJCP Construction" proceeding) to reconstruct and operate an abandoned 10.8-rail line extending between Wallacetown Junction and Winburne, Pennsylvania (the "Western Segment"). The Western Segment had been abandoned by Consolidated Rail Corporation in 1995, and RJCP acquired Conrail's remaining rail lines in the area at the end of 1995. See *Consolidated Rail Corp. -- Abandonment Exemption -- In Clearfield and Centre Counties, PA*, Docket No. AB-167 (Sub-No. 1146X) (ICC served September 8, 1995); *R.J. Corman Railroad Company/Pennsylvania Lines, Inc. -- Acquisition and Operation Exemption -- Lines of Consolidated Rail Corporation*, Finance Docket No. 32838 (STB served January 26, 1996). The Western Segment will serve as part of RJCP's new Beech Creek Branch Line, which will extend from Wallacetown Junction through Winburne to Gorton and will serve traffic near Gorton currently being developed by Resource Recovery, LLC ("Resource Recovery") and others.

The Eastern Segment of the proposed Beech Creek Branch Line, from Winburne to Gorton, is a railbanked line now held subject to a Certificate of Interim Trail Use ("CITU") issued in *Conrail Abandonment of the Snow Shoe Industrial Track in Centre and Clearfield Counties, PA*, Docket No. AB-167 (Sub-No. 1004N) (ICC served November 5, 1993). Pursuant to the CITU, Conrail entered into an interim trails agreement for the Eastern Segment² with the Headwaters Charitable Trust ("HCT"), and today a private all-terrain vehicle ("ATV") trail is

² The rail line covered by the CITU and the trails agreement extends beyond the east end of the Eastern Segment at Gorton to Gillintown, Pennsylvania. The Gorton-Gillintown segment is not part of RJCP's Beech Creek Branch Line, and will remain in trail use.

operated on the line by the Snow Shoe Rails to Trails Association (“SSRTA”). See www.ssrt.org.³

Concurrently with its petition for exemption in the RJCP Construction proceeding, RJCP filed a notice of exemption in Finance Docket No. 35143 (the “RJCP Acquisition” proceeding) to acquire the residual common carrier rights of Norfolk Southern Railway Company (“NS,” successor to Conrail) in the railbanked Eastern Segment. RJCP’s notice of exemption specifically indicated that RJCP would not proceed with its acquisition of such rights on the Eastern Segment (encompassing the right to resume rail service) until construction of the Western Segment had been authorized. RJCP Acquisition Notice at 5 (“The transaction is expected to be consummated only following approval of RJCP’s petition for exemption in Finance Docket No. 35116”). Notice of RJCP’s filing was served and published in the *Federal Register* on June 5, 2008.⁴

RJCP also filed a petition in Docket No. AB-167 (Sub-No. 1004N) (the “CITU Vacation” proceeding) to vacate the CITU with respect to the Eastern Segment so as to allow RJCP (as the successor to Conrail) to resume rail operations on that segment.⁵ Vacation of a CITU is a ministerial action by the Board, reflecting the Board’s limited role and lack of

³ The SSRTA website makes clear that ATV use of the trail is restricted to those holding a paid membership with SSRTA. It is not clear whether other uses of the trail by the public are encouraged or permitted. The relationship between HCT and SSRTA is similarly unclear, and to RJCP’s knowledge SSRTA has never sought to be substituted as the trails use sponsor for the Eastern Segment.

⁴ As explained in the Board’s notice (at 2), RJCP has sought waiver of the advance notice provisions of 49 C.F.R. § 1150.42(e) with respect to the proposed acquisition transaction. That request remains pending at the Board. The Board’s waiver decision will determine an effective date for RJCP’s exemption. STB Notice at 3.

⁵ RJCP’s petition to vacate did not include the Gorton-Gillintown segment, which will remain subject to the CITU and interim trail use. See note 1, *supra*.

discretion under the National Trails System Act, 16 U.S.C. § 1247(d), and the statutory right of the railroad “to restore rail service at any time.” *Georgia Great Southern -- Abandon. & Discontin. of Service -- GA*, 6 S.T.B. 902, 907, 908 (2003). As a matter of timing, however, effectuation of the CITU vacation and termination of existing trails use on the Eastern Segment will not occur until RJCP acquires NS’s residual common carrier interests in the Eastern Segment -- and as indicated above that acquisition will not occur until reconstruction of the Western Segment is authorized.

RJCP’s reconstruction of the Eastern Segment is not itself subject to the jurisdiction of the Board and does not require Board approval or review. *See Iowa Power -- Const. Exempt. -- Council Bluffs, IA*, 8 I.C.C.2d 858, 866 n.12 (1990); *Georgia Great Southern*, 6 S.T.B. at 906. To formally obtain such a jurisdictional determination, RJCP included the Eastern Segment in its petition for exemption in the RJCP Construction proceeding, and separately filed a motion to dismiss that portion of the construction petition. That motion is pending at the Board.

PPC is a local group that has actively opposed the development of a landfill at Gorton that would be served by the Beech Creek Branch Line. PPC does not disclose what relationship, if any, it has with HCT or SSRTA, and the bulk of its pleading is devoted to a recitation of the extensive and separate environmental permitting review that has already taken place with respect to the Gorton landfill. Before the Board, PPC seeks to hold RJCP’s petition in the CITU Vacation proceeding and its motion to partially dismiss in the RJCP Construction proceeding in abeyance pending completion of what PPC asserts is the expansive environmental review that the Board must undertake under NEPA in connection with RJCP’s Beech Creek Branch Line pleadings. PPC does not seek abeyance or stay in the RJCP Acquisition proceeding,

and in fact seeks no relief of any kind in that proceeding. PPC also does not purport to oppose any of RJCP's pleadings on the merits.

DISCUSSION

A. There is No Basis to Hold Any of the Proceedings in Abeyance

PPC's most definitive concern seems to be that the existing ATV trail on the Eastern Segment will be eliminated before it is known whether and when the entire Beech Creek Branch Line project will be undertaken. PPC Petition at 15 ("Corman is asking for current Board actions that would appear to immediately authorize the elimination of a popular rail trail . . ."). But that is no concern at all. RJCP has explicitly stated that it does not intend to proceed with acquisition of NS's residual common carrier interests in the Eastern Segment (including the right to resume rail service) until construction of the Western Segment is approved, and the Board has explicitly recognized that intention. RJCP Acquisition Notice at 5; STB Acquisition Notice at 3. Reactivation of the Eastern Segment for rail operations would not and could not occur until that time. In the meantime, RJCP has no intention of interfering with the existing interim trails use of the Eastern Segment. To RJCP's knowledge, the same is true for NS as well.

Particularly in that light, there is no justification for holding RJCP's pending petition to vacate the CITU for the Eastern Segment in "abeyance." The relief sought by RJCP is a purely ministerial act over which the Board exercises no substantive discretion. *E.g., Georgia Great Southern*, 6 S.T.B. at 906, 908 ("[S]tatutory predicate [of the Trails Act is] that an interim trail use arrangement is subject to being cut off at any time for restored rail service [T]he statute gives the railroad the right to restore rail service at any time."). This type of ministerial order under the Trails Act is not a "major Federal action" and does not itself require any environmental review. *Georgia Great Southern*, 6 S.T.B. at 907 (analysis of issues surrounding

reactivation of railbanked line “is based on the Board’s ministerial role under the Trails Act.”); *cf. Iowa Southern R. Co. -- Exemption -- Abandonment*, 5 I.C.C.2d 496, 503-504 (1989), *aff’d sub nom. Goos v. ICC*, 911 F.2d 1283 (8th Cir. 1990); 49 C.F.R. § 1105.5(c)(2) (“The environmental laws are not triggered where the STB’s action is nothing more than a ministerial act, as in . . . [s]tatutorily-authorized interim trail use arrangements under 16 U.S.C. 1247(d).”). RJCP does not object if an order vacating the CITU on the Eastern Segment indicates that actual termination of interim trails use will occur only upon commencement of construction of the Western Segment.⁶

To the extent that PPC’s pleading can be read to imply that any of RJCP’s pending pleadings must be stayed or held in abeyance because the Gorton landfill may not be “an imminent or certain proposition,” PPC Petition at 15, that implication must be rejected. Absolute “certainty” has never been required as a condition for the Board proceeding with consideration of a rail line construction project, and indeed would pervert the permissive nature of authority granted by the Board. *United State Department of Energy -- Rail Construction and Operation -- Caliente Rail Line in Lincoln, Nye and Esmeralda Counties, NV*, Finance Docket No. 35106 (STB served June 27, 2008) (“*DOE/Caliente I*”). As the Board explained in *DOE/Caliente II* (at 3), “uncertainty does not deprive this agency of jurisdiction over the project.”

Here, RJCP intends to construct and operate the Beech Creek Rail Line not only to serve the Gorton landfill, but a variety of shippers that are anticipated to generate several types of traffic in the area. RJCP Construction Petition at 4, 6. RJCP’s proposal is supported by Resource Recovery and a number of other potential shippers, including Rex Energy Corporation,

⁶ As noted above, PPC does not seek to hold the RJCP Acquisition proceeding in abeyance, and the notice of exemption in that docket was served on June 5, 2008.

Robindale Energy Services, Inc. and Glenn O. Hawbaker, Inc.⁷ As PPC's pleading makes abundantly clear, the proposed Resource Recovery landfill at Gorton is a serious and well-developed undertaking, already several years into the required state permitting and environmental reviews. And RJCP has dedicated significant resources to its proposed reactivation of the Beech Creek Branch Line, and is committed to seeing the project to completion. Nothing more is required to allow the Board to proceed with its consideration of the matters before it. *Cf. DOE/Caliente II* at 3 ("DOE has demonstrated that it is seriously considering using its line to provide common carrier service by virtue of its filing the instant application. We further note that DOE asserts that it would prefer to use the line for common carrier service. This is enough given the permissive nature of section 10901." (footnote omitted)).

PPC also argues that the motion to dismiss in the RJCP Construction proceeding -- seeking a jurisdictional determination that no approval is required for the reconstruction of the railbanked Eastern Segment -- must be held in abeyance, awaiting completion of a "legally sufficient" environmental review of the proposed action. PPC Petition at 14. PPC has it exactly backwards: the Board's jurisdiction determines the scope of the NEPA review, not the other way around. *E.g., Union Pacific R. Co. -- Petition -- Rehabilitation of MO-KS-TX RR*, 3 S.T.B. 646, 653 (1998) ("The extent of, or intensity of debate over, a project's environmental and safety issues, however, does not, by itself, confer jurisdiction on the Board."); *Friends of the Aquifer, et al. -- Petition for Declaratory Order*, 5 S.T.B. 880, 888 (2001). PPC's

⁷ Support letters from the latter three shippers have been filed with the Board, and also are attached as Exhibits A-C to this Reply. Resource Recovery is today filing its own support letter and verified statement in response to the PPC Petition. This multi-faceted support demonstrates the transportation benefits of and need for the project, even though it is "well settled that a showing of public need is not a prerequisite under 49 U.S.C. 10901 and 10502." *Illinois Central Railroad Company -- Construction and Operation Exemption -- In East Baton Rouge Parish, LA*, Finance Docket No. 33877 (STB served October 25, 2001) at 4.

argument that granting the jurisdictional motion to dismiss would be “contrary to the requirements of NEPA,” PPC Petition at 14, confers on NEPA a jurisdiction-expanding function that it does not possess. As the Board explained in *Friends of the Aquifer*, an argument that the Board must consider environmental matters in deciding its regulatory authority “presumes, however, that the agency has regulatory authority that it could choose to assert.” 5 S.T.B. at 888. Indeed, the Board’s environmental rules specifically provide that a “finding that a service or transaction is not within the STB’s jurisdiction does not require an environmental analysis under the National Environmental Policy Act” 49 C.F.R. § 1105.5(b).

Here, the Board plainly has no regulatory jurisdiction over the reconstruction of the Eastern Segment, RJCP Motion to Dismiss at 3-7, and PPC does not claim otherwise. That lack of jurisdiction necessarily limits the environmental review that the Board will conduct of the Eastern Segment reconstruction. RJCP Motion to Dismiss at 7-9. An initial determination of the Board’s jurisdiction over the Eastern Segment will properly focus the agency’s regulatory and environmental review on the matters properly before it. There is no reason or basis to hold such a determination in “abeyance,” and PPC’s Petition should be denied.

B. PPC Misconstrues the Scope of the Environmental Review to Be Undertaken By the Board

While technically seeking only the abeyance addressed above, PPC’s pleading includes a extensive recitation of the ongoing state and federal environmental review of the proposed Resource Recovery landfill, and argues (PPC Petition at 12-13) that the Board’s NEPA review in the RJCP Construction proceeding must include both the reconstruction of the Eastern Segment and the construction and operation of the private landfill -- both items over which the Board has no jurisdiction. PPC will have full opportunity to participate in the environmental review which the Board has already commenced in the RJCP Construction proceeding, and

which will include the preparation of a full Environmental Impact Statement (“EIS”). PPC’s arguments essentially relate to the proper scope of that review, and undoubtedly will be raised and addressed during the course of that review. Nonetheless, PPC provides no persuasive basis for the overly-expansive environmental review which it seeks.

PPC first claims that the reconstruction of the Eastern Segment must be included in the NEPA review that will be conducted for the Western Segment. PPC does not dispute that the Board has no jurisdiction over the reconstruction of the Eastern Segment. In such circumstances, the Board’s judicially-approved approach is clear: while an environmental review of a jurisdictional line construction may include “downstream” operational impacts on a non-jurisdictional segment being reconstructed in connection with the project, it will not include the non-jurisdictional reconstruction itself. *Burlington Northern et al. -- Control -- Washington Central*, 1 S.T.B. 792, 804 (1996), *aff’d sub nom. City of Auburn v. U.S.*, 154 F.3d 1025, 1033 (9th Cir. 1998) (“*Auburn*”), *cert. denied*, 527 U.S. 1022 (1999); *Dakota, MN & Eastern R. -- Construction -- Powder River Basin*, 3 S.T.B. 847, 862 (1998). In affirming the Board’s approach, the Ninth Circuit explained that:

[W]e find the parameters of the EA set by the STB, which exclude the impact of the upgrading and rehabilitation of the portion of the rail line already owned by Burlington, do not constitute an abuse of discretion. There is no showing that the STB’s determination that those impacts fell outside of its jurisdiction under this proceeding constitutes an arbitrary and capricious finding.

154 F.3d at 1033.

Any other result would be inconsistent with the status of the Eastern Segment as a railbanked line under the Trails Act and a CITU, statutorily subject to the reinstitution of rail service at any time the rail carrier chooses. *Georgia Great Southern*, 6 S.T.B. at 906 (interim trail use is subject to “being cut off at any time by the reinstitution of rail service. If and when

the railroad wishes to restore rail service on all or part of the property, it has the right to do so, and the trail user must step aside.”); *N&W -- Aban. -- St. Marys and Minster in Auglaize County, OH*, 9 I.C.C.2d 1015, 1018 (1993) (agreement to interim trail use “may be withdrawn at any time the abandoning carrier wishes to reinstitute rail operations over the right-of-way.”). A direct NEPA review of the Eastern Segment reconstruction would imply (among other things) an alternatives review, in which the Board’s Section of Environmental Analysis considered and perhaps recommended different alignments or even a no-build alternative for the line. Yet the Board has no discretionary authority under the Trail Acts to deny reactivation of a railbanked line held under a CITU or to require that such a line be relocated. In the absence of such authority, controlling case law is clear that environmental review of the action is not necessary and indeed would serve little purpose. *Department of Transp. v. Public Citizen*, 541 U.S. 752, 770 (2004) (“We hold that where an agency has no ability to prevent a certain effect due to its limited statutory authority over the relevant actions, the agency cannot be considered a legally relevant ‘cause’ of the effect. Hence, under NEPA and the implementing CEQ regulations, the agency need not consider these effects . . .”).

PPC is even further afield in its apparent suggestion that the Board must conduct an environmental review of the proposed Gorton landfill, simply because that facility will be served by the Beech Creek Branch Line and is a primary reason for RJCP’s reconstruction of the line. PPC Petition at 13. That position is flatly inconsistent with *Public Citizen*, and with the Board’s recent extensive treatment of a nearly identical situation in *Southwest Gulf Railroad -- Construction and Operation Exemption -- In Medina County, TX*, Finance Docket No. 34284, Final Environmental Impact Statement issued May 30, 2008 (“*Southwest Gulf*”). *Southwest Gulf* involved the construction of a rail line to reach a new quarry. Following the Supreme Court’s

guidance in *Public Citizen*, the Board's Section of Environmental Analysis ("SEA") rejected arguments that it must consider the new quarry in its NEPA review of the rail construction, given that the Board had no jurisdiction or control over the quarry and no authority to mitigate any potential harms of the quarry. *Southwest Gulf*, FEIS at 2-2 to 2-6. As is the case here, the SEA explained that "[t]he quarry [] is not part of the proposed action before the Board and has been subject to the approval process of other laws, not the Interstate Commerce Act." FEIS at 2-3.⁸

SEA noted that the Supreme Court in *Public Citizen* had rejected a "but for" causal test in determining what are connected actions under NEPA. FEIS at 2-5 ("*Public Citizen* clarifies that under NEPA a 'but for' causal relationship is not enough to make an agency responsible for a particular effect under NEPA and the relevant regulations."). Instead, there must be a reasonably close proximate causal relationship to bring an asserted "related" action within the scope of NEPA review. Furthermore, "the Supreme Court has now ruled that agencies may reasonably limit their analysis to issues within the agency's own decision-making process." FEIS at 2-5 (citing *Public Citizen*, 541 U.S. at 768).

As in *Southwest Gulf*, the STB has no jurisdiction or conditioning authority over the proposed Gorton landfill, and no legal basis for including the landfill in the NEPA review to be conducted in the RJCP Construction proceeding. See *Southwest Gulf*, FEIS at 2-3 to 2-4 ("an analysis of the quarry as part of the proposed action would be beyond the Board's jurisdiction and would not inform the Board's decision on whether to authorize [the rail carrier's] proposal to construct and operate the proposed rail line."). And while rail access is likely the

⁸ Unlike the situation here, the rail carrier in *Southwest Gulf* was affiliated with the proposed quarry operator, and the proposed rail line was apparently intended to serve only the quarry. Thus, the proposed rail line and proposed quarry were more closely linked than RJCP's proposed Beech Creek Branch Line and the Gorton landfill. The SEA in *Southwest Gulf* nonetheless found no basis to include the quarry in its environmental review under NEPA.

environmentally and economically preferable means for reaching the Gorton landfill, there are trucking alternatives for handling the landfill traffic that have been part of the planning for that project since the beginning. Resource Recovery support letter, July 3, 2008, Verified Statement of E.B. Abel, Jr.. *Cf. Southwest Gulf*, FEIS at 2-4.

Other Board decisions confirm that it is neither necessary nor appropriate to directly consider the Gorton landfill in the Board's NEPA analysis.⁹ *See, e.g., United States Department of Energy -- Rail Construction and Operation -- Caliente Rail Line in Lincoln, Nye and Esmeralda Counties, NV*, Finance Docket No. 35106 (STB served April 11, 2008) ("*DOE/Caliente I*") at 3 ("The Board has not participated in the ongoing EIS process for the proposed geologic repository that the proposed new line would serve.") What's more, the proposed Gorton landfill has been and will continue to be subject to an extensive environmental and permitting review by the Pennsylvania Department of Environmental Protection and other relevant state and federal agencies. Particularly in such circumstances, "ordinary notions of efficiency suggest a federal environmental review should not duplicate competently performed state environmental analysis." *Sylvester v. U.S. Army Corps of Engineers*, 884 F.2d 394, 401 (9th Cir. 1989).

CONCLUSION

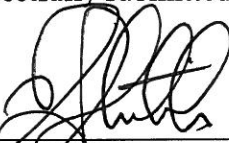
The proper scope of the environmental review to be conducted by the Board in the RJCP Construction proceeding will be further addressed during the Environmental Impact Statement scoping and preparation process that has already begun. What is clear at this stage of the proceedings is that PPC has presented no jurisdictional, regulatory or environmental reason

⁹ As it did in *Southwest Gulf*, the SEA will perform a cumulative impacts review in the RJCP Construction proceeding which presumably would include the incremental effects, if any, of the Gorton landfill when considered in conjunction with the construction of the Western Segment.

why either the pending petition to vacate in the CITU Vacation proceeding or the pending motion to dismiss in the RJCP Construction proceeding should or can be held in abeyance. The Board's requested ministerial action in the former proceeding and its requested jurisdictional action in the latter proceeding are not subject to NEPA, and do not need to "wait" for the environmental review that the Board is undertaking with regard to the Western Segment. PPC is free to oppose the Gorton landfill as its interests may warrant, but it should not be allowed to perpetuate regulatory feedback loops in the process.

WHEREFORE, RJCP respectfully requests that the PPC Petition be denied.

Respectfully submitted,

By: _____

Ronald A. Lane

Myles L. Tobin

Thomas J. Litwiler

Fletcher & Sippel LLC

29 North Wacker Drive

Suite 920

Chicago, Illinois 60606-2832

(312) 252-1500

**ATTORNEYS FOR R.J. CORMAN RAILROAD
COMPANY/PENNSYLVANIA LINES INC.**

Dated: July 3, 2008



476 Rolling Ridge Drive
Suite 300
State College, PA 16801
Ph: 814.278.7267
Fax: 814.278.7286
www.rexenergy.com

EXHIBIT A

June 26, 2008

The Honorable Anne Quinlan
Surface Transportation Board
395 E Street. SW
Washington, DC 20423

Re: RJ Corman Railroad Company/Pennsylvania Lines, Inc. – Construction
and Operation Exemption – Clearfield County, PA
Finance Docket No. 35116

Dear Secretary Quinlan:

My name is Benjamin W. Hulburt and I am President & CEO of Rex Energy Corporation (NASDAQ: REXX). I am writing to the Surface Transportation Board in support of the RJ Corman Railroad Company/Pennsylvania Lines, Inc. construction and operation exemption because our company is quite interested in using this proposed rail line for the shipment of various materials utilized in our natural gas drilling operations, in connection with our business activities in central Pennsylvania. Accordingly, I strongly urge the STB to approve the construction and operation of this new rail line.

Very truly yours,

Benjamin W. Hulburt
President & CEO
Rex Energy Corporation

xc: RJ Corman Railroad Co./Pennsylvania Lines, Inc.

Robindale Energy Services, Inc.

224 Grange Hall Road, P.O. Box 228, Armagh, Pennsylvania 15920
Phone: 814•446•6700 Fax: 814•446•6605

Thursday, June 26, 2008

The Honorable Anne Quinlan
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: RJ Corman Railroad Company/Pennsylvania Lines, Inc. – Construcion
and Operation Exemption – Clearfield County, PA
Finance Docket No. 35116

Dear Secretary Quinlan:

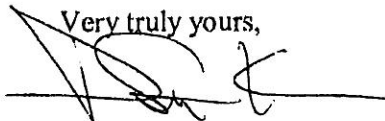
My name is D. Scott Kroh; I am 50% owner of each of the following
Pennsylvania based companies Sunbury Generation, RES Coal LLC, Robindale Energy
Services, and Canoe Valley Limestone.

The above listed companies transport or cause to be transported on a yearly basis
9,200,000 tons of bulk material. A typical year we only move 600,000 tons of the above
totals via rail primarily due to the lack of rail access. The remaining 8,600,000 tons is
transported via truck. We currently control surface coal mining properties which could
load on the below listed Railroad if available.

Consequently I am writing to the Surface Transportation Board in support of the RJ
Corman Railroad Company/Pennsylvania Lines, Inc. construction and operation
exemption.

I urge the STB to approve the construction and operation of this new rail line.

Very truly yours,



D. Scott Kroh
President

xc: RJ Corman Railroad Co./Pennsylvania Lines, Inc.

GLENN O. HAWBAKER, INC.

Heavy Construction Services and Products
www.goh-inc.comP.O. Box 1952
State College, PA 16804
Phone: 814-237-1444
FAX: 814-272-4459

Since 1952

June 30, 2008

The Honorable Anne Quinlan
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: RJ Corman Railroad Company/Pennsylvania Lines, Inc. – Construcion
and Operation Exemption – Clearfield County, PA
Finance Docket No. 35116

Dear Secretary Quinlan:

This is to express to you our company's interest in the above referenced rail project. We ship bulk commodities by rail and this project would aid our company in transporting aggregate and overcoming the high cost of truck transportation. Accordingly, I strongly urge the STB to approve the construction and operation of this new rail line.

Very truly yours,

Michael D. Hawbaker

xc: RJ Corman Railroad Co./Pennsylvania Lines, Inc.

AN EQUAL OPPORTUNITY EMPLOYER



CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of July, 2008, a copy of the foregoing **Reply of R.J. Corman Railroad Company/Pennsylvania Lines Inc. to Petition to Hold Proceedings in Abeyance** was served by overnight delivery upon:

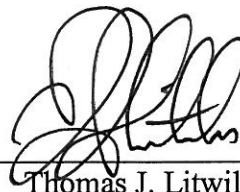
Kathryn H.S. Pett
Ballard Spahr Andrews & Ingersoll, LLP
One Utah Center, Suite 800
201 South Main Street
Salt Lake City, UT 84111-2221

and by first class mail, postage prepaid, upon:

Richard R. Wilson
Richard R. Wilson, P.C.
127 Lexington Avenue, Suite 100
Altoona, PA 16601

John V. Edwards
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-2191

Ms. Jodi Brennan
Secretary
Headwaters Charitable Trust
478 Jeffers Street
DuBois, PA 15801



Thomas J. Litwiler