

214237

# BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS  
2401 PENNSYLVANIA AVENUE, NW  
SUITE 300  
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820  
FACSIMILE: (202) 663-7849



William A. Mullins

June 24, 2005

Direct Dial: (202) 663-7823  
E-Mail: [wmullins@bakerandmiller.com](mailto:wmullins@bakerandmiller.com)

**ENTERED**  
Office of Proceedings

JUN 24 2005

Part of **ENTERED**  
Public Record of Proceedings

JUN 24 2005

Part of  
Public Record

**BY HAND DELIVERY**

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

Re: STB Docket No. AB-490 (Sub-No. 1X)  
Greenville County Economic Development Corporation - Petition For  
Exemption For Partial Discontinuance And Partial Abandonment - In  
Greenville County, SC

Dear Secretary Williams:

Enclosed are an original and 10 copies of the abandonment and discontinuance exemption petition in the above-captioned matter, filed on behalf of the Greenville County Economic Development Corporation ("GCEDC"). Also enclosed is a filing fee check in the amount of \$5,200.00 payable to Secretary, Surface Transportation Board.

As can be seen from the certificate of service attached, copies of this petition are being mailed today to the parties described in 49 C.F.R. §1152.50(d). A copy of GCEDC's environmental and historic report was served on required parties on May 27, 2005, and a copy was simultaneously filed with the Board, certifying that service had been accomplished.

If there are any questions concerning this proposal, please contact me by telephone at (202) 663-7823 or by e-mail at [wmullins@bakerandmiller.com](mailto:wmullins@bakerandmiller.com).

Sincerely,

William A. Mullins

**FEE RECEIVED**

JUN 24 2005

**SURFACE  
TRANSPORTATION BOARD**

Enclosures

cc: Chairman, GCEDC  
Andrew J. White, Jr., Esq.  
Peter M. Strub

**FILED**

JUN 24 2005

**SURFACE  
TRANSPORTATION BOARD**

214237

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC



STB DOCKET NO. AB-490  
(SUB-NO. 1X)

GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC

PETITION FOR EXEMPTION

**FILED**

JUN 24 2005

SURFACE  
TRANSPORTATION BOARD

ENTERED  
Office of Proceedings  
JUN 24 2005  
Part of  
Public Record

**FEE RECEIVED**  
JUN 24 2005  
SURFACE  
TRANSPORTATION BOARD

William A. Mullins  
David C. Reeves  
BAKER & MILLER, PLLC  
2401 Pennsylvania Ave., N.W.  
Suite 300  
Washington, DC 20037  
Phone: (202) 663-7820  
Fax: (202) 663-7849

June 24, 2005

Attorneys for Greenville County  
Economic Development Corporation

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---



**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

Greenville County Economic Development Corporation (“GCEDC”) hereby petitions the Surface Transportation Board (“STB” or “Board”) pursuant to 49 U.S.C. §10502 to exempt GCEDC’s proposed abandonment of approximately 11.8 miles of line, between milepost 0.0 in Greenville, SC, and milepost 11.8 in Travelers Rest, SC (“the Northern Segment”), and discontinuance of service over 3.29 miles of line, between milepost AJK 585.34 in East Greenville, SC, and milepost AJK 588.63 in Greenville, SC (the “Southern Segment”). Both segments lie within Greenville County, SC. Together the Northern Segment and the Southern Segment comprise all of the rail line owned by GCEDC.<sup>1</sup>

**SUMMARY**

Requiring GCEDC to file an application to abandon the Northern Segment and discontinue service on the Southern Segment is not necessary to satisfy the National Rail Transportation Policy of 49 U.S.C. §10101 (“NRTP”) nor is application of 49 U.S.C. § 10903 necessary to protect shippers from the abuse of market power. Currently, there are no active shippers on either the Northern or Southern Segments. The Northern Segment produces no

---

<sup>1</sup> Maps of these segments are contained in Exhibit 1 hereto.

revenues at all and the limited revenue potential of the line clearly will not support the expense of restoring service and operating it. Indeed, GCEDC has earned no revenue from operation of the Northern Segment other than miscellaneous minor fees for encroachment agreements since acquiring the line in 1999. Restoring the line to a safe, operable condition would require an expenditure of about \$3.0 million, which could never be recouped based on the limited to non-existent traffic base of the line. Requiring GCEDC to file an abandonment application would not change these basic facts. Accordingly, GCEDC should be exempted from the requirements of 49 U.S.C. §10903 and related regulations with respect to abandoning the Northern Segment.

Likewise, there are no active shippers on the Southern Segment. Because of the lack of demand for rail service on the Southern Segment, GCEDC seeks to minimize expense by terminating any obligation to provide common carrier service on that segment while preserving the segment for possible future reactivation. Accordingly, GCEDC should be exempted from 49 U.S.C. §10903 with respect to the Southern Segment as well.

### **FACTUAL BACKGROUND**

In May 1999, the Northern and Southern Segments were both owned by the Carolina Piedmont Division of the South Carolina Central Railroad (“SCCR”). GCEDC filed a notice of exemption with the Board in May 1999 to acquire the Northern and Southern Segments from SCCR.<sup>2</sup> The Northern Segment has been subject to an embargo first instituted by SCCR in December 1997 and continued to this day by GCEDC due to the condition of the bridges and the track. As a result, no service has been provided since early February 1998.<sup>3</sup> Meanwhile, before

---

<sup>2</sup> See *Greenville County Economic Development Corporation--Acquisition Exemption--South Carolina Central Railroad Company, Inc., Carolina Piedmont Division*, STB Finance Docket No. 33752 (served June 3, 1999).

<sup>3</sup> See Exhibit 2 hereto, submitted pursuant to 49 C.F.R. §§1112.7 and 1114.5, a true copy of the Verified Statement of Lee K. Groome, Exhibit A to the Complainants’ Opening Statement in STB No. 42087, filed with the Board on December 22, 2004 (“V.S. Groome”), page 9.

SCCR obtained authority to abandon the Southern Segment, that segment had only one shipper, which used motor carriers for 95% of its service needs.<sup>4</sup>

SCCR obtained an exemption to abandon both the Southern Segment and the southernmost two miles of the Northern Segment in 1998, though the effectiveness of that exemption was stayed pending trail use negotiations. However, that abandonment authorization became moot upon GCEDC's acquisition of the lines.<sup>5</sup>

GCEDC completed the acquisition of the two segments in June 1999 at a cost of \$1.3 million. GCEDC's intent was to prevent abandonment, restore rail service if line repair funds could be obtained, and to preserve the corridor for future rail and potential light rail/passenger use. GCEDC contracted with SCCR for SCCR to operate the Southern Segment as GCEDC's agent, but SCCR declined to be the operator of the Northern Segment. GCEDC diligently attempted to identify an operator for the Northern Segment. However, it was unable to find an operator willing to operate that segment without a substantial capital expenditure by GCEDC to repair the track. The capital expenditures required by potential operators simply exceeded the funds available to GCEDC and continue to do so today.<sup>6</sup>

In April 2001, Groome & Associates, Inc., and Lee K. Groome (together, "Groome") filed suit against GCEDC in South Carolina state court for an alleged violation of GCEDC's

---

<sup>4</sup> See *South Carolina Central Railroad Company, Inc., d/b/a Carolina Piedmont Division-- Abandonment Exemption--in Greenville County, SC*, STB Docket No. AB-312 (Sub-No. 2X), slip op. at 1 and 2 (decision served April 1, 1998).

<sup>5</sup> See *id.* (Decisions served April 1, 1998, May 20, 1998, Aug. 4, 1998, Nov. 12, 1998, and May 11, 1999).

<sup>6</sup> See Exhibit 3 hereto, submitted pursuant to 49 C.F.R. §§1112.7 and 1114.5, a true copy of the Verified Statement of Andrew J. White, Jr., Exhibit 6 to GCEDC's Reply Statement in STB No. 42087, filed with the Board on January 24, 2005 ("V.S. White"), pages 6 and 7. Also, compare Exhibit 4 hereto, V.S. Groome, Attachment 24 (seeking \$900,000+ to restore 7 miles of the Northern Segment to service) with Exhibits 3 and 5 hereto, V.S. White, pages 6 and 7 and Attachments 3 and 4 (showing GCEDC income over several years to be less than half the amount sought for up-front repairs in Exhibit 4).

common carrier obligation over the Northern Segment. On June 30, 2003, GCEDC filed a notice of exemption with the Board seeking to discontinue service over the Northern Segment.<sup>7</sup>

However, Groome's opposition to GCEDC's notice based on Groome's South Carolina lawsuit led the Board to dismiss GCEDC's abandonment exemption notice without prejudice to the filing of an abandonment application or an exemption petition.<sup>8</sup>

After extensive and expensive litigation in state court, Groome was denied recovery in September 2004. Following the loss in state court, Groome requested the Board to institute a formal complaint proceeding based on the same issues decided by the state court. On October 12, 2004, the Board waived the filing fee and instituted a formal complaint proceeding.<sup>9</sup> Evidentiary filings in that matter have concluded, and the case is currently pending before the Board. Because there are no active shippers on either line segment, GCEDC hereby petitions for an exemption to abandon the Northern Segment and to discontinue service on the Southern Segment.<sup>10</sup>

---

<sup>7</sup> See *Greenville County Economic Development Corporation – Discontinuance of Service Exemption – in Greenville County, SC*, STB Docket No. AB-490X (served July 18, 2003).

<sup>8</sup> *Greenville County Economic Development Corporation – Discontinuance of Service Exemption – in Greenville County, SC*, STB Docket No. AB-490X (served Jan. 29, 2004).

<sup>9</sup> *Groome & Associates, Inc. and Lee K. Groome v. Greenville County Economic Development Corporation*, STB Docket No. 42087 (served Oct. 12, 2004).

<sup>10</sup> When it acquired the two segments, GCEDC told the Board that it would not operate either segment itself, but had contracted SCCR as the operator for the Southern Segment and was seeking an operator for the Northern Segment. See 64 Fed. Reg. 29942 (June 3, 1999), n. 2 (“Greenville County states that it is currently seeking an operator for the Northern Line and that, once it reaches an agreement with the operator of the Northern Line, the operator will file a verified notice of exemption to operate the Northern Line.”) In seeking here an exemption for abandonment of the Northern Segment, GCEDC does not waive its arguments before the Board in the Groome complaint proceeding that GCEDC did not acquire the common carrier obligation for the Northern Segment. (By contrast, in advising the Board that it had a contract operator for the Southern Segment which operator did not seek its own authority, GCEDC acknowledges that it accepted a common carrier obligation for that segment.) Accordingly, while it might be appropriate for GCEDC to seek dismissal of this petition with respect to the Northern Segment, GCEDC files this petition out of an abundance of caution and in compliance with the Board’s

## ARGUMENT

### I. Standard of Decision.

Section 10502(a) of Title 49 mandates that, to the maximum extent consistent with the statute, the Board shall exempt a transaction from application of the statute whenever application of the statute is not needed to carry out the transportation policy of 49 U.S.C. §10101 and either the transaction is of limited scope or application of the statute is not needed to protect shippers from an abuse of market power. The Board has held that whether to exempt an abandonment from 49 U.S.C. §10903 is determined exclusively by whether the petitioner has made the requisite showings, not by whether any opposition to the petition is filed. *San Joaquin Valley Railroad Company--Abandonment Exemption--In Kings and Fresno Counties, CA*, STB Docket No. AB-398 (Sub-No. 4X), 1999 STB LEXIS 121 (served March 5, 1999) at \*6 - \*7.

### II. Application to the Facts of This Case.

Because there are no active shippers on either segment and there would be a substantial cost to rehabilitate the lines to provide service, providing common carrier service on either the Northern or the Southern Segment would clearly be an unreasonable and unjustified burden on GCEDC. Requiring GCEDC to prepare a complete abandonment/discontinuance application would not change that conclusion. Accordingly, the Board should exempt GCEDC from the requirements of 49 U.S.C. §10903 in order that GCEDC can abandon the Northern Segment and discontinue holding out service on the Southern Segment.

The Northern Segment has little or no remaining revenue potential as an operating line of railroad. In 1996, the last full year for which GCEDC has information, seven shippers used the Northern Segment. Altogether, they shipped 1,069 carloads, generating an average of just under

---

direction in *Greenville County Economic Development Corporation – Discontinuance of Service Exemption – in Greenville County, SC*, STB Docket No. AB-490X (served January 29, 2004) to either petition for an abandonment exemption or to apply for abandonment authority.

\$400 per carload. In the fall of that year, the major shipper on the Northern Segment, which accounted for approximately half of the line's traffic, changed its operations, dropping its average monthly shipping from approximately 50 carloads to 5.<sup>11</sup> This change alone apparently was sufficient to induce the then owner of the Northern Segment, Greenville & Northern Railway, to sell the track to SCCR. *See generally* Exhibit 6 and *South Carolina Central Railroad Inc., Carolina Piedmont Division--Acquisition Exemption--Greenville & Northern Railway*, STB Finance Docket No. 33391 (served May 1, 1997).

Less than a year after acquiring the Northern Segment, SCCR embargoed the line due to the need for bridge repairs.<sup>12</sup> When GCEDC acquired the line in June 1999, there had been no service on the line for over a year.<sup>13</sup>

Since June 1999, the second largest shipper on the Northern Segment – Groome – has closed its business.<sup>14</sup> Groome places blame for that event on GCEDC's inability to operate the Northern Segment, although expert testimony has established that the closing resulted from changes in the paper market to which Groome did not adapt. The issue of whether or not GCEDC violated its alleged common carrier obligation to provide Groome with service is before the Board in Groome's complaint against GCEDC; however, the bottom line for purposes of this petition is that Groome's business is closed and is no longer a shipper on the Northern Segment.

---

<sup>11</sup> *See* Exhibit 6 hereto, submitted pursuant to 49 C.F.R. §§1112.7 and 1114.5, a true copy of V.S. Groome, Attachment 1.

<sup>12</sup> *See* Exhibit 7 hereto, submitted pursuant to 49 C.F.R. §§1112.7 and 1114.5, a true copy of V.S. Groome, Attachment 29.

<sup>13</sup> *See* Exhibit 2 hereto.

<sup>14</sup> *See* Exhibit 8 hereto, submitted pursuant to 49 C.F.R. §§1112.7 and 1114.5, a true copy of the Rebuttal Verified Statement of Lee K. Groome, Exhibit A to the Complainants' Rebuttal Opening Statement in STB No. 42087, filed with the Board on February 22, 2005 ("R.V.S. Groome"), page 1.



As noted, there are no longer any active shippers on the Northern or Southern segments, yet there are substantial costs to maintain the line and to rehabilitate it to the condition necessary to provide common carrier service. Engineers consulted by GCEDC estimate that it would cost nearly \$3.0 million just to place the 2.6-mile section of the Northern Segment that once served Groome back into safe and serviceable condition as FRA Class 1 track.<sup>15</sup> Placing the entire 11.8-mile Northern Segment back in service would undoubtedly cost even more, and be even further beyond GCEDC's financial ability. With GCEDC having very little money in the bank for railroad operating use and insufficient money to repair the Northern Segment, and having unsuccessfully exhausted the known potential sources for obtaining money to rehabilitate the Northern Segment, GCEDC has concluded that it would be impossible for GCEDC to restore the track to operable condition at this time and the track should be abandoned.

Moreover, based on these restoration costs and the reasonably estimated costs of operating the Northern Segment, experts have advised GCEDC that even just restoring service on just a 2.6-mile section of the Northern Segment would necessitate rates over \$1400 per car, as compared to rates of approximately \$400 per car in 1996.<sup>16</sup> With trucking rates well below this level, it is virtually certain that no rail traffic would be attracted even if GCEDC could afford to restore the line to safe and serviceable condition. *Id.*

Because of the clear disparity between the costs of restoring service and the non-existent revenue for the Northern Segment, applying the requirements of 49 U.S.C. §10903 and related regulations to abandonment of the Northern Segment would be a fruitless exercise. *See*

---

<sup>15</sup> *See* Exhibit 9 hereto, submitted pursuant to 49 C.F.R. §§1112.7 and 1114.5, a true copy of the Verified Statement of David Pettry, Exhibit 9 to GCEDC's Reply to Complainants' Opening Statement, filed with the Board in STB No. 42087 on January 24, 2005.

<sup>16</sup> *See* Exhibit 10 hereto, submitted pursuant to 49 C.F.R. §§1112.7 and 1114.5, a true copy of the Verified Statement of Joseph J. Plaistow, Exhibit 11 to GCEDC's Reply to Complainants' Opening Statement, filed with the Board in STB No. 42087 on January 24, 2005.

*generally Sierra Pacific Industries–Abandonment Exemption–In Amador County, CA*, STB Docket No. AB-512X and *Sierrapine–Discontinuance Exemption–In Amador County, CA*, STB Docket No. AB-880X (served Feb. 25, 2005), slip op. at 4 (and cases cited therein) (abandonment application not needed where “further evidence is not needed for us to be confident that continued operation of the line would impose a substantial burden on the petitioners, that existing transportation needs do not warrant imposing such a burden on the petitioners, and that the protestants’ generalized and speculative prospects for future traffic and their allegations regarding the effect on [shippers and the public] from abandonment are also not sufficient to warrant requiring continued rail service.”)

By contrast, allowing this matter to proceed by exemption will serve the national rail transportation policy by reducing regulatory barriers to exit from the industry (49 U.S.C. §10101(7)), and by providing for expeditious handling of proceedings (49 U.S.C. §10101(2 & 15)). Eliminating service requirements that could compel GCEDC to operate over an unsafe track in order to avoid further litigation costs or to avoid still further damage claims by Groome for GCEDC’s inability to do so will promote rail safety, consistent with 49 U.S.C. §10101(3 & 11), and will foster sound economic conditions in transportation, consistent with 49 U.S.C. §10101(5).

An exemption allowing abandonment of the Northern Segment is also clearly of limited scope; that is, it affects less than twelve miles of track that has not been used for more than seven years. In the past, the Board has found cessation of service on lines of similar length, *see Southern Pacific Transportation Company – Abandonment Exemption -- Los Angeles County, CA*, 8 I.C.C. 2d 495, 1992 MCC LEXIS 60 (May 20, 1992) at \*39 (discontinuance of service on 11.03 miles of track with no shippers), and even much larger lines, *see Union Pacific Railroad Company -- Discontinuance Of Service Exemption -- Between St. Joseph, MO and Upland, KS*,

Docket No. AB-33 (Sub-No. 65X), 1990 ICC LEXIS 175 (May 25, 1990) at \*4 (abandonment of 107.3 miles of track) to be of limited scope. The Board should do so here as well.

Application of the abandonment statute and regulations also is not necessary to protect shippers from an abuse of market power. For more than a year before GCEDC acquired the Northern Segment, the few shippers on the Northern Segment who had been using the line, switched their transportation to other, non-rail means to move their freight. The same pattern has continued since. Any shipper that had previously used the line has either gone out of business, relocated, or is now using other transportation modes, such as trucking.

Even Groome, which seeks damages for GCEDC's inability to institute service, used intermodal rail-truck moves for its shipments until conditions in the paper market became such that Groome could no longer compete in that market. In fact, no shipper has suggested that GCEDC is using market power to extract excessive rates from shippers, and no shipper, with the possible exception of Groome, has alleged abuse of market power, nor could they. All shippers in the past who used the line were capable of using truck transportation and they have done so. Ironically, the opening statement in Groome's complaint before the Board blames GCEDC for not abandoning the Northern Segment earlier.<sup>17</sup> This statement is clear evidence that even Groome does not see abandonment as an abuse of market power.

In the end, no one, including Groome, can claim that requiring GCEDC to file an abandonment application is necessary to protect shippers from a potential abuse of market power. Since the requested exemption will serve the national rail transportation policy and is of limited scope, and since application of the abandonment statute and regulations is not necessary

---

<sup>17</sup> See Exhibit 11 hereto, submitted pursuant to 49 C.F.R. §§1112.7 and 1114.5, a true copy of page 1 of the Memorandum in Support of Complaint contained in the Complainants' Opening Statement in STB No. 42087, filed with the Board on December 22, 2004.

to protect against abuse of market power, the Board should exempt GCEDC's abandonment of the Northern Segment.

While the Southern Segment does not require the same level of rehabilitation as the Northern Segment, some track work is required if that segment were to be operated as a common carrier. Like the Northern Segment, there are no active shippers on the segment. GCEDC has owned the Southern Segment for six years. Because this segment is not a part of the Groome complaint proceeding and to GCEDC's knowledge there has been no traffic over the line for two years, discontinuance of service over this line would likely qualify for the notice of exemption process at 49 C.F.R. §1152.50. Under such a circumstance, discontinuance authority is clearly warranted.<sup>18</sup> Moreover, exempting GCEDC's discontinuance of service on the Southern Segment from statutory abandonment/discontinuance procedures will serve the national rail transportation policy by reducing unnecessary regulatory obstacles and eliminating unproductive delay in discontinuance of an unused service. *See* 49 U.S.C. §10101(2, 7 & 15). The lack of demand for service clearly establishes that GCEDC has no market power for transportation services along the Southern Segment. Therefore, exempting discontinuance of service on that segment does not threaten an abuse of market power. Finally, the Board's predecessor has found discontinuances of service over much longer segments of track than the 3.29-mile Southern Segment to be matters of limited scope. *See Texas North Western Railway Company - Abandonment and Discontinuance Of Service Exemption - Hansford and Hutchinson Counties TX; Texas County, OK; and Seward County, KS*, Docket No. AB-281X, 1987 ICC LEXIS 194

---

<sup>18</sup> Because abandonment of the Northern Segment did not qualify for the notice of exemption process due to the existence of the Groome lawsuit, thereby necessitating the filing of this petition for exemption, GCEDC determined to seek discontinuance authority for the Southern Segment in this same proceeding as a matter of administrative and substantive convenience.

(August 4, 1987) at \*7 (abandonment of 56 miles of line and discontinuance of service over an additional 37 miles of line is a transaction of limited scope).

Because this petition seeks abandonment and discontinuance covering GCEDC's entire rail system, and because GCEDC has no corporate affiliate or parent that would continue substantially similar rail operations or that would benefit financially from the proposed abandonment and discontinuance, labor protective conditions should not be imposed. *See Sierra Pacific Industries—Abandonment Exemption—In Amador County, CA*, STB Docket No. AB-512X and *Sierrapine—Discontinuance Exemption—In Amador County, CA*, STB Docket No. AB-880X (served Feb. 25, 2005), slip op. at 8 (and cases cited therein).

If the requested authority is granted, GCEDC will have the opportunity to salvage rail and track materials from the Northern Segment while retaining the Southern Segment in place. GCEDC anticipates entering an agreement with a willing trail user to preserve the rail corridor of the Northern Segment for possible future reactivation as a rail freight and commuter or high speed passenger line. The Southern Segment will continue to be available for storage of rail cars, private rail service, or potential other public rail purposes, such as commuter or high speed passenger service.

## CONCLUSION

When GCEDC acquired the Northern Segment and the Southern Segment in 1999, the Northern Segment had been out of service for more than a year and the owner of the lines had already obtained an exemption to abandon the Southern Segment and approximately two miles of the Northern Segment. GCEDC acquired the two line segments in hopes of reinstating rail service or, at a minimum, preserving the rail corridor for a future combined freight and passenger service. Despite diligent efforts, GCEDC has been unable to locate an operator for the Northern Segment who would agree to restore service without expensive repairs at substantial costs; funds

that GCEDC simply does not have and despite its best efforts, has been unable to raise. Indeed, experts tell GCEDC that it would cost almost \$3.0 million to restore service on even a portion of the Northern Segment, a cost that could never be recovered due to the lack of traffic or potential traffic on the line. Similarly, there are no active rail shippers on the Southern Segment.

Under no reasonably foreseeable circumstance will operation of the Northern and Southern Segments yield revenues sufficient to offset the \$1.3 million cost of acquiring them and the \$3.0 million necessary to maintain and rehabilitate even a small part of the Northern Segment. Requiring GCEDC to file an abandonment application would simply place an unnecessary regulatory obstacle in the path of abandoning the Northern Segment. With respect to the Southern Segment, the lack of active traffic over the line during the six years GCEDC has owned the line clearly establishes that exempting discontinuance of service on that segment will remove unnecessary regulatory barriers while promoting efficiency in the transportation system. Accordingly, the Board should exempt GCEDC's abandonment of the Northern Segment and discontinuance of service on the Southern Segment, pursuant to 49 U.S.C. §10502.

Respectfully submitted,



William A. Mullins  
David C. Reeves  
Baker & Miller, PLLC  
2401 Pennsylvania Ave., N.W.  
Suite 300  
Washington, DC 20037  
Phone: (202) 663-7820  
Fax: (202) 663-7849

Attorneys for Greenville County  
Economic Development Corporation

## **DRAFT FEDERAL REGISTER NOTICE**

STB No. AB-490 (Sub-No. 1X)

### Notice of Petition for Exemption to Abandon and to Discontinue Service

On June 24, 2005, Greenville County Economic Development Corporation (“GCEDC”) filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment of approximately 11.8 miles of line, between milepost 0.0 in Greenville, SC, and milepost 11.8 in Travelers Rest, SC (“the Northern Segment”), and discontinuance of service over 3.29 miles of line, between milepost AJK 585.34 in East Greenville, SC, and milepost AJK 588.63 in Greenville, SC (the “Southern Segment”). The Northern Segment traverses through United States Postal Service ZIP Codes 29690, 29609, 29613, 29617, 29611, and 29601 in Greenville and Travelers Rest, South Carolina, while the Southern Segment traverses through United States Postal Service ZIP Code 29607 in Greenville, South Carolina. Both segments are within Greenville County, SC. There are no stations on either line.

The lines do not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Because the petition seeks abandonment and discontinuance covering GCEDC's entire rail system, and because GCEDC has no corporate affiliate or parent that would continue substantially similar rail operations or that would benefit financially from the proposed abandonment and discontinuance, labor protective conditions will not be imposed.

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Copies of any comments or requests for conditions must also be served on the applicant's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, #300, Washington, DC 20037.

CERTIFICATE OF SERVICE

I, William A. Mullins, hereby certify that on this 24<sup>th</sup> day of June, 2005, copies of the foregoing petition for exemption have been served by first class mail, postage prepaid, upon the entities described in 49 C.F.R. §1152.50(d) and 1152.60(d) at the following addresses:

SDDC TEA  
Attn: MTT-SA  
Bob Korpathy  
720 Thimble Shoals Blvd. Suite 130  
Newport News, VA 23606

The National Center for Recreation and  
Conservation  
c/o The National Park Service  
C (Org. Code 2220)  
1849 C Street, N.W.  
Washington, D.C. 20240

Dale Bosworth  
Chief of the Forest Service  
U.S. Department of Agriculture  
201 14th Street, S.W., Suite 4NW  
Washington, DC 20250

Charles Terreni  
Chief Clerk Administrator  
Public Service Commission of South Carolina  
Post Office Box 11649  
Columbia, SC 29211

I further certify that notice of petitioner's intent to file the captioned petition was published in *The Greenville News* on June 12 - 14, 2005 pursuant to the requirements of 49 C.F.R. §1105.12 (see attached).

Finally, I hereby certify that a copy of the petitioner's environmental and historic report on the proposed exemption was served and was delivered to the Board on May 27, 2005.



William A. Mullins  
Attorney for Greenville County Economic  
Development Corporation



3452170

**NOTICE**

Greenville County Economic Development Corporation ("GCEDC") gives notice that on or about June 17, 2005, it intends to file with the Surface Transportation Board, Washington, DC 20423-0001, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, et seq., permitting GCEDC (a) to abandon approximately 11.8 miles of rail line, between milepost 0.0 in Greenville, SC, and milepost 11.8 in Travelers Rest, SC ("the Northern Segment"), and (b) discontinue service over (but not abandon) an additional 3.29 miles of line, between milepost AJK 585.34 in East Greenville, SC, and milepost AJK 588.63 in Greenville, SC (the "Southern Segment"). The Northern Segment traverses through United States Postal Service ZIP Codes 29690, 29609, 29613, 29617, 29611, and 29601 in Greenville and Travelers Rest, South Carolina, while the Southern Segment traverses through United States Postal Service ZIP Codes 29607 in Greenville, South Carolina. Both segments are within Greenville County, SC. The proceeding has been docketed as STB Docket No. AB 490 (Sub-No. 1X).

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment/discontinuance exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to SEA, Surface Transportation Board, Washington, DC 20423-0001 or by calling SEA at 202-565-1545.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street, NW., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at 202-565-1592. Copies of any comments or requests for conditions must also be served on the applicant's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, #300, Washington, DC 20037.

**The Greenville News**  
greenvilleonline.com

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

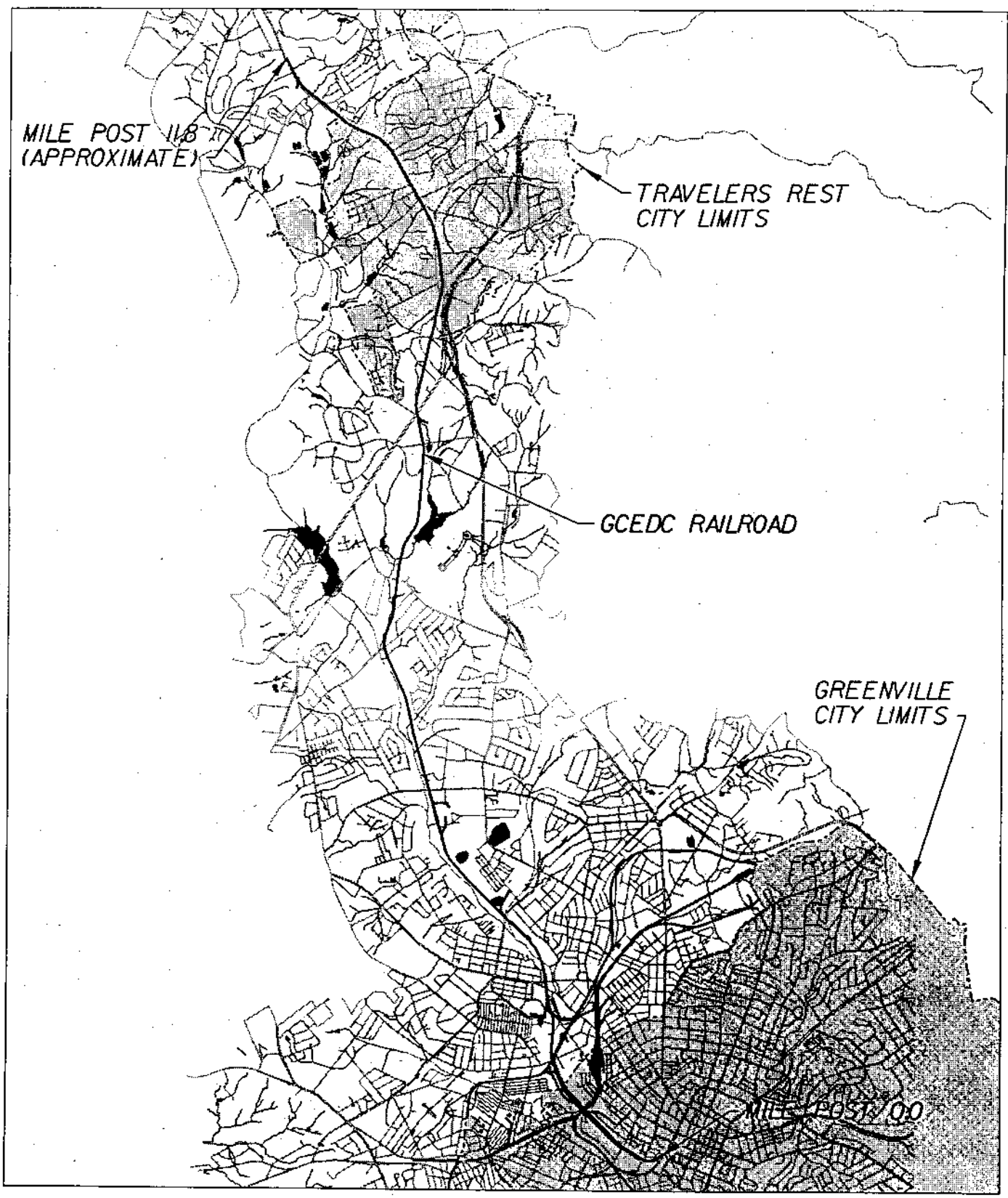
**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

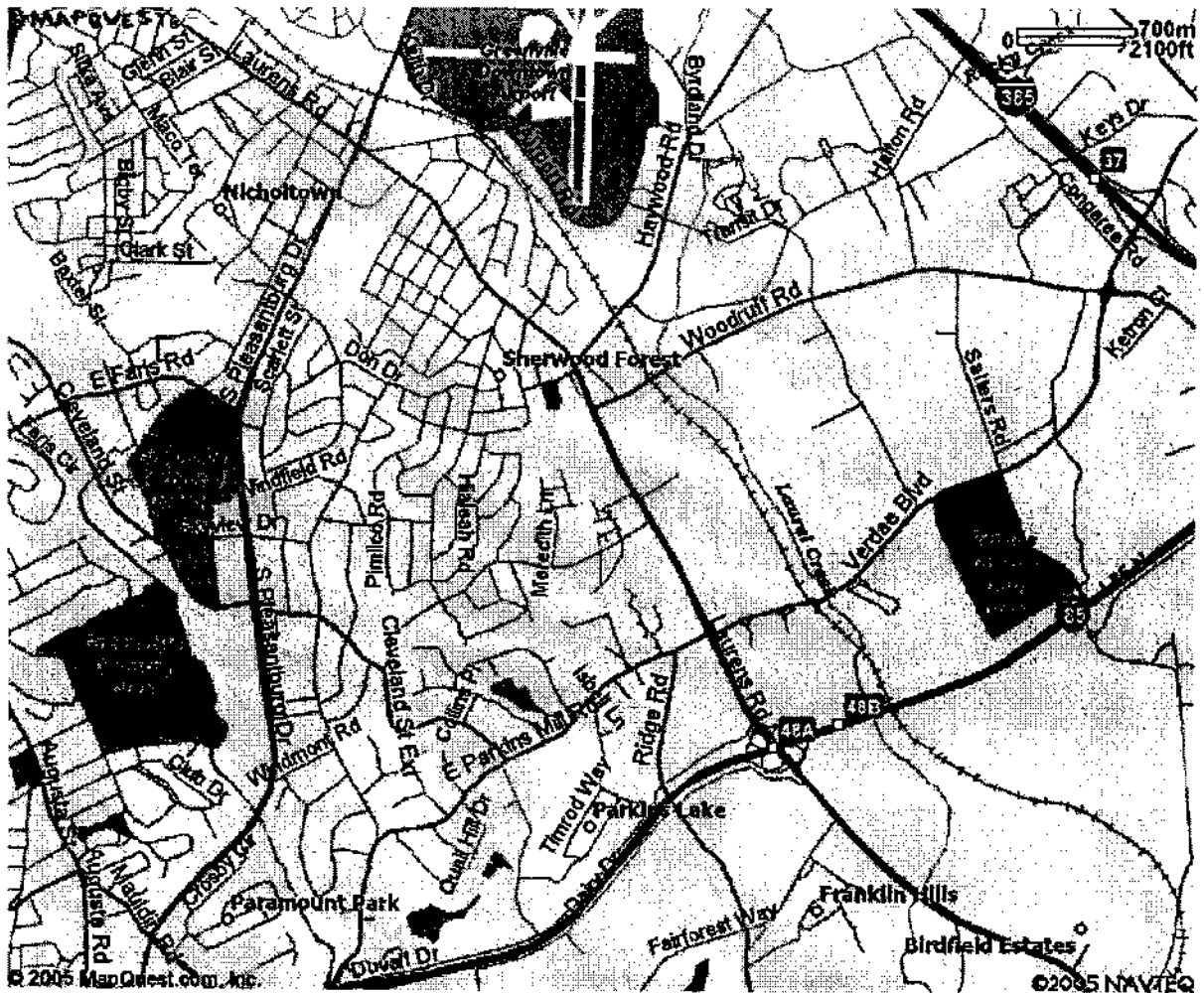
**EXHIBIT 1**



**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

Mailing Address:  
Patricia Haskell-Robinson, Secretary  
c/o The Robinson Company of Greenville, Inc.  
610 North Main Street  
Greenville, South Carolina 29602  
(864) 233-6277 Ext. 308

0 3000' 6000' 9000'



NAVTEQ  
ON BOARD

All rights reserved. Use Subject to License/Copyright | Map Legend

This map is informational only. No representation is made or warranty given as to its content. User assumes all risk of use. MapQuest and its suppliers assume no responsibility for any loss or delay resulting from such use.

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

**EXHIBIT 2**

247 cars in 1995 that produced \$55,385 of revenues; and 249 cars in 1996 that produced \$56,309 of revenues. In each of the three years, G&N transported over 1,000 cars per annum.

22. I am aware that two qualified bidders submitted offers to the Pinsley Group. At my request, Bennie Ray Anderson, President of The Great Walton Railroad Company offered a bid on behalf of the shippers on the Line. In addition, Railtex submitted a bid for its subsidiary, South Carolina Central Railroad ("SCCR"). Pinsley chose Railtex. B.R. Anderson, who I had encouraged to submit a bid, was disappointed as his bid was quite competitive and he also had in his possession 11 miles of heavy gauge track available immediately to use as necessitated. Anderson also had personnel in place; and was willing to acquire the locomotives, repair equipment, dump trucks, backhoe, etc. -- all which were necessary to operate a railway -- that Pinsly was offering in this sale.

23. On May 1, 1997, the Board authorized SCCR to acquire the line. *See* STB Finance Docket No. 33391, *South Carolina Central Railroad Inc., Carolina Piedmont Division--Acquisition Exemption--Greenville & Northern Railway*. On December 4, 1997, SCCR placed an embargo on the line, effective immediately, citing "Damage to bridges." On December 12, 1997, it filed a Petition for Exemption seeking authority to abandon a portion of the line that it had acquired from the Pinsly Group. *See* STB Docket No. AB-312 (Sub-No. 2X), *South Carolina Central Railroad Company, Inc. d/b/a Carolina Piedmont Division--Abandonment Exemption--In Greenville County, South Carolina*.

24. On or about December 10, 1997, G&A was advised that an embargo had been placed on the line. Despite the embargo, which assertedly became effective at 11:59 p.m. December 4, 1997, G&A continued to receive rail service at its facility until February 9, 1998.

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

**EXHIBIT 3**

(k) Groome in the Lawsuit made many claims that Greenville County had promised to restore his rail service on the Line. However, no other witness at the trial of the Lawsuit agreed with Groome on that issue. Gerald Seals, the former Greenville County Administrator and the man who negotiated the purchase of the Line from Railtex, denied ever having made such a promise to Groome. As found by Judge Few in his Order:

Even assuming that GCEDC through Mr. Seals made a statement to the effect that “we’ve got \$500,000 and we’re going to fix the line” as Mr. Groome asserts, such statement is not sufficient to meet the requirements of promissory estoppel. Mr. Groome’s claim that he would rely on such a statement simply is not credible and consistent with other the (sic) evidence. At a minimum there is no timing as to when the promise will be acted upon or when repairs will be completed. ... In 1998 *before* GCEDC bought the Line, Mr. Groome realized that he had lost rail service and, admittedly, put his building on the market because of the loss of rail service. Having lost rail service for more than 16 months before ever discussing GCEDC’s plans for the rail line, Groome’s claim that he relied on Seals statement is not credible. Mr. Groome is an experienced businessman. He started Groome and built it into a 10 million dollar business by the early 1990’s.... One does not allow a 5 to 10 million dollar business to undergo that kind of fundamental change in the way it receives its resources and delivers its products by relying on a unsupported statement by the County Administrator knowing that a governmental entity cannot spend half a million dollars without complying with the procurement code and formal action by the Board. ...

For the reasons the court finds that any representations of GCEDC or Greenville County officials to Plaintiffs regarding the restoration of rail service did not rise to the level of unambiguous promises to restore rail service. Further, this court finds that Plaintiffs were experienced in business matters, were aware of their rights and remedies and, therefore, Plaintiffs did not act reasonably in relying on any alleged and unproven representations of GCEDC or officials of Greenville County regarding restoration of the Line.

(Pages 10-11 of Judge Few’s Order, Attachment 2 hereto).

6. GCEDC is a not-for-profit corporation and has limited revenues. Attachment 3 is an exhibit which originally was attached to GCEDC’s responses to Groome’s production requests in the Lawsuit and which describes the amounts and sources of GCEDC revenues in 2001, 2002 and 2003. Total revenue for all three years aggregated only \$75,259.65, and most of these funds came from one-time government grants. GCEDC had no revenue in 1999.



7. Attachment 4 is an exhibit which originally was attached to GCEDC's responses to Groome's production requests in the Lawsuit and which describes the various attempts GCEDC has made to find public grants to use toward the operation and repair of the Line. GCEDC has been unsuccessful in obtaining such grants except as follows: (a) South Carolina Department of Transportation has granted funds to GCEDC to defer the original cost of the Railtex purchase and to pay for a title search of both the Line and the southern rail line which GCEDC also owns; and, (b) Greenville County has granted funds to GCEDC to defer its attorney fees and other legal expenses incurred in the Lawsuit.

8. GCEDC has been unable to obtain an operator for the Line due to the physical condition of the Line. All potential operators have required that the Line be repaired as a condition to their operating agreements, and GCEDC has not had the funds to do so. After being unsuccessful in obtaining an operator, GCEDC on June 30, 2003, filed a Verified Notice of Exemption with the STB seeking to discontinue rail service on the Line.

9. Groome in paragraph 47 of his Verified Statement claims that GCEDC made the following false representations to the STB in its Verified Notice: (a) that no actual traffic had moved over the G & N Line since 1993, and (b) that no "formal complaint" had been filed by a user of rail service on the Line. Groome's statements in this regard are intentionally misleading and are unfairly derogatory to GCEDC because the actual facts show that the Verified Notice did comply with the Board's regulations. The actual facts are as follows:

*(a) No rail use since 1993*

GCEDC admits that in good faith and without knowledge of any factual incorrectness, it made the following statement in the 2003 Verified Notice of Exemption: "No actual traffic has moved over the G&N Line since 1993 because one of the bridges partially washed out and the

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

**EXHIBIT 4**



# The Great Walton Railroad Co., Inc.

1081 North Cherokee Road  
Social Circle, Georgia 30025



(770) 464-0761

August 9, 2000

Mr. Gerald Seals  
President  
Greenville County Economic  
Development Corporation  
2 Insignia Financial Plaza  
75 Beattie Place  
Greenville, SC 29601

Dear Mr. Seals:

The Great Walton Railroad Company is prepared to place a locomotive in Greenville for service to the Greenville Northern customers. Service would initially be on an as needed basis and as volume increases or new customers come on line, service would be adjusted accordingly as well as the addition of another locomotive if necessary to handle the volume.

The Great Walton Railroad Company presents the enclosed figures for your review relative to the infrastructure improvements that will be required on the Greenville Northern physical plant.

For bridge repairs, the cost would be \$199,982.90. This figure is for the following bridges: (1) Norris Metal, (2) Whitaker Warehouse, (3) Specialty Shearings, (4) Highway 253, and (5) Sewer Line. The costs are inclusive of replacing ties, guard timbers, caps (as needed), bracing (as needed), timber in back walls (as needed), building wing walls, cleaning drift from under all bridges and changing pilings.

For track work from MP 0.0 to MP 7.0 the cost would be \$700,390.00. This figure is broken down on the enclosed Appendix A. For track work from Paper Cutters to end of track at Travelers Rest, the cost would be \$596,655.50. Appendix B has the breakdown on these costs.

Please review these numbers and advise if you have any questions. The infrastructure improvements listed are those that would have to be undertaken to attain an operational status conducive to regular operations on the line for the customers involved and represent

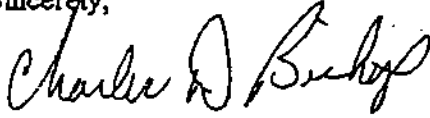
002200

August 9, 2000  
Mr. Gerald Seals  
Page 2

to the best of our knowledge the costs that GCEDC would incur in the rehabilitation of this line.

Your interest in the services of The Great Walton Railroad Company are appreciated. We look forward to working with your organization in the development of this line and to the opportunity of making the rail line a viable option for the industrial development of the area. If you need anything further or if we can be of any other assistance, please advise.

Sincerely,



Charles D. (Dave) Bishop

Enclosures

002201

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

**EXHIBIT 5**

Answer to Interrogatory No. 13  
 Identify all additional funding sources of Defendant. Itemize by date and amount and describe the purpose of the funding.

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
 SUMMARY OF ADDITIONAL FUNDING SOURCES/REVENUES**

Fiscal Year	Date	Amount	Check Received From	Source
2001	11/02/01	\$ 830.00	Greenville Airport Commission	Encroachment fee
	11/02/01	\$ 450.00	Gordon Mann	Encroachment fee
	11/02/01	\$ 145.50	Russell Blanton	Encroachment fee
2002	12/07/01	\$ 450.00	Specialty Shearing & Dyeing	Encroachment fee
	12/07/01	\$ 10,645.47	Accommodations tax: first quarter	Grant
	01/14/02	\$ 844.99	Greenville Airport Commission	Encroachment fee
	02/26/02	\$ 6,524.99	Accommodations tax: second quarter	Grant
	07/02/02	\$ 5,043.53	Accommodations tax: third quarter	Grant
2003	10/09/02	\$ 11,714.46	Accommodations tax: fourth quarter	Grant
	11/20/02	\$ 50.00	Pat Victory	Encroachment fee
	11/20/02	\$ 450.00	Specialty Shearing & Dyeing	Encroachment fee
	12/16/02	\$ 142.50	Russell Blanton	Encroachment fee
	12/16/02	\$ 450.00	Mann Enterprises	Encroachment fee
	01/13/03	\$ 855.62	Airport Commission	Encroachment fee
	05/02/03	\$ 459.08	Mann Enterprises	Encroachment fee
	06/25/03	\$ 607.50	Accommodations tax: additional from FY 2001	Grant
	06/25/03	\$ 35,000.00	Greenville County	Financial assistance for STB & legal fees
	10/07/03	\$ 146.01	Russell Blanton	Encroachment fee (not paid yet)
10/07/03	\$ 450.00	Specialty Shearing & Dyeing	Encroachment fee	
<b>Cumulative Total</b>		<b>\$ 75,259.65</b>		

Answer to Interrogatory No. 11  
 Identify all local, state, and federal grant applications, appropriations requests, or loan applications submitted by Defendant for its operations. Describe the status of each application or request.

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION GRANT APPLICATIONS**

Application Date	Agency/Entity	Amount Requested	Status
June 26, 2000	SC Department of Transportation <sup>1</sup>	\$100,000	Funded
December 7, 2000	Greenville County Accommodations Tax	\$50,000	Funded \$43,977 <sup>2</sup>
January 30, 2001	US Department of Transportation (Transportation and Community and System Preservation Program)	\$375,000	Not funded
February 27, 2001	New South Communications (Economic Development Tax Credits Contributions)	\$10,000/year for 3 years	Not funded
February 27, 2001	Bell South (Economic Development Tax Credits Contributions)	\$10,000/year for 3 years	Not funded
February 27, 2001	Trivergent Communications (Economic Development Tax Credits Contributions)	\$10,000/year (3 years)	Not funded
February 27, 2001	Duke Power Company (Economic Development Tax Credits Contributions)	\$10,000/year (3 years)	Not funded
February 27, 2001	Piedmont Natural Gas (Economic Development Tax Credits Contributions)	\$2,000,000	Not funded
March 14, 2001	Rep. Jim DeMint	\$75,000	Not funded
December 6, 2001	Greenville County Accommodations Tax	\$50,000	Funded
January 9, 2002	SC Department of Transportation (STEA Enhancement) <sup>3</sup>	\$2,000,000	Not funded
February 15, 2002	Rep. Jim DeMint	\$125,000	Not funded
January 14, 2003	Greenville County Accommodations Tax	\$100,000	Pending
February 26, 2003	SC Department of Transportation	\$10,000,000	Not funded
February 27, 2003	Reps. Jim DeMint and Lindsey O. Graham	\$35,000	Funded
June 24, 2003	County of Greenville		

The Greenville County Economic Development Corporation has not submitted loan applications to any agency or entity.

<sup>1</sup> Funds were paid directly to Greenville County as partial payment for the purchase of the rail lines.  
<sup>2</sup> Funding approval was in the amount of \$43,977. The Greenville County Economic Development Corporation actually received \$34,535.95.  
<sup>3</sup> To comply with SCDOT's requirements, this application was submitted through Greenville County to SCDOT. The Greenville County Economic Development Corporation did not receive monies directly.

February 11, 2004

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

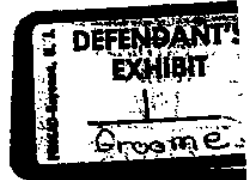
**EXHIBIT 6**





**PINSLY RAILROAD COMPANY**

Arkansas Midland Railroad  
Florida Central Railroad  
Florida Midland Railroad  
Florida Northern Railroad  
Greenville & Northern Railway  
Hawley Valley Railroad  
Railroad Distribution Service



December 19, 1996

To All Interested Parties:

Pinsly Railroad Company will be accepting bids for the purchase or lease of its wholly owned subsidiary, Greenville & Northern Railway Company, through the close of business on January 31, 1997. A basic information package for the line is enclosed, which includes a description of the line, map, summary of assets, traffic history, and customer contact list.

For further information, please contact David Kruschwitz, Director of Operations, at (413) 568-6426. To make arrangements to inspect the property, please contact Todd Biscan, General Manager, at (864) 232-6441. Inspections of the line will be available beginning January 6, 1996.

Please submit your bid to: Pinsly Railroad Company  
53 Southampton Road  
Westfield, MA 01085

Yours very truly,

John P. Levine  
Vice President

JPL:ljs  
Enclosures

**GCEDC 0334**

Maintenance of way vehicles and equipment consist of a 1985 GMC crewcab pickup, a 1974 Chevrolet Boom Dump Truck, a Case backhoe, Jackson Tamper, and Plasser ballast regulator, as well as additional small tools.

The general office is equipped with personal computers, including Railcar Management IRCS software, Minolta copier, fax machine, and answering machine.

#### FREIGHT TRAFFIC

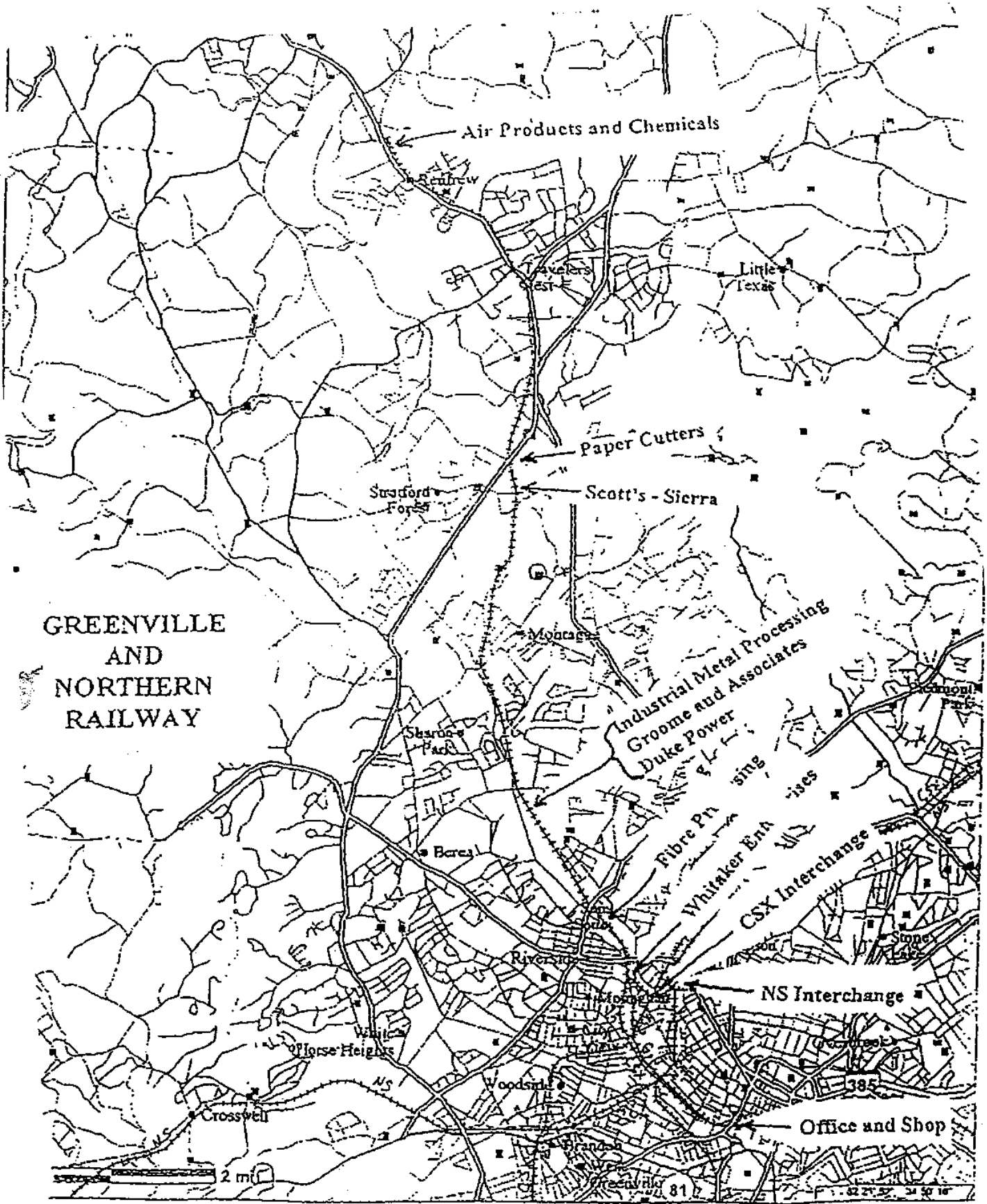
GRN has seven active customers. See the attached list of customers, commodities handled and contact person.

Freight traffic statistics, carloads and revenue for 1994 through 1996 are attached. In summary, 1994 traffic was 1642 carloads generating \$505,246, 1995 traffic was 1497 carloads generating \$509,970, and 1996 traffic is expected to be 1066 carloads generating \$413,704.

The largest customer of the Greenville and Northern in recent years has been Industrial Metal Processing. Midway through 1996 IMP made the decision to acquire a new facility between Spartanburg and Greenville located on CSX and to scale back its operations in Greenville due to pending stormwater runoff regulations. In 1997 IMP expects to ship between five and eight cars per month from its Greenville facility. In addition, IMP may ship 15-20 cars per month from its Greenville facility to its new facility.

#### OTHER REVENUES

Additional non-transportation revenues (crossing agreements, etc) are approximately \$6,000 per year.



**GREENVILLE  
AND  
NORTHERN  
RAILWAY**

GREENVILLE & NORTHERN RAILWAY

SELECTED FIXED ASSETS

Engine House  
Station/Office

Computer System  
Tractor/Backhoe  
Rail Drill  
Jackson Tamper (stripped)  
Air Compressor  
Plasser Ballast Regulator  
Tie Inserter  
Jackson Tamper

Locomotive #704 (GP8)  
Locomotive #1 (SW1)

Dump Truck  
1965 GMC Crew Cab Pickup

## GREENVILLE & NORTHERN RAILWAY COMPANY

### DESCRIPTION

The Greenville & Northern Railway (GRN) is a Class III carrier extending approximately 11 miles from downtown Greenville, South Carolina northwesterly to the town of Travelers Rest. (See attached map). It interchanges freight traffic in Greenville with CSX Transportation and with Norfolk Southern Railway. Approximately 1.8 miles of the line at the southern end immediately north of the GRN shop are out of service. Access to the shop is preserved via trackage rights over a parallel CSX spur for locomotives only.

The line is classified as excepted track per FRA regulations, with a maximum speed of 10 mph. Speed is restricted to 5 mph in some locations. Approximately 7.5 miles of the line are laid with 70 lb. jointed rail, with the northerly 3.5 miles laid with 56 lb. rail. The former NS Bleachery spur is laid with 70 lb. rail as well. Approximately 2200 new ties were installed in 1996.

There are 31 registered grade crossings. Four of the crossings are equipped with flashers, and the remainder are equipped with crossbucks.

Four timber pile trestles with an aggregate length of 860 feet are presently in use. Inspection reports will be available. There are also 4 trestles located on the out-of-service section.

A two-story wood frame office building at the southern terminus in downtown Greenville houses the general office. Adjacent to this is a two stall locomotive shop of concrete block construction which shares a wall with an unrelated business. A track scale is located in Berea at approximately Milepost 4. There are no other structures. There is no additional real estate beyond the right-of-way except where the office and shop are located. The right-of-way itself varies in width from 15' to 50' each side of center. Property taxes for 1996 totaled \$14,872.

Train operations are conducted on an as-needed basis. GRN has an FCC assigned radio frequency and radios are used for communication between the office and trains or maintenance personnel as well as between locomotive and ground personnel.

The line currently employs six full time personnel - four in operations and maintenance, an agent, and a general manager.

The line has two locomotives, a GP8 and a SW1. Both units are in service and current on their FRA inspections. There is no other rolling stock.

GREENVILLE AND NORTHERN CARLOADS AND REVENUE - 1984

	JAN	FEB	MAR	APR	MAY	JUN	JULY	AUG	SEPT	OCT	NOV	DEC	TOT
CARLOADS													
FIBRE	4	3	3	5	3	1	4	3	4	3	2	4	39
JMP	69	65	65	50	58	53	50	55	37	61	49	48	638
SCOTT'S	22	19	23	17	14	16	7	6	8	12	11	14	168
GHOOOME	23	29	18	23	21	25	15	28	17	24	30	23	276
AIR PR	6	4	3	6	13	10	12	12	11	7	7	7	87
PAP CUT	2	1	3	1	3	4	2	5	1	4	3	3	32
WHITAKER						47	09	103	78	28	23	27	391
DUKE	116	121	115	101	110	158	179	211	165	127	125	126	1642
REVENUE													
FIBRE	\$1,032	\$774	\$774	\$1,290	\$774	\$268	\$1,032	\$174	\$1,032	\$774	\$516	\$1,032	\$10,062
JMP	\$20,080	\$22,100	\$22,100	\$17,000	\$19,040	\$18,020	\$17,000	\$18,700	\$12,680	\$17,340	\$10,060	\$16,320	\$216,920
SCOTT'S	\$7,646	\$6,517	\$7,899	\$6,091	\$4,802	\$5,488	\$2,041	\$1,715	\$2,744	\$4,116	\$3,773	\$4,802	\$57,264
GHOOOME	\$5,046	\$6,372	\$3,854	\$4,962	\$4,594	\$6,408	\$1,321	\$6,310	\$3,788	\$5,412	\$6,735	\$5,220	\$61,200
AIR PR	\$4,215	\$2,800	\$2,163	\$3,005	\$9,173	\$7,210	\$0,552	\$0,052	\$7,991	\$5,047	\$5,047	\$5,047	\$69,742
PAP CUT	\$420	\$210	\$630	\$210	\$630	\$840	\$420	\$1,009	\$212	\$848	\$630	\$630	\$6,759
WHITAKER						\$9,840	\$19,061	\$22,021	\$16,114	\$6,200	\$4,600	\$6,400	\$62,269
DUKE	\$38,310	\$38,773	\$37,510	\$32,898	\$39,203	\$47,182	\$51,540	\$69,241	\$46,480	\$38,737	\$37,861	\$30,451	\$505,246

GREENVILLE AND NORTHERN CARLOADS AND REVENUE - 1995

	JAN	FEB	MAR	APR	MAY	JUN	JULY	AUG	SEPT	OCT	NOV	DEC	TOT
CARLOADS													
FIGURE	3	1	1	4	3	3	0	2	3	3	1	1	25
IMP	53	59	61	69	76	72	87	58	79	89	58	66	788
SCOTT'S	18	13	14	17	4	7	11	8	8	12	9	16	133
GROOME	28	22	35	28	19	20	15	18	12	14	22	14	247
ARR PR	11	11	9	8	12	14	13	17	2	11	9	13	130
PAP CUT	5	1	4	4	2	4	2	4	2	2	3	4	37
WHITAKER	45	24	37	13	8	19	3	0	0	0	0	0	158
DUKE													1
REVENUE	163	132	181	143	124	139	111	105	106	101	101	111	1497
FIGURE	\$774	\$258	\$258	\$1,032	\$774	\$774	\$0	\$516	\$774	\$774	\$258	\$200	\$6,450
IMP	\$18,020	\$20,000	\$20,740	\$23,480	\$26,840	\$24,086	\$23,114	\$20,070	\$27,070	\$21,388	\$21,022	\$19,900	\$208,848
SCOTT'S	\$6,174	\$4,459	\$4,002	\$5,031	\$1,372	\$2,401	\$3,773	\$2,068	\$2,744	\$4,116	\$2,744	\$5,146	\$45,018
GROOME	\$6,270	\$4,905	\$7,076	\$6,210	\$4,170	\$4,524	\$3,397	\$4,030	\$2,704	\$3,129	\$4,991	\$3,180	\$55,385
ARR PR	\$7,931	\$7,931	\$6,555	\$5,878	\$11,704	\$10,402	\$9,059	\$12,631	\$1,486	\$8,173	\$5,687	\$9,659	\$95,776
PAP CUT	\$1,050	\$210	\$840	\$840	\$420	\$895	\$432	\$896	\$463	\$432	\$448	\$886	\$7,991
WHITAKER	\$9,050	\$4,812	\$7,400	\$2,600	\$1,600	\$1,000	\$650	\$0	\$0	\$0	\$0	\$0	\$31,972
DUKE	\$49,268	\$43,784	\$49,170	\$45,851	\$42,960	\$47,002	\$41,075	\$40,200	\$35,241	\$37,990	\$39,350	\$40,890	\$509,970
													\$1,128

GREENVILLE AND NORTHERN CARLOADS AND REVENUE - 1996

REVISED JAN 7, 1997 TO INCLUDE DEC 96 ACTUALS

	JAN	FEB	MAR	APR	MAY	JUN	JULY	AUG	SEPT	OCT	NOV	DEC	TOT
CARLOADS													
FIGRE	2	1	2	1		1	1						9
IMP	69	54	48	65	68	42	45	46	33	38	2	2	508
SCOTT'S	17	20	12	12	0	6	7	7	10	7	13	13	8
GOODME	20	21	20	21	22	21	16	12	22	27	21	21	219
AIR PR	14	7	8	17	13	15	13	10	4	11	5	5	132
PAP CUT	4	4	2	4		4	3	2	3	8	2	2	41
WHITTAKER	4	4				1	1						10
DUKE	120	111	90	120	112	92	95	77	72	90	43	76	1085
REVENUE													
FIGRE	\$518	\$268	\$510	\$268		\$268	\$260			\$260			\$2,322
IMP	\$21,246	\$19,516	\$17,362	\$23,510	\$24,652	\$15,130	\$16,210	\$16,014	\$11,062	\$13,034	\$734	\$2,930	\$182,600
SCOTT'S	\$5,031	\$8,860	\$4,118	\$4,118	\$2,744	\$2,744	\$2,401	\$2,401	\$3,430	\$2,401	\$4,547	\$7,371	\$48,962
GOODME	\$1,604	\$4,793	\$4,518	\$4,702	\$4,983	\$4,843	\$3,579	\$2,741	\$4,092	\$6,081	\$4,717	\$5,858	\$50,309
AIR PR	\$10,402	\$5,201	\$4,968	\$16,081	\$12,909	\$14,095	\$17,900	\$9,930	\$3,972	\$10,923	\$4,965	\$16,801	\$124,026
PAP CUT	\$882	\$864	\$463	\$864	\$210	\$895	\$648	\$432	\$648	\$1,758	\$445	\$890	\$9,000
WHITTAKER	\$840	\$840				\$210	\$210						\$2,100
DUKE	\$49,321	\$38,332	\$31,933	\$50,331	\$45,504	\$30,983	\$36,216	\$32,118	\$24,904	\$34,458	\$15,400	\$33,928	\$428,433



## GREENVILLE &amp; NORTHERN RAILWAY

## CUSTOMER INFORMATION

<u>CUSTOMER</u>	<u>COMMODITY</u>	<u>CONTACT</u>
Whitaker Enterprises, Inc. 1419 Hampton Avenue Extension Greenville, SC 29609	Cotton - Inbound	Linda Franco (864) 232-3831
Fibre Processing Company P. O. Box 3653 Greenville, SC 29602	Cotton Factory Sweepings, Waste Outbound	Tom Benston, Chairman Jerry Benston (864) 242-4284
Groome and Associates, Inc. P. O. Box 729 Travelers Rest, SC 29690	Scrap Paper, Pulpboard Inbound and Outbound	Lee Groome, CEO (864) 294-8001
Industrial Metal Processing P. O. Box 2304 Greenville, SC 29602	Scrap Iron - Outbound	Jimmy Knight, President (864) 246-1431
McCotts-Sierra Horticultural Products Company P. O. Box 967 Travelers Rest, SC 29690	Vermiculite, mineral Inbound	Ron Kilbaugh, Plant Mgr. (864) 834-7273
Paper Cutters, Inc. 840 N. Highway 25 By-Pass Travelers Rest, SC 29609	Scrap Paper, Pulpboard Inbound	Randy Mathena, President (864) 834-3193
Air Products and Chemicals, Inc. 1004 Geer Highway Travelers Rest, SC 29690	Synthetic Plastic Chemicals Inbound	Dave Acker, Plant Mgr. (864) 834-5122
Duke Power Company 125 W. McBee Avenue Greenville, SC 29602		(864) 242-3261
S.S. Finishing (not currently active) 335 Old Buncombe Road Greenville, SC 29609		Martin Fryml (864) 242-6400

GCEDC 0342

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

**EXHIBIT 7**

To: Connie F. Greer at UP  
 To: Dick A. Hillestad at UP  
 To: Rob Laseter at UP  
 To: Charles T. Schramm at UP

-----  
 ASSOCIATION OF AMERICAN RAILROADS  
 EMBARGO NOTICES FOR December 4, 1997  
 CONSECUTIVE SHEET 243  
 -----

Number & Issuing Agency	Commodity	Destination Gateway or Territory	Consigned or Reconsigned To or Intended For
CPDR Carolina Piedmont Division, South Carolina Central RR Emb. No.1-97 EFFECTIVE 12-4-97	All traffic	To, from or via the following stations located on the GRN Sub- division (former Greenville & Northern Railway) located in the state of South Carolina:  Berea Fentress Montague North Greenville Travelers Rest	
	CAUSE:	Damage to bridges.	
	EXCEPTION:	None.	
BNSF Burlington Northern Santa Fe Rwy. Co. Emb. No.25-97 CANCELLED 12-4-97	All traffic	CANCELLATION Destined Brownsville, TX.	
	NOTE:	Original Emb. on Consecutive Sheet #222, 10-29-97.	
BNSF Burlington Northern Santa Fe Rwy. Co. Emb. No.26-97 CANCELLED 12-4-97	All traffic	CANCELLATION Routed from BNSF to TM at Corpus Christi, TX and Flatonia, TX destined to Laredo, TX.	
	NOTE:	Last shown on Consecutive Sheet #210, 11-13-97	

J. J. Carroll

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

**EXHIBIT 8**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

STB Docket No. 42087

GROOME & ASSOCIATES, INC. AND LEE K. GROOME  
v.  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION

---

**REBUTTAL VERIFIED STATEMENT OF LEE K. GROOME**

---

1. My name is Lee K. Groome. I am the President, founder and majority shareholder of Groome & Associates, Inc. ("G&A"). I previously provided a Verified Statement and hereby confirm my earlier testimony. The purpose of this Rebuttal Statement is to clarify comments in my initial Verified Statement and to respond to certain allegations raised by GCEDC in response to my earlier statement.

2. As I previously testified, beginning immediately after rail service was discontinued to its facility in Greenville, South Carolina, G&A began to incur substantial losses that ultimately caused it to discontinue operations on July 2003. Although I could not have anticipated the totality of the adverse financial impact that the loss of rail would have on G&A, the loss of rail service unquestionably was the primary factor that caused the ultimate demise of G&A in July 2003. I agree that the paper industry is not a business for the faint of heart. Based on my own 35 years of experience in the paper industry, I am well aware of the volatility of that industry and made my business decisions through the years with full awareness of that volatility. However, had it not been for the loss of rail service, G&A would not have failed.

3. By 1997, G&A was an established business with a solid record of financial success. At no time in its history did G&A fail to realize a gross profit from its sales transactions. Most

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

**EXHIBIT 9**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Docket No. 42087**

---

**GROOME & ASSOCIATES, INC., AND LEE K. GROOME  
v.  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

---

**EXHIBIT 9**

**VERIFIED STATEMENT OF**

**DAVID PETTRY**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Docket No. 42087**

---

**GROOME & ASSOCIATES, INC., AND LEE K. GROOME  
v.  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

---

**VERIFIED STATEMENT OF DAVID PETTRY**

My name is David Pettry. I am the owner of Pettry Rail Services, LLC, a firm that I founded last year upon my retirement from CSX Transportation ("CSX"). My retirement from CSX concluded 35 years of service with CSX and its predecessor railroads. At the time of my retirement, I was serving as Assistant Chief Engineer – System Maintenance for CSX. In that position, I was responsible for all maintenance operations. While with CSX, I was instrumental in the development of the company's track inspector training program. I was also responsible for developing and implementing plans to restore rail lines to service following natural disasters such as hurricanes and floods. My professional experience is described in more detail on Attachment I hereto.<sup>1</sup>

The purpose of this statement is to discuss the work needed to restore to a safe and serviceable condition the section of rail line connecting Groome & Associates' facility in Greenville, SC, with the main line of CSX in downtown Greenville. (I refer to that section of rail line herein as "the Line.") This statement is based on my personal, on-the-ground

---

<sup>1</sup> I also am currently a Senior Associate with Railroad Industries Incorporated, a transportation consulting firm.



inspection of the Line on January 13 and 14, 2005. David B. Hoff, a professional bridge engineer, participated with me on the second day of the inspection, focusing on the three trestles on the Line. I believe that with few exceptions (principally the condition of some of the ties and the degree of brush overgrowth of the Line), the current condition of the Line is similar to the condition of the Line when or shortly after the Line and the adjoining track was acquired by the Greenville County Economic Development Corporation ("GCEDC") in June 1999.

I conducted an on-the ground inspection of the approximately 2.6 miles of rail line between Sulphur Springs Road, just north of the facility of Groome & Associates located at 131 Pinsley Circle, Greenville, and the CSX connection with the Line near Hampton Avenue.<sup>2</sup> With the exception of the track that was recently rebuilt in conjunction with the relocation of Cedar Lane, over 95% of the right of way is presently covered with heavy vegetation. Although the vegetation prevented me from doing a complete, detailed evaluation of the Line, it is obvious from the track that is visible that the overall track conditions are poor and are not safe for operation.

#### Inspection Findings

*Bridges.* One of the major deficiencies of the Line is the condition of the 3 bridges in this 2.6-mile segment. Together, these total over 700 feet of bridge structure, all of which is obviously in very bad shape. Although I am not a professional bridge engineer, it is clear from my inspection that the mud sills, bents, caps, and ties are in desperate need of replacement or repair.

---

<sup>2</sup> The connection between the Line and Norfolk Southern's line through Greenville is south of the CSX connection. I did not inspect or evaluate the cost of rehabilitating the additional track necessary to reach the NS connection.

The worst bridge is located approximately 1000 feet north of the connection to CSX. My inspection indicates that this approximately 420-foot<sup>3</sup> bridge was somehow lifted off the caps and bents and moved 3 to 4 feet to the west. Central support structures for the bridge were also displaced. The only occurrence that I am aware of in this part of the country that could account for these observations is a severe storm that would cause heavy flooding of the Reedy River, which the bridge spans.

I would deduce from conversations with local residents and from my experience with CSX that the cause of this major displacement of the bridge structure was likely Hurricane Floyd. Hurricane Floyd hit this region particularly hard in mid-September 1999. Shortly after Hurricane Floyd hit, I toured this area by helicopter for CSX and surveyed the extensive damage caused by the severe flooding in the area. Local residents remember Hurricane Floyd as dumping 20 inches or more of rain in Greenville, causing major flooding of the Reedy River. No other storms of that magnitude have hit the Greenville area since 1999, so it appears to me likely that Hurricane Floyd caused this damage to the bridge near Hampton Avenue (unless the damage pre-dated GCEDC's ownership of the Line). In any event, the bridge near Hampton Avenue shows such extensive damage that, in my opinion, replacement of it would be required for operations to be conducted safely. The other 2 bridges on this 2.6-mile section of track also exhibit similar, though perhaps not quite as severe damage, and also likely would have to be replaced.

*Rail.* The rail in the Line is predominately 70# rail that was rolled in the 1890's. Rail of this age (which pre-dates control-cool rail manufacturing processes) and of this light weight is bound to have an extremely high failure rate under heavy modern axle loadings such as

---

<sup>3</sup> Measurement includes short approaches on either side of the span.

might be incurred, for example, in moving a large electrical generator to or from the Duke Power facility located near the Groome & Associates site. The rail joints that connect the rails are also in poor condition.

Whenever track failures occur, either through rail failure, joint failure or otherwise, there is a high risk of derailment. A derailment, of course, would be a major safety concern on any track because it raises the prospect at least of a substantial diesel fuel spill, if not worse. Safety concerns are particularly acute with this line because it runs through downtown Greenville, along and across the Reedy River, and near major utility lines.

*Ties.* The condition of the ties and ballast along the Line, as well as the surface and alignment of the Line, is poor. While my inspection showed that some ties had been installed in the past 10 years, many more of the ties that I was able to observe in the Line were worthless. For instance, many ties that appeared sound on the outside turned out, on closer inspection, to be hollow. Because of the heavy vegetation on the Line, it is impossible to be sure of the exact proportion of ties laid in the past 10 years to ties laid previously. However, considering that many of the ties that I saw in the Line are much older than 10 years old and that estimated tie life in this area of the country is less than 25 years, my inspection indicates a large-scale tie replacement would be necessary even to achieve FRA Class 1 standards.

*Ballast.* The ballast section, where visible, was dirt, cinders, or stone. The stone ballast which had been unloaded was not tamped under the ties as it should have been. This may have been done to cover up the poor ties and fasteners. The shoulder is narrow and there are washout conditions at several locations. Overall the ballast condition does not promote good drainage and would, unless repaired, create many surface and alignment problems if rail operations resume.

*Drainage.* The existing ballast condition does not promote good drainage. Water is standing in several locations alongside the track. Several new pipes need to be installed under or adjacent to the track structure. There are also areas where headwalls and banks need to be repaired before operations could safely resume. One example is an area just south of Milepost 2, where two 48" culverts had been installed under the railroad but were draining into a single pipe that appeared to be 24" or less. The roadbed has started to deteriorate at this location, and it is only a matter of time before this will result in a major washout.

*Surface and alignment.* The current profile and alignment of the Line is difficult to assess due to vegetation growth, but considering the current condition of the Line - the water lying in the ditches, the very old, lightweight jointed rail, poor tie condition, etc. - it would be virtually impossible to economically maintain a good surface and alignment. There already exist several areas where poor crosslevel condition exists and where washouts have occurred.

*Switches.* The portions of switches that I could see had multiple component problems and would not be safe for operation. Some sidings have been partially removed and all switches needed for operation going forward would need to be replaced to maintain a safe operation.

*Grade Crossings.* This segment of track has 6 road crossings, three public and three private. Two of the three at-grade crossings of public roads are in very poor condition and would have to be replaced if the Line were to be operated. The third - at Cedar Lane, Route 183 - was recently constructed. The 3 private crossings would also need to be upgraded. Crossing protection appears to be adequate for Route 253 and Sulphur Springs Road. The cost of crossing protection for Cedar Lane, Route 183, should be covered by the recent relocation project.

### Recommendations for Rehabilitation

I understand that Groome & Associates is advocating in this proceeding that the section of track that I inspected could have been put back in service as excepted track and at minimal cost. I respectfully disagree with that suggestion. FRA's excepted track standards essentially require only that the track be maintained at Class 1 standards on bridges and for 100 feet on either side of a bridge and at grade crossings. In other words, the excepted track 'standard' essentially leaves it up to the rail operator how much risk it is willing to take and to foist upon the public from operating substandard track. Particularly in this instance, where the track is owned by a government-created, non-profit corporation whose board is largely comprised of local elected officials, I believe that the track owner would find exposing the public to such risks to be unacceptable. Rather, for reasons of public safety, as well as economy of operation, my professional recommendation to the owner of this track would be that the track needs to be brought up to FRA Class 1 condition before it could be operated. The reasons for this recommendation are as follows.

As shown above, my inspection of the Line disclosed that the track structure is unsound in virtually every respect. The Line is laid with rail that is over 100 years old. That necessarily means that the rail was manufactured before development of the control-cooling process that reduces internal rail defects. Thus, due to its light weight and time of manufacture, the rail in the Line is highly susceptible to fracture under modern rail loadings. Broken rails often lead to derailments, which normally are costly to clean up, are potentially damaging to the environment, and are a threat to public safety. Even though it is theoretically possible that the Line could be operated with the existing rail, doing so would create a risk of catastrophic track

failure. I think that a government-created, non-profit company like GCEDC would be loath to take such a large risk or to expose the public to that risk.

Similarly, as confirmed by Mr. Hoff's inspection, the damage to the bridges caused by Hurricane Floyd is simply too extensive to be safely remedied with Band-aid type solutions. (Even if the Line were to be operated as excepted track, it would require assuring that the bridges were sound enough to allow the track on and adjacent to them to be Class 1 track.) Rather, if the Line is to be operated, it needs to be put in a condition that its operation is not a constant risk to the operator, the equipment and the public.

Although the initial outlay for bringing the Line to Class 1 condition would be greater than seeking to operate the Line as excepted track, the payoff in safety and economy of operation would be greater. Even setting aside the risk factor, attempting to operate the Line as excepted track would not be economical, particularly in the long term. Doing the minimum initial work possible in order to operate the Line as excepted track would mean a constant stream of expensive maintenance work. If a new component such as replacement rail were added, for example, but the ties and OTM were not upgraded correspondingly, then the rail would inevitably have a much shorter useful life than if adequate supporting components were installed as well. Most of the components of this line appear from my inspection to have reached or exceeded their useful life, and mixing a few new components with those worn out components would in the long run increase overall cost. Also, were GCEDC to sink funds into half measures initially, it might not have funding available when needed to do all of the work required to accomplish the light rail service which is one of the goals for which GCEDC was created.

In short, I would not recommend putting this track back into operation with an excepted or a minimum class 1 status. This track is located too close to crossings, streams and major utilities, along with being in the City of Greenville, for excepted status to be truly adequate. The bridges and the various track components all need to be upgraded to assure a safe operation.

Based on consultations with Mr. Hoff, whose statement is being submitted simultaneously with this one, I estimate that the minimum cost necessary to make the 3 bridges on the 2.6-mile section of the Line safe and functional would be \$1.384 million. While this assumes replacement of timber trestles with steel structures, Mr. Hoff's analysis indicates that replacement with a steel structure would be less costly than replacement of the structure with a steel and timber structure or than attempting to repair these severely-damaged bridges. A breakout of these costs provided by Mr. Hoff is the first table of Attachment 2 hereto. A comparative analysis based on Union Pacific Railroad's cost estimating guide, validating Mr. Hoff's conclusions of the costs of bridge replacement, is also included in Attachment 2. Mr. Hoff's statement explains these materials in greater detail.

Upgrading the track structure to FRA Class 1 condition would cost, I estimate, \$1,608,675. The first step in the process would be to cut and remove all vegetation within the track structure and for 15 feet on either side of the track in order to allow a complete assessment of the track components. After vegetation removal, a ballast regulator should be run to clean off ties so they can be marked for replacement.

I estimate that, considering the age of many of the ties in the Line, replacement of 50% of the ties, or about 1600 ties per mile, would be needed to assure that each and every rail rests on an adequate number of sound ties. While this is a greater number of ties than actually

required to meet the minimum Class 1 standards published in FRA regulations (which would require replacement of at least 30% of the ties in the line), the recommended level of replacement is consistent with FRA's own advisories. Those advisories and FRA training materials recognize that the standards published in FRA regulations are merely the absolute minimum standards with which a track must comply to avoid sanctions, not the recommended level of maintenance. Merely matching this absolute minimum standard provides no margin for error or damage to any of the newly-installed ties, and would be particularly troubling because of the complete worthlessness of many of the ties not being replaced. For 2.6 miles of track, 1600 ties per mile equals approximately 4,200 ties, costing about \$237,390 to obtain and install.

Existing rail would need to be removed and sold, to be replaced with 2.3<sup>4</sup> track miles (*i.e.*, 2 rails per track foot) of class 2 or 3 rail that is control-cooled and is 115# or larger. This size and class of rail would give the reliability needed for safe operation. Second hand tie plates and spikes would be needed as well. I would recommend installing new rail anchors. The total cost estimated for this work is \$760,986. *See Attachment 3.*

Additionally, GCEDC should remove all switches, replacing only the turnouts that would be needed for service. The switch at Hampton Ave. and the one at Groome & Associates would need to be replaced. In addition, a 500-foot siding with 2 switches should be installed in close proximity to the location at Groome & Associates for operational efficiency (*e.g.*, in order for the locomotive to run around the consist to spot or move cars without having to operate the line haul portion of the move with the cars ahead of the locomotive, a manner of

---

<sup>4</sup> The difference between this figure of 2.3 miles of rail and the 2.6 miles of track that I inspected is due to accounting separately for rail on bridges and in crossings and for the work done by the South Carolina DOT in conjunction with recent road work at the new Cedar Lane.



operation that somewhat compromises safety by obstructing the train crew's view of the track ahead). In total, 4 turnouts and 500 feet of new siding, costing \$242,500, should be installed.<sup>5</sup>

The entire segment should have ballast unloaded after rail and tie replacement and should then be surfaced. Some areas may need to be surfaced twice. I estimate that this would require 2,000 tons of A.R.E.A. main line ballast. The ballast would then need to be tamped to throughout the segment. I would also suggest adding 300 tons of Rip Rap for slope protection.

For grade crossings, 5 new crossings are needed. The two major crossings would be at Route 253 and Sulphur Springs Road. (The state recently replaced the Cedar Lane crossing in connection with road construction there.) I recommend installing 200-foot concrete or full depth rubber in each major public road crossing, with private crossings being restored with 45 feet of rail seal per crossing. The estimated cost for this would be \$213,763.

Finally, with respect to drainage, I would recommend that all tree and other debris be picked up along the entire segment. Then, approximately 20% of the Line should have ditches established. This would require use of a grapple truck for 2.6 miles and a ditcher for 1/2 mile. Attachment 3 contains a more complete breakdown of the various components of this estimate.

### Conclusion

Based on my inspection of the Line and my 35 years of professional railroad engineering experience, it is my opinion that a Band-aid-type solution of attempting to operate the Line as excepted track would not be either safe or, in the long run, economical for the Line's owner. Rather, considering the age and condition of the track components, the location of the track in a municipality and near a river, and the purposes and responsibilities that

---

<sup>5</sup> If Duke Power required service at its facility, as I understand that the evidence presented by Groome & Associates in this case indicated might occur, an additional turnout would be required.

GCEDC has as a publicly-created entity, operation of the Line should require bringing the Line into compliance at least with FRA Class 1 standards. Doing so, including the necessary bridge replacement work, would cost at least \$2,993,275, according to my investigation and evaluation.

Finally again, from my inspection of the Line, I do not believe that the current dilapidated condition of the Line is significantly different from the condition that I would have found had I inspected the Line at the end of 1999, after GCEDC obtained it. The rail would still have been 100 years old. Many of the ties would still have been at or near the end of their useful life. And it appears that the bridges, damaged by flooding as a result of Hurricane Floyd in mid-September 1999, would already have sustained the heavy damage that they show today. While the cost at the end of 1999 to rehabilitate the track (not including replacement of the bridges) might have been somewhat less than the current rehabilitation cost (due largely to the current high price of steel), I estimate that track restoration would have cost at least 85% of the total current cost of the track rehabilitation that I have estimated.

**VERIFICATION**

I, David Pettry, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement.

Executed on January 20, 2005

David Pettry  
Signature

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Docket No. 42087**

---

**GROOME & ASSOCIATES, INC., AND LEE K. GROOME  
v.  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

---

**VERIFIED STATEMENT OF DAVID PETTRY**

**ATTACHMENT 1**

*Key Personnel – David Pettry*

**Railroad Industries Incorporated**  
*a full service transportation consultancy*

David Pettry

904-273-8286

DP@RailroadIndustries.com

**Experience**

*Railroad Industries Incorporated*  
Senior Associate, out of Reno, NV

2004 - Present

Railroad Industries is a worldwide management-consulting firm that specializes in transportation and physical distribution. Work has included branch line analysis, equipment utilization and analysis, development of operating plans, market development, transportation costing, intermodal analysis, merger studies, developing short line railroads, and financial analysis. Mr. Pettry is a Senior Associate with Railroad Industries, Inc., specializing in railroad equipment, maintenance, inspection, and cost analysis, with a strong background in rail engineering and management.

*Petry Rail Services, LLC, Partner*  
Ponte Vedra, Florida

2004 - Present

Mr. Pettry formed this Limited Liability Corporation and uses his skills to help others in the rail industry improve Safety, Quality, and Costs. He provides fact based evaluations and recommendations to give clients high impact results. Mr. Pettry has evaluated the Peru Rail System for FRA (213) Standards and developed the presentation leading to his training of the Management Staff of the Peru Rails System. He also developed and implemented a Short Line course for the B&P Railroad which resulted in their FRA test scores improving in excess of 40%.

*CSX Transportation Railroads- Subsidiary of CSX Corp., Jacksonville, Florida*  
Assistant Chief Engineer – System Maintenance  
Assistant Chief Engineer – Production and Programs  
Division Engineer – Mobile Alabama  
Assistant Division Engineer

1999-2004  
1993-1998  
1990-1993  
1977-1990

As Assistant Chief Engineer for System Maintenance, Mr. Pettry managed a staff of 10, responsible for all maintenance operations. He oversaw the improvement of Signal Switch reliability by 70%, 10 mph speed restrictions on Principal Routes by 90%, reduction of total slow order miles by 60%, and the improvement of relations with the FRA on sensitive maintenance issues. He developed and implemented a cost effective way to remove crushed heads, poor or failed welds, and defective insulated joints. He developed the Track Inspectors Training manual. He also surveyed, organized, and directed the recovery for major hurricane, tropical storm, and other catastrophic events.

As Assistant Chief Engineer of Production and Programs, Mr. Pettry worked closely with the Sr. Vice President of Engineering and Mechanical, and the Vice President of Network Operations. He was responsible for the development and execution of the yearly Capital budget between \$200-\$300

### *Key Personnel – David Pettry*

million. He managed a staff of 38 plus traveling teams of 570-1100 employees. He oversaw the improvement of Safety Performance by 75%, the improvement of Track Curfew processes, the improvement in major tie and curve rail teams over 250%, and the improvement of equipment reliability by 50% while reducing cost by absorbing the Work Equipment Group. Mr. Pettry also developed and implemented cost effective teams for night working.

As the Division Engineer, Mr. Pettry reported to the General manager of Transportation and directed all engineering functions for 3582 track miles across Tennessee, Georgia, Alabama, Florida, Mississippi, and Louisiana; 2 major hump yards; 11 flat switching yards; 70 miles of bridges including 31 drawbridges. He managed 45 managers and up to 760 contract employees. He oversaw the improvement of safety performance by 90%, reduction of slow order more than 60%, and reduction of derailments by 90%. His Division earned the awards of the First Engineering Division with a Safety Frequency Index under 1.0, the First Quality sub-division, and the Best Engineering Division in 1992 and 1993.

As Assistant Division Engineer, Mr. Pettry managed track supervisors and contract employees in West Virginia, Ohio, Pennsylvania, Maryland, Virginia, Washington D.C., and New York. He was responsible for Employee Safety and maintaining safe train operations. He acquired the reputation of a troubleshooter and a leader who was capable of dealing with challenging issues. He accomplished safety improvements that included reducing 1 district from 53 injuries to 0 in two years. He also worked on the 8,300 foot clearance improvement project in a major CSX tunnel and stopped track that caused derailments in Pennsylvania to re-establish Engineering credibility.

### *Education & Training*

*A.B. Business Management, Mountain State University*

*Courses in Railway Engineering, Northwestern University*

*Courses in Railroad Analysis, Design, and Maintenance, University of Delaware*

*Leadership Training, Tom Peters*

*Various courses in Experience Compression Laboratory*

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Docket No. 42087**

---

**GROOME & ASSOCIATES, INC., AND LEE K. GROOME  
v.  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

---

**VERIFIED STATEMENT OF DAVID PETTRY**

**ATTACHMENT 2**

Bridge  
 Type: Steel Piles with steel caps and steel stringers  
 No ballast deck - Timber ties on Steel Stringers

Total Bridge Replacement Costs\*\*: \$1,384,600.00

Cost Per Linear Ft: \$ 1,775.13

BR #	Bridge Length (ft)	Cost
1	420	\$ 745,553.85
2	75	\$ 133,134.62
4	285	\$ 505,911.54
Sum	780	

\*\* Estimated Construction Costs obtained from Bob Brode of W.M. Brode Construction Co. located in Newcomerstown, Ohio on January 18, 2005

Alternate estimate – timber stringers rather than steel stringers:

Bridge  
 Type: Steel Piles with steel caps and Timber stringers  
 No ballast deck - Timber ties on Timber Stringers

Total Bridge Replacement Costs\*\*: \$2,199,000.00

Approximate Cost Per Linear Ft: \$ 2,819.23

BR #	Bridge Length (ft)	Cost
1	420	\$1,176,000.00
2	75	\$ 225,000.00
4	285	\$ 798,000.00
Sum	780	

Cost Estimate from UP Railroad Cost Estimating Guide Eff 1997 (No increase for inflation since 1997 in above values)

\* Values are adjusted for cost savings based on length



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Docket No. 42087**

---

**GROOME & ASSOCIATES, INC., AND LEE K. GROOME  
v.  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

---

**VERIFIED STATEMENT OF DAVID PETTRY**

**ATTACHMENT 3**

RAILNET RAIL COSTS

RAIL RELAY

		Per Mile Cost	Miles of Installation	Total Cost #132 rail	Total Cost #115 rail
<b>RAIL</b>					
wt of rail	132				
tons	232.34				
\$/ton	\$ 600.00	\$ 136,404	2.3	\$ 320,820	\$ -
wt of rail	115				
tons	202.43				
\$/ton	\$ 750.00	\$ 151,815	2.3	\$ -	\$ 349,175
<b>PLATES</b>					
#/mile	6,200.00				
\$/mile	\$ 6.60	\$ 34,720	2.3	\$ 79,856	\$ 79,856
<b>WELDS</b>					
#/mile	271.00				
\$/mile	\$ 85.00	\$ 14,905	2.3	\$ 34,282	\$ 34,282
<b>ANCHORS</b>					
#/mile	7,000.00				
\$/mile	\$ 1.75	\$ 12,250	6.6	\$ 80,830	\$ 80,830
<b>SPIKES</b>					
spikes/plate	2.00				
\$/spg	\$1.70				
\$/spg	\$ 91.21	\$ 4,746	2.3	\$ 10,816	\$ 10,816
<b>MISC</b>					
insulated joints		\$ 5,300	2.3	\$ 12,190	\$ 12,190
<b>MATERIAL COSTS</b>				\$ 838,852	\$ 587,198
Unloading/Shipping (20%)				\$ 167,770	\$ 117,440
Scrap Returned					
tons	117				
\$/ton	\$ 150.00	\$ (17,550)	2.3	\$ (40,365)	\$ (40,365)
<b>ADJUSTED MATERIAL COSTS</b>		\$ -	0	\$ 606,018	\$ 646,273
<b>Labor</b>					
\$/foot	10,560				
\$/foot	\$ 4.25	\$ 44,800	2.3	\$ 103,224	\$ 103,224
<b>Rail lease</b>					
flat fee	\$ 13,044				
\$/day	0.70				
\$/day	\$ 1,000.00	\$ 13,802	2.3	\$ 31,744	\$ 31,744
<b>Mobilization</b>					
flat fee	\$ 3,000.00	\$ 3,000	6.6	\$ 20,000	\$ 20,000
<b>TOTAL COST</b>				\$ 784,986	\$ 785,249

Build Runaround Siding	# of feet	Cost Per Foot	Total
	500	125	\$62,500

RAILNET RAIL COSTS

TIE COST

	Total Cost Per Tie	Ties/Mile	Mile of Installation	Total Cost
		1,900	2.30	
Tie \$	\$ 24.00			\$ 86,329
Spikes				
Wysite	2.00			
Spikes	\$ 1.52	\$ 3.04		\$ 11,187
Handling/Shipping/Disposal				
% of Total	40%	\$ 10.82		\$ 39,803
Installation per tie	\$ 18.50			\$ 68,098
Material Cost	\$ 96.36			\$ 207,300
Mobilization				\$ 80,000
Total Tie Cost				\$ 227,298

ROAD CROSSING

	# of feet	Cost per Crossing	# of Crossings	Total Cost
<b>Highway Crossing</b>				
Rebuild new rail w/ concrete		\$ 700.00		
Rebuild w/ new railroad seal per foot		\$ 375.00		
Asphalt w/ concrete		\$ 9,281.00		
Asphalt w/ rail seal	50	\$ 35,000.00		
Insulated Joints				
number of joints	4			
\$/joint	1,325	\$ 6,200.00		
Signage		\$ 1,000.00		
Total cost per 80' Highway Crossing		\$ 20,581.00	4	\$ 292,204
<b>Private Crossing</b>				
Asphalt with Rail Seal per foot		\$ 2,588.00		
Total Cost per 15' Private Crossing	3	\$ 3,213.00	3	\$ 11,439
Total Highway/Private Crossings				\$ 215,763

**RAILNET RAIL COSTS**

**Miscellaneous**

		Cost per MIRGE	# of Miles	Total Cost
Ditching/Tree Removal Equipment	\$/day	\$350.00		
	# of days	20.0	2.3	\$ 16,100
Vegetation	\$/mile miles	\$ 8,000.00	2.3	\$ 42,320
Ballast	\$/ton	\$ 14.00		
	# of tons	1,000	2.3	\$ 32,280
Shipping/Unloading 80%		\$ 12,860.00	2.3	\$ 29,524
Surfacing	\$/sq foot	\$ 2.00		
	# of feet raised per mile	8,260	3.2	\$ 33,792
<b>Total Vegetation/drainage/ballast/ Surface including mobilization/shipping</b>		<b>\$ 82,840.00</b>		<b>\$ 154,036</b>

<b>Switches</b>		
New Switches	\$/switch	\$85,000.00
	# of switches	4.8
<b>Total Switches</b>		<b>\$ 180,000</b>

**SUMMARY OF ALL TRACK COSTS**

Category	Total Costs	Total Costs
	152R rail	112R rail
Rail	\$ 700,000	\$ 725,240
Ties	\$ 337,300	\$ 237,300
Veg. Drainage, Ballast, Surfacing	\$ 154,036	\$ 154,036
Road Crossings	\$ 213,783	\$ 213,783
Switches	\$ 180,000	\$ 180,000
Build Siding	\$ 62,600	\$ 62,600
<b>TOTAL COSTS</b>	<b>\$ 1,608,675</b>	<b>\$ 1,642,829</b>

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

**EXHIBIT 10**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Docket No. 42087**

---

**GROOME & ASSOCIATES, INC., AND LEE K. GROOME  
v.  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

---

**EXHIBIT 11**

**VERIFIED STATEMENT OF**

**JOSEPH J. PLAISTOW**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB Docket No. 42087**

---

**GROOME & ASSOCIATES, INC., AND LEE K. GROOME  
v.  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

---

**VERIFIED STATEMENT OF JOSEPH J. PLAISTOW**

**INTRODUCTION**

My name is Joseph J. Plaistow. I am an economist and a Vice President of the economic consulting firm of L. E. Peabody & Associates, Inc. The Firm's primary office is located at 1501 Duke Street, Suite 200, Alexandria, Virginia 22314. My qualifications and experience are attached to this verified statement as Attachment 1. The 45 verified statements that I have sponsored since joining L.E. Peabody & Associates, Inc. in 1998 have primarily been before this Surface Transportation Board (the "Board" or the "STB") and have concerned the variable cost of providing rail service and I have again applied that expertise to the facts of this proceeding.<sup>1</sup>

In this proceeding, Lee K. Groome and Groome & Associates (collectively "Groome") claim that Greenville County Economic Development Corporation ("GCEDC") violated its common carrier obligation by failing to provide rail service to Groome's facilities. Groome further claims that it suffered damages due to this failure to provide rail service and due to the fact that Groome had to pay substantially more for truck transportation than it was paying for rail service.

---

<sup>1</sup> I have also sponsored economic testimony in abandonment and feeder line proceedings. Idaho Public Utilities Commission v. Camas Prairie Railnet, Inc., STB Docket No. AB-564, is an example of an abandonment proceeding verified statement. I was an economic witness in the feeder line proceeding Caddo Antoine and Little Missouri Railroad Company - Feeder Line Acquisition - Arkansas Midland Railroad Company Line Between Gurdon and

To determine whether or not Groome was truly damaged by having to use trucks rather than rail, I have determined what the costs would have been for GCEDC to provide rail service to Groome & Associates, Inc. ("G&A") over the 2.6 mile segment of rail line (that is, a section of rail line extending between approximately Hampton Avenue and Sulphur Springs Road in Greenville, South Carolina) (the "Line") that connects G&A's facility with the mainline of the CSX. In developing my conclusion, I have relied upon data developed by the following Greenville County Economic Development Corporation ("GCEDC") witnesses:

1. David B. Hoff, P.E., a bridge expert and a registered professional engineer who estimated the cost of replacing the three bridges on this 2.6 mile section of track to be \$1,384,600; and
2. David Pettry, an experienced railroad engineer with over 35 years of service with CSX and its predecessor railroads, who, following his personal, on-the-ground inspection of the Line on January 13 and 14, 2005, concluded that in addition to the bridge work it would cost \$1,608,675 to make other required and necessary improvements to the Line.

It is my opinion that if GCEDC had been required to provide G&A rail service during the period of time covered by the complaint or is required to provide rail service now, that the variable costs, plus the associated fixed costs, of moving rolls of paper over just the 2.6 mile segment, and not counting the line-haul charge that CSX or NS would have charged, would have exceeded \$1,430.17 per carload. This is significantly more than what Groome was paying before the line was embargoed and is far in excess of truck transportation charges to move the same rolls of paper. Because of the exorbitant cost of this rail service, I conclude that Groome would never have used GCEDC's rail service even if it had been available and that Groome suffered no damages because of the lack of rail service to his facility.

---

Birds Mill, AR, STB Finance Docket No. 32479. (This proceeding was appealed to the federal court as GS Roofing I, 143 F.3d at 392.) While at L.E. Peabody & Associates, Inc., I have also testified before federal and state courts.



The remainder of this verified statement is organized under the following topical headings:

- I. Road Property Investment Return and Depreciation
  - II. Variable Cost of Providing Rail Service from CSX Connection in Greenville, SC, to Groome & Associates, Inc.
- I. Road Property Investment Return and Depreciation**
- A. Purchase Price of Former G&N Property

To provide service to G&A, GCEDC would have had to make substantial investments in road property assets. These investments would have been in addition to GCEDC's original \$1.3 million investment to purchase the railroad corridor segments formerly owned by the South Carolina Central Railroad Company, Inc., including 11.8 miles of the former Greenville & Northern Railroad ("G&N"). "These two segments are identified as follows:

1. 3.29 miles located between North Pleasantburg Road and a point just north of the General Electric lead track in southeastern Greenville; and
2. The former Greenville & Northern Railroad running generally between downtown Greenville, along the Reedy River, and northward to Travelers Rest."<sup>2</sup>

The first segment was offered for \$2,000,000. The second segment was offered for \$750,000.<sup>3</sup> Both segments were ultimately sold to GCEDC for \$1.3 million,<sup>4</sup> or 47.27% of the original total asking price of \$2.75 million. The 2.6 mile segment with which we are dealing in the instant proceeding is in the second segment, and 47.27% of the \$750,000 asking price is

---

<sup>2</sup> See January 29, 1999 letter from Todd N. Cecil, Railtex Director – Real Estate, to Mr. Dozier Brooks, Chairman, Greenville County Council included in Attachments A1-A19 to Groome & Associates, Inc.'s "Memorandum in Support of Complaint," filed December 21, 2004.

<sup>3</sup> Ibid.

<sup>4</sup> See deposition of Dozier Brooks, November 19, 2003 in State of South Carolina Court of Common Pleas proceeding C.A. NO. 01-CP-23-2351, page 7 included in Attachments B-G to Groome & Associates, Inc.'s "Memorandum in Support of Complaint", filed December 21, 2004.

\$354,525. Assuming that at least one-third of the value of the second segment should be attributed to the more highly developed downtown Greenville 2.6 mile stretch from the CSX interchange to G&A, the original price of the 2.6 mile section was at least one-third of \$354,525 or \$118,175. The calculation of return and depreciation on this amount of investment is shown in Attachment 2. See line 1 of Attachment 2 to this verified statement.

B. Bridge Expenditures

Attachment 2 also calculates the return and depreciation costs related to the required bridge expenditures of \$1,384,600 estimated by GCEDC witness David B. Hoff. See line 3 of Attachment 2.

C. Other Line Improvement Expenditures

Attachment 2 calculates the return and depreciation costs related to the required Line improvement expenditures of \$1,608,675 estimated by GCEDC witness David Pettry. See lines 2, 4, 5, and 6 of Attachment 2. In Attachment 2, Witness Pettry's total investment is broken down into its component parts: \$154,036 for Grading; \$237,390 for Ties; \$760,986 for Rails and OTM; and \$456,263 for Crossings and Switches from Attachment 3 to Mr. Pettry's Verified Statement.

D. Road Property Investment Return and Depreciation Costing Procedures

Standard URCS costing procedures were applied in Attachment 2 except that line-specific Road Property Investment Return and Depreciation were reflected instead of the Region 4 averages. These cost calculations were then carried forward to Attachment 3, "Variable Cost of Providing Rail Service from CSX Connection in Greenville, SC to Groome & Associates, Inc."

Pages 1 and 2 of Attachment 2 calculate the total running and switching portion of the costs associated with these investments. The running portion of these costs would normally be

brought forward as the return and depreciation portion of line 1, Gross ton mile cost of Attachment 3, page 1. The switching portion of these costs would normally be brought forward as the return and depreciation portion of lines 7, 8, and 9, Switching cost of Attachment 3, page 1. Because the service units were not available that would have allowed the line-specific switching costs to be determined using standard URCS procedures, both the running and switching portion of these costs were allocated on a gross ton-mile basis. This is a reasonable procedure because 100% of the Road Property Investment Return and Depreciation costs must be covered by this service, so it matters little whether it is accounted for as a Switching cost or as a Gross ton-mile cost. Because Switching return and depreciation are accounted for on a gross ton-mile basis, Switching return and depreciation were zeroed out in Attachment 3, page 1, lines 7, 8, and 9.

The costing procedure that I have applied is conservative (that is, understated) in a number of respects. First, the Deferred Tax Reduction in column (6) of page 1 of Attachment 2 is based on Region 4 numbers and will likely overstate the deferred tax credits available to GCEDC. Second, the road investments that I have accounted for are only the new required capital expenditures estimated by GCEDC witnesses Hoff and Pettry. Because of this, the required return and depreciation of all other assets have not been included in the Attachments 2 and 3 variable costs.

Attachment 2 only determines the variable portion of the Road Property Investment Return and Depreciation costs. These cost components are reduced by the 50% variability factor. While this 50% of costs is covered in variable costs, the railroad as a whole must cover the remaining 50% of fixed costs in the margin above costs that must come from the contribution created by rate levels set at a level sufficiently in excess of variable costs.

The variable portion of road return is \$456.83 per car (see Attachment 2, Return On Investment, line 1), while the variable portion of road depreciation is \$120.61 per car (see Attachment 2, Depreciation, line 11). The fixed portion of these costs is identical to the variable portion.

**II. Variable Cost of Providing Rail Service From CSX Connection In Greenville, SC, To Groome & Associates, Inc.**

Attachment 3 calculates the variable cost per car of providing rail service from the CSX connection in Greenville, SC to Groome & Associates, Inc., 2.6 miles distant from the connection. It is standard procedure to use regional costs in instances involving smaller railroads that are not required to fully disclose financial and operating information to the STB. Since GCEDC's line is in the east, I have used Region 4 costs.

The products moved into G&A's facility were rolls of paper purchased from papermills or paper brokers. Mr. Groome has stated his belief that these rolls of paper are classified as STCC 26213 and 26214, although I understand that Mr. Stewart, an expert in the paper industry, does not agree that those are the applicable STCC codes. Regardless of the exact STCC code, paper and paper products, such as the ones involved in this proceeding, are moved by CSX in equipped boxcars that load out at 55 to 60 tons per car. To be conservative (i.e., to understate costs), my costs reflect lading weights of 60 tons per boxcar. Some other operating parameters are calculated in the footnotes to Attachment 2.

While Attachment 3 reflects line-specific costs for Road Property Investment Return and Depreciation for the Gross Ton Mile costs, the other cost components are regional average costs. Regional average costs understate the costs that would have been incurred by GCEDC because the regional average costs reflect the operations of major railroads operating in the region that have been able to take advantage of the unit cost reductions possible in modern, large scale

railroad operations. Owing to its small size, GCEDC's railroad would not have been able to benefit from economies of scale.

I estimate the variable costs of moving rolls of paper from the CSX interchange to Groome & Associates, Inc. to be \$852.73 per carload. See Attachment 3, page 1, line 16. The fixed costs just for the required expenditures for bridges and improvements to the Line are the same as the corresponding variable costs, so they would add an additional \$577.44 (that is, \$456.83 for return plus \$120.61 for depreciation) per carload. GCEDC rates would have to be set at \$1,430.17 [i.e., \$852.73 (variable costs) plus \$577.44 (fixed costs)] per carload or higher just to cover these conservative measures of the actual costs incurred by GCEDC. That equates to \$550.07 (i.e., \$1,430.17 divided by 2.6) per car per mile just for the 2.6 miles of GCEDC service.

Because truck rates for moving these same commodities average only \$1.20 per mile<sup>5</sup>, Groome & Associates, Inc. would never have chosen to use GCEDC's rail service because truck transportation charges would have been dramatically less than GCEDC's rail transportation charges.

---

<sup>5</sup> This number is based on a review of the invoices, bills of lading and related documents furnished in discovery (documents G 00090 through G 000251) concerning G & A's use of trucks and cross docking services.

## **JOSEPH PLAISTOW**

Mr. Plaistow is a Vice President and principal of L.E. Peabody & Associates, Inc., an economic consulting firm whose principal office is located at 1501 Duke Street, Suite 200, Alexandria, VA 22314.

Mr. Plaistow graduated in 1967 from Michigan Technological University with a Bachelor of Science Degree in Metallurgical Engineering. In 1972 he graduated from the University of Minnesota with a Masters Degree in Business Administration. He is a member of Tau Beta Pi (the national honorary engineering fraternity), Alpha Sigma Mu (the national honorary metallurgical fraternity), Phi Eta Sigma (a national academic honor society), and Phi Kappa Phi (a national academic honor society). He is also a member of the Association for Transportation Law, Logistics and Policy, and is a past President of the Washington Chapter of the Cost Analysis Chapter of the Transportation Research Forum.

In 1998, Mr. Plaistow joined L.E. Peabody & Associates, Inc., where he advises clients on transportation economics, rate structures, and rate reasonableness determinations. He came to L.E. Peabody & Associates, Inc. after serving as Vice President of Snavely King Majoros O'Connor & Lee, Inc. where from 1988 to 1998 he provided economic consulting services in the transportation field. In 1987 and 1988, he was Vice President, FMI, Inc., managing the efficient operation of refrigerated boxcars. From 1972 to 1987, Mr. Plaistow was employed by the Burlington Northern Railroad ("BN") (now "BNSF") as Director of Costs and Economic Analysis in the Finance Department, as Director of Equipment and Service, and as Director of Planning and

Equipment in the Food and Manufactured Products Business Unit of the Marketing Department. From 1967 to 1970, Mr. Plaistow was a metallurgical engineer for Pickands Mather designing processing facilities in the iron mining region of northern Minnesota.

While at BN, Mr. Plaistow determined the variable cost of operations using both internal management and regulatory costing procedures. In the late 1970's and early 1980's, he directed the team that designed a complete replacement of BN's management costing systems including the institution of separate and distinct systems for the costing of coal, intermodal, and general freight.

The management costing system renovation at BN preceded the replacement of Rail Form A with URCS for regulatory costing in the railroad industry. Mr. Plaistow participated on behalf of BN in industry meetings evaluating the early versions of URCS components as they went through their developmental stages. He also testified on behalf of BN in numerous ICC proceedings regarding the economic principles underlying the implementation of maximum-rate principles including the proper application of cost of capital and capital investment analyses and procedures.

Throughout his 32-year career in transportation, Mr. Plaistow has become thoroughly familiar with the economic analysis of railroad operations and service from the perspective of both the shipper and the transportation provider. He has testified before the Board and its predecessor many times on cost and economic issues, including the presentation of evidence on transportation costs in maximum rate reasonableness cases. He has also made public presentations and written published articles in the areas of transportation economics, maximum rate regulation, corporate investment policies,

competitive effects of mergers, and the competitive access issue.<sup>1</sup>

---

<sup>1</sup> See, e.g., “A Layman’s Guide to Economic Terms in Stand-Alone Costing,” Transportation Practitioner’s Journal, Summer 1994; “Regulation as a Substitute for Competition,” College of St. Thomas, St. Paul, MN, May 5, 1980; “Are Internal Rate of Return and Other Investment Analyses Misleading?” Railroad Capital Investment Conference, St. Charles, Illinois, November 5, 1979; “Analyzing Large Incremental Investments,” Cost Analysts Organization Meeting, Lexington, KY, May, 1978; and “Railroad’s Opportunity to Earn a Fair Return,” ICC Practitioner’s Journal, March-April, 1976.



**VERIFICATION**

I, Joseph Plaistow, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement.

  
Joseph Plaistow

Executed on: January 21, 2005.

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

---

**STB DOCKET NO. AB-490  
(SUB-NO. 1X)**

---

**GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
- PETITION FOR EXEMPTION FOR PARTIAL DISCONTINUANCE  
AND PARTIAL ABANDONMENT - IN GREENVILLE COUNTY, SC**

---

**PETITION FOR EXEMPTION**

---

**EXHIBIT 11**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

STB Docket No. 42087

GROOME & ASSOCIATES, INC., AND LEE K. GROOME  
v.  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION

---

**MEMORANDUM IN SUPPORT OF COMPLAINT**

---

Come now Complainants, Lee K. Groome and Groome & Associates, Inc. ("G&A"), by and through counsel of record, and, pursuant to the Order of the Surface Transportation Board ("Board") served October 12, 2004, file this "Memorandum in Support of Complaint." The issue in this case is whether the Greenville County Economic Development Corporation ("GCEDC") violated its statutory common carrier obligation (codified at 49 U.S.C. § 11101(a)) by failing to provide rail service to G&A upon reasonable request. The Board has jurisdiction under 49 U.S.C. § 11704(b).

It is uncontroverted that while GCEDC failed to provide *any* rail service after June 4, 1999, when it acquired a line of railroad that stretches from MP 0.0 at Greenville to MP 11.8 at Travelers Rest, South Carolina ("the Line"), it did not file an embargo. Hence, the instant case is distinguishable from and not controlled by the cases in which an embargo was validly imposed.

**INTRODUCTION AND SUMMARY OF ARGUMENT**

GCEDC, following its June 4, 1999 acquisition of the Line, violated its statutory common carrier obligation (i) by refusing to provide any rail service to G&A even though it was repeatedly requested to do so; (ii) by failing to embargo the Line or seek its abandonment; and