

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HAMILTON

IN THE HAMILTON SUPERIOR COURT  
CAUSE NO. 29D03-9308-CP-404

GEORGE N. CLARK, HAMILTON )  
COUNTY FARM BUREAU )  
COOPERATIVE ASSOCIATION, INC., )  
BRITTON FARMS, INC., and all others )  
similarly situated, )

Plaintiffs, )

v. )

CSX TRANSPORTATION, INC., )

Defendant. )

**FINAL ORDER AND JUDGMENT**

This matter came before the Court for hearing on January 18, 2002, for the Court to consider and make a preliminary determination concerning the fairness and reasonableness of the proposed Settlement Agreement. The Court, having reviewed the proposed Settlement Agreement and having considered the statements of counsel regarding the settlement, preliminarily approved the settlement on January 18, 2002. The Court having conducted a fairness hearing; having considered the submissions in support of the proposed settlement; having heard the arguments and presentations of counsel; having heard the objections of some class members and counsel's response; and being fully advised in the premises, it is hereby ordered this 25 day of July, 2002, that:

Pursuant to T.R. 23(C)(1), for the purposes of settlement only, this action is hereby certified as a class action on behalf of (1) The class previously certified by this Court in this action, that is all persons who owned as of August 1, 1998, or previously owned as of May 2, 1994, property underlying or adjoining Abandoned Property that had been abandoned for

railroad purposes on or before May 2, 1994 (the "Litigation Class"); (2) all persons who first became owners of property underlying or adjoining Abandoned Property after August 1, 1998; (3) all persons who owned property underlying or adjoining Abandoned Property at some time between August 19, 1987 and May 2, 1994; and (4) all persons who own or owned property underlying or adjoining Abandoned Property that was abandoned after May 2, 1994 (the "Settlement Class").

2. The Court now finally determines that the prerequisites for a class action under T.R. 23(A) and (B)(3) have been satisfied for the Settlement Class in that:

- a. the number of Class Members is so numerous that joinder of all members is impracticable;
- b. there are questions of law and fact common to the Class;
- c. the claims of the representative parties are typical of the claims of the Class;
- d. the representative parties together with experienced Class Counsel will fairly and adequately protect the interest of the Class;
- e. questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of the Class; and
- f. a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

Accordingly, the Court confirms the certification of the Settlement Class under T.R. 23(B)(3) and 23(E) for settlement purposes.

3. Pursuant to T.R. 23, George N. Clark, Hamilton County Farm Bureau Cooperative Association, Inc. and Britton Farms, Inc., the Class Representatives of the Litigation Class, are approved as Class Representatives of the Settlement Class. As provided in the Settlement Agreement, the Court approves payment by CSX of Five Thousand Dollars (\$5000.00) to each class representative at the same time all other cash benefits are paid under the agreement. This payment is to be made in addition to any other benefit to which each shall be entitled under the settlement as compensation for each Class Representative's efforts in representing the class during the pendency of this action.

4. With regard to the notice of the settlement and the hearing on final approval, the Court finds that the best practicable notice has been given to the Settlement Class, including individualized notice by first-class mail to all Settlement Class Members who could be identified through reasonable effort, notice by publication in newspapers and on the Internet, and notice by posting in county offices. Such notice fully satisfied the requirements of T.R. 23(E) and the requirements of due process.

5. The Court further finds the proposed settlement as set forth in the Settlement Agreement itself to have been entered into in good faith, to be non-collusive, to be fair, reasonable, and adequate, and to be in the best interests of the Class.

6. In making its determination, the Court has considered the strength of the Class's case on the merits measured against the terms of the settlement; the complexity, length, and expense of continued litigation; the degree of opposition to the settlement; the benefit of the settlement to class representatives and their counsel compared to the benefit of the settlement to Class Members; the opinion of competent counsel as to the reasonableness of the settlement; and the stage of the proceedings and the amount of discovery completed.

7. In accordance with T.R. 23(E), the Court grants final approval to the Settlement Agreement, and grants the additional relief described below, subject to the terms and conditions of this Agreement and CSX and Class Members' performance of their continuing rights and obligations hereunder.

8. The Class Members shall have and recover the benefits described in the Settlement Agreement subject to the conditions and limitations stated therein. CSX's and Class Members' interest in Abandoned Property is limited to that provided for in the Settlement Agreement.

9. Class Members are barred and enjoined from asserting against CSX or any other Released Party any and all claims the Class Members have, had or may have in the future, against CSX or any other Released Party, including but not limited to claims based upon or arising out of the past, present or future use of an occupancy granted by CSX prior to or during the Compensation Period, except any damage arising from any breach of the Settlement Agreement.

10. CSX and the Released Parties under the Settlement Agreement are forever released from any and all Abandoned Property Claims that Class Members have, had or may have in the future against CSX or any other Released Party, including but not limited to claims based upon or arising out of the past, present or future use of an occupancy granted by CSX prior to or during the Compensation Period, except any damages arising from any breach of the Settlement Agreement.

11 The Settlement Agreement provides the exclusi remedy for Class Members and any successors in interest *vis-a-vis* CSX or any Released Party for any and all Abandoned Property Claims.

12. The interest of CSX and Class Members in the Abandoned Property is limited to that provided in the Settlement Agreement.

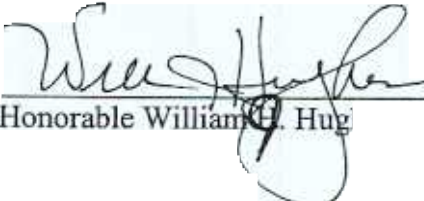
13. Pursuant to T.R. 23(d)(5), the Court awards Class Counsel attorney fees in the amount of Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000.00).

14. CSX has previously paid Class Counsel interim fees of One Million Dollars (\$1,000,000.00) pursuant to this Court's Order of January 18, 2002. Pursuant to the Settlement Agreement, CSX shall pay the balance of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00) after all qualified claims have been paid under the agreement. .

15. The lawsuit and all Abandoned Property Claims of any and all Class Members now existing or hereafter brought against CSX or any other Released Party in state or federal court, are dismissed with prejudice without costs.

16. Under T.R. 54(B), there is no just reason for delay, and the Court directs the entry of final judgment as to the Abandoned Property Claims of all Class Members.

17. The Court reserves continuing and exclusive jurisdiction over the Parties to this Agreement, including CSX and all Class Members, to administer, supervise, construe, and enforce the Agreement in accordance with its terms for the mutual benefit of the parties.

  
Honorable William C. Hug