



# MONTGOMERY COUNTY CHALLENGES STATE FUNDING FOR INTERMODAL RAIL SITE

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**Montgomery County, Virginia** – Montgomery County filed a lawsuit Thursday in Richmond Circuit Court challenging the constitutionality of the Commonwealth’s public funding of the privately owned intermodal rail facility planned in Montgomery County.

“We believe the public funding of private railroads is prohibited by the Virginia Constitution,” said Board Chairman Annette Perkins. “We also believe this lawsuit protects the interests of all Montgomery County citizens -- now and for generations to come.”

The County is challenging the constitutionality of the grant agreement with Norfolk Southern and the public funding of private rail improvements. The Commonwealth has authorized more than \$31 million in public taxpayer funding to pay for railroad improvements that will be owned and operated by Norfolk Southern in Montgomery County.

The proposed funding by the state violates the credit clause and the internal improvements clause of Article X Section 10 of the state Constitution. The “credit” clause prohibits the Commonwealth from granting the credit of the Commonwealth to or in the aid of Norfolk Southern. The “internal improvements” clause prohibits the Commonwealth from becoming a party to or having an interest in the proposed Norfolk Southern intermodal facility. The grant agreement between DRPT and Norfolk Southern provides for such an interest.

The Virginia Department of Rail and Public Transportation (DRPT) and its director Matthew Tucker, and the Commonwealth Transportation Board are named as defendants in the case.

The County requests that the Court declare that the Commonwealth’s public funding of Norfolk Southern’s private intermodal facility violates the prohibitions in the internal improvements clause and the credit clause. It also asks the Court to stop the Commonwealth from further violations of the Constitution of Virginia by ceasing funding of the planned intermodal rail facility in a manner that violates the Constitution of Virginia.

The Board of Supervisors has passed three resolutions over the past two years opposing the intermodal rail facility in the County.

In April, Board Chair Perkins told a group of regional leaders and state officials in Salem that “We believe public taxpayer dollars should not be used to assist a private, for profit corporation in locating where it is not welcomed by the same taxpayers whose dollars are being spent on the project and where it does not comply with local zoning or the County’s Comprehensive Plan.”

Perkins also noted that job estimates may be vastly inflated.

“We have been told that up to 3,000 jobs will result from this intermodal project. However, that figure was based on intermodal facilities up to 10 times the size of the proposed facility in Elliston,” she said.

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“Because Elliston land surrounding the facility is either in a flood plain or in conservation easements, the business parks—even large warehouses or factories—are unlikely here,” said Perkins. She noted that other than the 12 jobs needed for operations, others likely will be low-paying jobs needed to support the truck-stop nature of the facility.

Perkins points out that the resulting project, unlike other facilities in Virginia, will be owned by Norfolk Southern, not the Commonwealth, despite 70 percent of the funding coming from Virginia taxpayers.

Other concerns—increased truck traffic on an already dangerous section of Interstate 81 and Route 460, and the lack of planning documents to determine the full environmental and aesthetic impact on the site—prompted Montgomery County to act, Perkins said.

“We support increased economic development in Southwest Virginia,” she said. “But we fully believe that railroad operations, not proper land use, drove this decision, when nearby choices already zoned for industrial use and having more buildable space, were ignored.

“We’re not against progress,” said Perkins, “just poor choices.”

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