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Ms. Cynthia T. Brown
Chief, Sections of Administration Office of Proceedings
Surface Transportation Board
395 E. Street, S.W. Room 1034
Washington, D.C. 20423-0001

Re: Surface Transportation Board Docket No. FD 36398 – Brookhaven, NY

To the Commissioners of the Surface Transportation Board:

The NAACP President of the New York State, Hazel Dukes, has joined with Town of Brookhaven NAACP Chair Dr. Georgette Grier-Key, NAACP Long Island Regional Director Tracey Edwards, chapters across the region and other local organizations to oppose the plan to build an enormous garbage transfer station in Brookhaven, New York while circumventing meaningful local approvals, public comments or controls. This situation is somewhat unusual in that the very officials tasked with *guaranteeing* genuine local input are the very people who are *denying* the community any meaningful voice in the project. Instead of supporting all of the people, and letting the voices of all concerned and effected residents be heard in a transparent, orderly public review process, which is provided for by federal law, the Town of Brookhaven government apparently currently is engaged in selling certain of the Town's rights over the project to the developer behind closed doors. The secrecy must stop.

Winters Brothers a/k/a Brookhaven Rail LLC ("Winters") is attempting to develop a massive solid waste rail transfer station (the "project") and a Rail Terminal on 228 acres of virgin land (known locally as "Parcel D"). The Facility would be permitted to receive over 6,000 tons per day of garbage, including Municipal Solid Waste ("MSW"). The proposed transfer station could be the largest of its kind in the United States. The lack of transparency in many stages of this process of attempting to permit this massive garbage transfer station is alarming. It is also unfair, contrary to law and violates good public policy, which supports community engagement in large projects affecting local residents.

I have filed a Petition/Request for immediate public disclosure on behalf of the NAACP in response to a non-public mediation conducted after a January 6, 2021 Surface Transportation Board's ("STB") Decision issued in the above-referenced docket. NAACP requested the STB take four actions: (1) order immediate disclosure of the outcome of the non-public mediation; (2) deny a May 27, 2021 "Expedited Consideration" request to extend the term of the non-public mediation; and (4) add Petitioner as a "Party" to the Docket 36398. If STB does not take these

actions, NAACP and the local community are uninformed, risk being blindsided by unknown or unexpected developments and cannot fully participate in the public process on this project.

The Biden Administration repeatedly has emphasized environmental justice and affording a voice and access to communities of color in environmental decision-making. Yet the opposite is transpiring here. This MSW project does not pose only a theoretical or abstract issue of principle. This project could have an extremely negative impact on the residents in this area. Core quality of life issues, such as noise, odor, visual blight, air quality degradation, loss of open space, concern over protection of Long Island's sole source drinking water aquifer, effects on wildlife and public safety with increased train traffic, all are directly and unavoidably implicated. Those most likely to be impacted are the residents of color that live in close proximity to the proposed project site, Parcel D. This project should be an "Exhibit A" for how considerations of environmental justice mandate that the local community's voices be heard and that this behemoth of a project not be dictated and imposed "from above."

On a related topic, we understand the STB is considering a waiver of the six-month notification requirement in STB's regulations so that the STB may consider this project sooner. We ask that you do not allow this. The community at large has been kept in the dark and is just now organizing an evaluation of this project. Winters knows its best chance of success on its own terms is to be clandestine, avoiding public debate. But the STB should insist on transparency and fairness. Rejecting the waiver request would serve both of those goals.

While this process has more to go, we state clearly now and will whenever we can that we do not believe STB should usurp local zoning over Parcel D for this project. We recognize STB's powers related to the rail aspect of this project, but we view the MSW handling as a critical local issue that must remain firmly in the hands of local government officials with public input. Some may be politically afraid to take that responsibility, but it is theirs and not yours. So please bear in mind this strong community position as STB begins this process of review of the project.

Our most vulnerable citizens stand to be the most harmed by this transfer station whose approval is being rushed based on "smoky room" deals and without a meaningful chance for public review and comment. The story needs to change, now. We do not need another chapter chronicling the oppression of our poorest residents and people of color by locating harmful uses in their neighborhoods without regard for harmful effects to health and welfare to their communities including children, seniors and the most vulnerable people with underlying health conditions. Rather, it is time for a different story. One where previously suppressed voices are heard and the costs and consequences of public projects—such as management of the massive amounts of garbage generated on Long Island—are not paid by a few, but are borne by more than Brookhaven's poor and marginalized residents.

The audacity of the applicants in dismissing the need for grass-roots community involvement is incredible. At each step, they seek short cuts, exemptions, secret mediations, so-called "streamlining" and other means to exclude the community. By letter dated May 27, 2021 Winters and the Town of Brookhaven representatives asked to extend the secret term of the mediation to June 18, 2021. Six months of secret meetings is a perversion of the public process: more of the decision making happens outside the public eye than inside the public square.

The residents of the area deserve respect, both from their local officials and any would-be project proponents. They deserve their elected officials following the laws, which provide for public notice, comment and consideration. They demand a seat at the table in understanding the impact of this proposed project and to have the local government mitigate the harmful impact of this project or for good cause deny it if there is no safe way for this use to exist at the

proposed location and protect the health of the residents of the area. Brookhaven's poor did not create the conditions which the project proponents alleged necessitate the project; they should not be alone in paying the damages.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Juan Reyes".

Juan D. Reyes III
Partner

JDR//jq

CERTIFICATE OF SERVICE:

I hereby certify that, on this 2nd day of June, 2021, I served copies of the foregoing letter electronically (via email) upon each the following parties of record:

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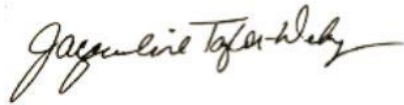
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