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Office of Proceedings

July 27, 2015

Part of Public Record JR - 8

**Before the
Surface Transportation Board**

STB DOCKET NO. AB-167 (Sub-No. 1189X)

**CONSOLIDATED RAIL CORPORATION – ABANDONMENT EXEMPTION –
IN HUDSON COUNTY, NJ**

STB DOCKET NO. AB-55 (Sub-No. 686X)

**CSX TRANSPORTATION, INC. – DISCONTINUANCE OF SERVICE EXEMPTION –
IN HUDSON COUNTY, NJ**

STB DOCKET NO. AB-290 (Sub-No. 306X)

**NORFOLK SOUTHERN RAILWAY COMPANY – DISCONTINUANCE OF SERVICE
EXEMPTION – IN HUDSON COUNTY, NJ**

JAMES RIFFIN’S AMENDED CERTIFICATE OF SERVICE

1. I hereby certify that on or before the 27th day of July, 2015, a copy of JR-1, JR-2, JR-3, JR-4, JR-5, the redacted version of JR-6, JR-7 and JR-8, were served, via e-mail or first class mail, on all of the parties of record in this proceeding, and that to date, no one has objected to their lack of, manner of, or untimely, service.

2. This Amended Certificate of Service was written July 20, 2015, before the STB’s July 24, 2015 decision instructing Riffin to serve all parties of record in this proceeding. Hopefully, this will resolve the present Riffin / Certificate of Service controversy.

3. Note: There has been much controversy regarding Riffin's failure to serve copies of his pleadings on ALL of the 'parties of record' in this proceeding. As noted previously, JR-7, Riffin telephoned all of the 'parties of record' (with the exception of those Riffin always serves), and left a message asking if the 'party of record' desired to receive a copy of Riffin's pleadings.

4. 49 CFR 1104.12, states that all pleadings "should" be served on "all parties to the proceeding," "by the same method and class of service used in serving the Board."

5. There are a considerable number of 'parties of record' in this proceeding. Only five (Conrail / CSX / Norfolk Southern, the LLCs, Jersey City, et. al., Strohmeier and Riffin) have actively participated in the non-environmental / non-historic portions of this proceeding. The remaining 'parties of record,' only filed environmental / historic comments.

6. The purpose in serving a pleading on a 'party,' is to ensure that that party receives its Due Process Right to 'notice,' and its right to 'respond' to a pleading by another party.

7. It is a well-established principle of law, that one may waive their rights, including their Constitutional rights. However, such waiver generally needs to be 'knowing.' (Occasionally it is implied, due to a failure to timely exercise one's rights.)

8. Riffin was unable to find any case law which addresses the issue of whether one is required to continue to serve parties who do not wish to be served. He did see cases where service was excused by the court, and cases where pleadings were accepted without certificates of service, when none of the parties not served, complained about the lack of service.

9. While the preferred method of relieving a party of its obligation to serve all parties, is for the party not-desiring-service, to either withdraw their appearance, or to file a pleading expressly stating that they no longer desire to be served, that rarely happens.

10. Riffin takes the position that all parties have a right to be served, but may waive that right.

11. In this proceeding, and in some other proceedings, a number of 'parties of record,' have expressly orally told Riffin that they do not want to be served with any of Riffin's pleadings. In one case, a party's attorney sent Riffin a written document threatening to file suit against Riffin if Riffin served a copy of his pleading on the party. While Riffin could argue, in his defense, that he is required, by 49 CFR 1104.12, to serve his pleadings on all 'parties,' that defense does not protect Riffin from suit, or the costs of defending against such a suit.

12. Recommencing on July 15, 2015, Riffin re-telephoned all of the 'parties of record' in this proceeding. This time, he actually spoke with a party's representative. (Many of the 'parties of record' are associations, not individuals.) He learned that many of the previous 'representatives,' (the person filing the Notice of Intent to Participate), no longer are with the association / no longer represent the association.

13. The current representative, either expressly instructed Riffin to **not** serve his pleading on the association (Jersey City Economic Development Corporation, Van Vorst Park Association), or instructed Riffin to serve his pleading on a different person / entity. All of the persons Riffin spoke with, that wanted to be served, consented to Riffin serving them via e-mail.

14. Below is a revised / updated list of the entities that desire to receive a copy of Riffin's pleadings.

15. The Parties of Record being served via e-mail, have consented to being served via e-mail. The remaining Parties of Record, are being served via First Class Mail, at their last known address.

16. I certify under the penalties of perjury, that the above is true and correct to the best of my personal knowledge, information and belief.

Respectfully,

James Riffin
P. O. Box 4044
Timonium, MD 21094
(443) 414-6210

CERTIFICATE OF SERVICE

E-mail:

Consolidated Rail Corporation:	Robert Jenkins	rmjenkins@mayerbrown.com
CSX Transportation:	Robert Jenkins	rmjenkins@mayerbrown.com
Norfolk Southern Railway Co.:	Robert Jenkins	rmjenkins@mayerbrown.com
Conrail / CSXT / Norfolk So.:	Adam Sloan	asloane@mayerbrown.com
The LLCs: ¹	Daniel E. Horgan	dehorgan@lawwmm.com
Charles H. Montange: ²	Charles Montange	c.montange@frontier.com
Eric Strohmeier:		esstrohmeier@yahoo.com
Robert Crow:	Village Neighborhood Assoc.	rob.Crow@jcvillage.org
Carmelo Garcia	NJ Assemblyman	asmgarcia@njleg.com
Hamilton Park Neighborhood Association		hpnajc@gmail.com
Ms. Massiel Ferrara	Hudson County	mferrara@HCNJ.us
Diane Kaese	Historic Paulus Hook Assoc.	dskaeese@aol.com
Michael Selender	Jersey City Landmarks Conservancy	jclandmarks@gmail.com
Senator Brian Stack		senstack@njleg.org

First class mail:

Jill Edelman Powerhouse Arts District Neighborhood Association, Unit 6J, 140 Bay Street,
Jersey City, NJ 07302.

Valerio Luccio. Harsimus Cove Association / Civic Jc. Apt. 4L, 298 2nd Street, Jersey City, NJ
07302.

Daniel Saunders NJ DEP, Historic Preservation §, P.O. Box 404, Trenton, NJ 08625.

¹ The LLCs: 212 Marin Boulevard, LLC; 247 Manila Avenue, LLC; 280 Erie Street, LLC; 317 Jersey Avenue, LLC; 354 Cole Street, LLC; 389 Monmouth Street, LLC; 415 Brunswick Street, LLC; 446 Newark Avenue, LLC; NZ Funding, LLC. All limited liability companies of New Jersey.

² Counsel for City of Jersey City; Rails to Trails Conservancy; PRR Harsimus Stem Embankment Preservation Coalition.

COMMENTS REGARDING ALL PARTIES

Robert Crowell. No longer represents the Village Neighborhood Association. Served on Robert Crow, who presently receives service for the Village Neighborhood Association. Note: Mr. Crow's name is misspelled on the STB's Service List. (Misspelled as 'Crown'.)

Maureen Crowley. Represents the Embankment Preservation Coalition, which is represented by Charles Montange, who was served.

Robert Crow [n]. Correct spelling of name is "Crow." Serve via e-mail.

Jill Edelman. No longer president of the Powerhouse Arts District Neighborhood Association. New president is Stacy Nusbaum Woods. Unable to obtain e-mail address or mailing address for Stacy Woods. So, Riffin's pleadings were mailed to Jill Edelman at her address of record.

Daniel Frohwirth. No longer works for the Jersey City Economic Development Corporation. The Economic Development Corporation representative Riffin spoke with, expressly stated that it did not want to be served with any of Riffin's pleadings.

Steven Fulop. Mayor of Jersey City. Represented by Charles Montange, who was served.

Carmelo Garcia. Assemblyman. Served via e-mail.

Mike Greely. No longer represents the Hamilton Park Neighborhood Association. Hamilton Park Neighborhood Association served via e-mail.

Valerio Luccio. Harsimus Cove Association. Served via First Class mail.

Stephen Marks. No longer works for Hudson County. New director is Ms. Massiel Ferrara. Served via e-mail.

Sam Pesin. Friends of Liberty State Park. No longer a valid telephone number nor address.

Daniel Saunders. Still the Director of the Historic Preservation section of the NJ Dept. of Environment. Served via First Class mail.

Gretchen Scheiman. No longer represents Historic Paulus Hook Association. Current president is Diane Kaese. Serve via e-mail.

Michael Selender. Jersey City Landmarks Conservancy. Serve via e-mail.

Brain Stark. NJ State Senator. Serve via e-mail.

Daniel Weber. Van Vorst Park Association. Does not want to be served.

James Riffin