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Surface Transportation Board Part of
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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 REPLY TO
CITY’S, ET AL.’S SEPTEMBER 15, 2016 MOTION FOR SANCTIONS**

1. Comes now James Riffin, (“**Riffin**”) who herewith files his Reply to City’s, et al.’s¹ (“**Montange**”) September 15, 2016 Motion for Sanctions (“**Motion**”), and in support hereof says:
2. Riffin received the paper copy of City et al.’s Motion on Friday, **September 23, 2016**.

¹ Jersey City, Rails to Trails Conservancy, Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition.

3. On **August 25, 2016**, the Surface Transportation Board (“**STB**”) served the August 24, 2016 Order issued by ALJ Dring, wherein ALJ Dring ordered:

“1. Mr. Riffin will provide City, et al. and Consolidated Rail Corporation with all e-mail communications between him and the LLCs **that Mr. Riffin retains in his possession**. Mr. Riffin will also supply City, et al. the docket numbers for three (3) bankruptcy proceedings involving Mr. Riffin. Mr. Riffin shall comply with this order by close of business on Friday, August 26, 2016.”

4. On **August 26, 2016**, Riffin sent a Status Report to ALJ Dring certifying that:

- A. On **August 25, 2016**, “a copy of the e-mails between me and Steve Hyman, Vicki Hyman, and Daniel Horgan, were forwarded to Mr. Montange² on August 25, 2016, by 6:30 pm. (All 103 of them.)”
- B. On **August 26, 2016**, “[l]ikewise, the case numbers for the three bankruptcy proceedings that I participated in, were forwarded to Mr. Montange on August 26, 2016.”³

5. On **September 15, 2016**, Montange filed a Motions for Sanctions, asking:

“For discovery sanctions, and in particular, for an order either (1) dismissing James Riffin from further participation in this proceeding, or, in the alternative, (2) barring James Riffin from submitting an ‘offer of financial assistance’ (‘OFA’) pursuant to 49 U.S.C. 10904 in this proceeding, and (3) for **attorneys’** [plural in original] fees and costs associated with the motions to compel Riffin, hearings, and motion for sanctions, and any further hearing attendant thereto.” Motion at 1. Bold added.

FIRST OBJECTION

² A copy of the e-mails were also forwarded to: Adam Sloane, Robert Jenkins and Jonathan Broder, counsel for Conrail; to Daniel Horgan, counsel for the LLCs; and to Eric Strohmeyer.

³ The Status Report stated that the bankruptcy numbers were forwarded on August **25**, 2016. The number ‘25’ was crossed out, and the number ‘26’ was hand-written below, to indicate that the bankruptcy numbers were forwarded on August 26, rather than on August 25.

6. The copy received by Riffin, and the copy posted on the STB's web-site, **ARE NOT** "paginated continuously, including cover letters and attachments."

7. Either Montange:

A. Has never read 49 CFR 1104.2 (b), which states:

"All pages of original documents, and each side of pages that are printed on both sides, **must be paginated continuously, including cover letters and attachments.**" Bold added.

B. Or Montange chose to ignore 49 CFR 1104.2(b); or

C. Montange chose to make everyone's life more difficult, by failing to paginate the pages in his Motion.

8. Whatever the reason, Montange's failure to paginate his **104-page** Motion makes it very difficult to refer to individual pages in his Motion, without an extensive description of the page being referred to.

9. Rather than file a Motion to Strike Montange's Sanction Motion [for failing to follow the dictates of 49 CFR 1104.2(b)], and rather than asking ALJ Dring to **order** Montange to follow the dictates of 49 CFR 1104.2(b), if Montange chose to re-file his Motion for Sanctions, (which would inconvenience ALJ Dring and all the other parties), and which would waste another tree or so, for the paper to reproduce, a second time, his Motion for Sanctions, Riffin asks that ALJ Dring (and the other parties) to hand-number each page of Montange's Sanction Motion, as Riffin did.⁴

⁴ Riffin looked at his 'JR-17 Reply,' and noted that Riffin too failed to sequentially paginate his Reply, so Riffin cannot in good conscience chastise Mr. Montange too severely. Riffin apologizes to ALJ Dring, and the other parties, for his failure to sequentially paginate his Reply, and for the inconvenience his oversight caused. (Riffin normally paginates his appendices sequentially.)

10. Riffin numbered each page of Montange's Motion, beginning with Montange's cover sheet. Page 1 of Montange's **Motion** is now numbered page '2.' Page '22' of Montange's Motion, where his signature and a list of the 'Attachments' appears, is now numbered '23.' The first page of the copy of Montange's 'Request for the Production of Documents,' is now numbered '29.' The last page of Montange's Motion, is numbered '104.'

SECOND OBJECTION

11. ALJ Dring's Order was very specific: Riffin was ordered to forward a copy of whatever Hyman / Horgan (LLCs counsel) e-mails Riffin **"retains in his possession."**

12. At the August 24, 2016 hearing before ALJ Dring, Riffin testified that he deletes e-mails for which he no longer has an immediate / present use for.

13. At the August 24, 2016 hearing, Riffin agreed to forward to Montange, whatever e-mails remained in his e-mail account.

14. On August 25, 2016, when Riffin began the process of forwarding his Hyman / Horgan e-mails to Montange, he did as Montange had instructed Riffin: Type in Hyman's / Horgan's name in the Yahoo Search Box. When the e-mails are displayed, forward whatever Riffin sees. Which is precisely what Riffin did. (After 30 minutes of trying, Riffin learned he could only forward one e-mail at a time, and only after the e-mail was 'opened.' That turned out to be a very time-consuming process, averaging a bit more than one-minute per e-mail forwarded.)

15. So Riffin's Second Objection is: Riffin provided Mr. Montange with precisely what Riffin was ordered to provide Mr. Montange.

THIRD OBJECTION

16. The STB's discovery rules are very specific. 49 CFR 1114.30(a)(1) states in relevant part:

“(a) *Scope.* Any party may serve on any other party **a request:**

(1) To produce and permit the party making the request **to inspect** any designated documents, or **to inspect and copy**, test, or sample any tangible things which **are in the possession, custody, or control** of the party upon whom the request is served”

17. Riffin stated in his JR-17 Reply:

36. 49 CFR 1114.30, and FRCP 34 are quite similar. Both state that the party upon whom discovery requests are propounded, has the duty to permit the individual seeking discovery, “to inspect and copy” whatever the individual seeking discovery is permitted to ‘inspect and copy,’ **where ever the documents ‘are normally kept.’** [See *Rowlin v. Alabama Dept. Of Public Safety*, 200 F.R.D. 459 (M.D.Ala. 2001).]

37. The discovery rules **do not** require Riffin to copy, reproduce, or transport to the requestor, whatever documents are requested.

43. Riffin sent a copy of what is appended, and the explanation noted above, to Mr. Montange, several weeks ago. (Around July 12, 2016.) Riffin further offered, in conformity with 49 CFR 1114.30 and FRCP 34, to let Montange come to Baltimore, and once he is in Baltimore, to let him look at all of Riffin’s e-mails to the LLCs, or to the Hymans. So far, Mr. Montange has not responded.”

18. Rather than insist that Montange come to Riffin in Cockeysville, MD, Riffin took the trouble to go to Washington, D.C., on the night before the August 24, 2016 hearing, to permit Montange to ‘inspect’ Riffin’s e-mail account.

19. Riffin patiently waited for Montange to arrive at a restaurant that Riffin had arrived at earlier. When Montange arrived, Riffin offered to let Montange join Riffin,⁵ then offered to let Montange ‘inspect’ Riffin’s e-mail account. Riffin obtained a WiFi access code, accessed the Internet, accessed his Yahoo e-mail account, then placed his lap top computer, with his Yahoo e-

⁵ Since Riffin was at the restaurant long before Montange arrived, it was Montange who ‘crashed’ Riffin’s ‘party.’

mail account displayed on the monitor, in front of Montange. Riffin typed in the name 'Hyman.' All of Riffin's e-mails to Steve Hyman were displayed. Riffin scrolled down the list, to let Montange have an overview of the e-mails. Riffin then offered to let Montange 'inspect' whatever e-mails he desired to inspect.

20. Rather than inspect Riffin's e-mails when he had an opportunity to do so, Montange asked if Riffin would just forward them to Montange. Riffin agreed.

21. After some discussion, Riffin left and returned to Maryland.

22. Riffin argues that he has **fully complied** with the discovery rules set forth in 49 CFR 1114.30(a)(1), for Riffin not only offered to let Montange inspect Riffin's e-mails, Riffin **placed in front of Montange** the very e-mails that Montange desired to inspect!

23. Montange **should not be heard to complain** that he has not been afforded an opportunity to 'inspect' the e-mails that he desired to inspect. Had Montange taken just a few minutes of his time **to actually look at** a few of the e-mails displayed before him, he would have noted:

- A. A number of e-mails do not have the 'recipient's' name on them. Motion at 40, 43, 44, 51.
- B. A number of e-mails do not have any 'text' on them. Motion at 39, 55.
- C. A number of e-mails do not have an 'original request.' Motion at 52, 53, 54.
- D. A number of e-mails do not have an 'attachment.' Motion at 52, 55.
- E. Riffin's e-mail account **does not** contain some of the e-mails that Montange has obtained from 'other sources.' Motion at 56, 57, 58, 65, 68, 69
- F. Riffin's e-mail account no longer has the e-mail that Riffin sent to Bruce Nagel (evidently) on (or about) November 21, 2015. Motion at 68, 69.
- G. The earliest e-mail in Riffin's e-mail account to Hyman / Horgan, is dated December 30, 2014, for Steve Hyman, and is dated December 8, 2014, for Mr. Horgan.

FOURTH OBJECTION

24. On **September 24, 2016**, Riffin compared the photocopies of the e-mails in Montange's Sanctions Motion, with the e-mails displayed on a computer monitor, to ascertain whether the photocopied e-mails were identical to the e-mail displayed on the computer monitor. **ALL** of the e-mails compared, **were identical**. (Prior to making this comparison, Riffin had no way of knowing whether what was forwarded by Yahoo to Montange, was identical to what is displayed on a computer monitor Riffin is using. Now Riffin knows, and can certify, that what Montange received, is identical to what is displayed on a computer monitor that Riffin is using.)

FIFTH OBJECTION

25. Montange complains, Motion at 34, that Riffin agreed to forward to Montange "all emails between yourself and agents or reps of the LLCs. ... I request that you simply finish sending emails between yourself and agents of the LLCs."

26. The short answer to that objection, can be found in ALJ Dring's Order: Riffin was ordered to forward to Montange (and to Conrail's counsel) all e-mails between Riffin "and the LLCs that Mr. Riffin retains in his possession."

27. Riffin broadly interpreted "the LLCs" to include e-mails to / from Mr. Horgan, counsel for the LLCs, and e-mails to / from Steve Hyman and Vicki Hyman. (The oral agreement between Riffin and Montange included Steve and Vicki Hyman.)

28. The longer answer is found in Riffin's August 26, 2016 10:55 AM e-mail from Riffin to Montange, wherein Riffin stated:

"I have no idea who the LLCs' may have hired as 'agents.' (Other than Mr. Horgan.) Nor do I have any interest in knowing. Nor do I have any right to learn this information."

29. The discovery rules require Riffin to disclose documents / information **in his possession**. To comply with Montange's 'request,' Riffin would first have to request that the LLCs disclose to Riffin all of the LLCs' 'agents.' (Which the LLCs would be under no obligation to disclose to Riffin.)

30. Other than Mr. Horgan, counsel for the LLCs (as the attorney for the LLCs, Mr. Horgan would be their 'agent'), Riffin has no idea what other entities might be 'agents of the LLCs.'

SIXTH OBJECTION

31. Montange, in his August 25, 2016 at 7:00 PM e-mail to Riffin, Motion at 34, stated:

"Incidentally, Nagel is a name you can type into the email search as easily as Horgan or Hyman. And I am relatively confident that a gentleman of your professed astuteness is **able to recall** with whom he has corresponded in connection with your machinations with or for Mr. Hyman and the LLCs in connection with the Harsimus Branch."

32. Riffin followed Montange's instructions. Riffin typed in 'Nagel' in the Yahoo search box.

"The response given was: Nothing found. Try the Web. So I tried the Web. There is a Bruce Nagel that is an architect. I have a vague recollection of having a telephone conversation with an architect many months ago. But it is a really vague memory (Things that have little or no importance to me in the present, or immediate future, I quickly 'delete' from my brain's memory.)" Motion at 37.

33. When Riffin received, and read, Montange's Sanctions Motion, he noted that Montange's Motion contained a copy of an e-mail to 'Bruce Nagel,' dated November 21, 2015, nearly a year ago. Motion at 69. After Riffin read the 'Bruce Nagel' e-mail, Riffin remembered who 'Bruce Nagel' was.

34. In 2015, Mr. Hyman was feeling very frustrated by the slow pace (glacial pace) of the 1189X proceedings. He frequently called many people, including multiple attorneys, trying to

find someone who could provide him with ‘better’ legal service. (Since he was frustrated by the slow pace of the 1189X proceeding, he took his frustration out on Mr. Horgan.) Riffin repeatedly told Mr. Hyman, that Mr. Horgan was the best attorney that he could get, that no attorney could know, or learn, the thousands of details it took Mr. Horgan years to learn, and that he should not ‘fire’ Mr. Horgan. Mr. Hyman continued his pursuit of alternate legal counsel. He frequently would call Riffin, vent his frustration, then ‘conference’ a call with some attorney that he knew, then ask Riffin to explain to the attorney, what the 1189X proceeding was about. In the case of Mr. Nagel, Mr. Nagel asked Riffin to send him a Memo, outlining what the 1189X proceeding was about. Which Riffin did. As always happened, Riffin never received any communication back from whomever Riffin had spoken to. So after awhile, Riffin’s brain stopped ‘remembering’ the many people that he had spoken with. Including Mr. Nagel. And yes, Riffin did have a telephone conversation with an architect that Mr. Hyman ‘conferenced’ in to a call with Riffin. Riffin has no recollection what the architect’s name might be.

SEVENTH OBJECTION

35. Montange spent a considerable number of pages discussing Riffin’s Complaint against the owners of the Jersey City Metro Plaza parcel, including a ‘meeting’ Riffin had with a ‘Kevin Coakley,’ which Montange alleges is an attorney for one of the Defendants, Forest City Ratner Companies. Motion at 8, 9, 10, 80-85, 86-103. (That is 26 pages, or one-quarter of Montange’s Sanctions Motion.)

36. Riffin’s first response is: Riffin’s Complaint, and his ‘meeting,’ are totally irrelevant to the ‘document’ request that Montange served on Riffin.

37. Montange’s ‘Document Request,’ Motion at 29, defines the phrase ‘Harsimus Branch:’

“Harsimus Branch shall mean an portion of the line of railroad between **CP Waldo and Marin Boulevard** in Jersey City transferred to Conrail as line code 1420” Motion at 30.

38. The Metro Plaza Parcel lies **East** of Marin Blvd, while the line segment ‘between CP Waldo and Marin Blvd.’ lies entirely **West** of Marin Blvd.

39. Montange’s ‘Document Request,’ states:

“Document requests. All the following documents are hereby requested pursuant to the **foregoing definitions** and conditions:

1. All documents received or possessed by Riffin or any representative of Riffin from the LLCs or any person acting on behalf of the LLCs [including but not limited to the manager of the LLCs (Mr. Steve Hyman) or attorneys for the LLCs] **relating** in any fashion **to the Harsimus Branch,”** Motion at 31.

40. Since the Metro Plaza Parcel lies **outside** of the line segment that Montange limited his discovery request to, any documents relating to the Metro Plaza Parcel are not a proper subject of this proceeding.

EIGHTH OBJECTION

41. Montange’s ‘document request,’ defines the word ‘document,’ as follows:

“Definitions. For purposes of this Request, **document shall mean any writing**, notation, or record, regardless of form, and including but limited **to** both electronic and non-electronic media, including emails, diaries, business records, and **all documents maintained, retained**, authored, copied on, or received **by consultants, officers, employees, negotiators, board members, attorneys** otherwise **working for or on behalf of any party** (including without limitation railroad, corporation, limited liability corporations, or individual) **who has filed a pleading in AB 167 - 1189X.**” Motion at 29-30. Bold added.

42. Distilled down, a ‘document’ is ‘any writing,’ ‘maintained, retained’ **BY** ‘consultants, officers, employees, negotiators, board members, attorneys’ **WORKING FOR OR ON BEHALF OF** ‘any party’ ‘who has filed a pleading in 1189X.’

43. Riffin **is not** ‘working for or on behalf of’ ‘any party’ ‘who has filed a pleading in 1189X.

44. Nor is Riffin a ‘consultant, officer, employee, negotiator, board member, or attorney.’

45. Besides a whole gang of people who initially filed comments, none of whom Riffin knows, works for, or on behalf of, the only ‘parties’ who have ‘filed a pleading in 1189X,’ are:

Conrail, the LLCs, City et. al., Eric Strohmeyer and Riffin.

46. Consequently, any ‘writing’ ‘maintained, retained, authored, copied on or received’ **by Riffin, IS NOT** within Montange’s ‘definition’ of a ‘document’ and therefore **need not** be made available for inspection by Montange.

NINETH OBJECTION

47. Montange objects to the Status Report Riffin sent to ALJ Dring. Motion at 6. Riffin told Montange to cross out the number ‘25’ following the word ‘August’ for the date that Riffin provided Montange with the bankruptcy docket numbers, then write the number ‘26’ instead. [Meaning that Riffin provided the bankruptcy docket numbers to Montange on August 26, 2016, rather than on August 25, 2016, the date Riffin forwarded to Montange (and others) Riffin’s Hyman / Horgan e-mails.] It appears to Riffin that Montange is incapable of doing that, or prefers to throw a temper tantrum, much like a small child, when told to get their own glass of water, after insisting that the parent hand the child a glass of water.

48. Montange also complains that Riffin did not serve a copy of the Status Report on all of the ‘parties’ that are entitled to be served with ‘pleadings.’ Motion at 6.

49. To begin with, it is not, nor was it intended to be, a ‘pleading.’ Riffin extended to ALJ Dring the courtesy of letting ALJ Dring know that Riffin had timely complied with ALJ Dring’s order. And to let ALJ Dring know why Riffin was a few minutes late for the August 24, 2016 hearing. Nothing more. Nothing less. If ALJ Dring believes that the Status Report should be excluded from the record, Riffin will not object. The Status Report has performed its function.

TENTH OBJECTION

50. Montange complains that Riffin ‘terminate[d] discovery’ because Riffin did not feel like sending any more e-mails. Motion at 6. Riffin terminated discovery, because there were **no more relevant e-mails to send!**

ELEVENTH OBJECTION

51. Montange imputes ill-motive to Riffin because several e-mails appear to be in response to an ‘undisclosed’ e-mail. Motion at 52 - 54. The simple answer is: Riffin telephoned Mr. Hyman, and asked for a piece of information (the telephone number for Nancy Bider / where Riffin might find some historical maps / would Mr. Hyman have time to inspect some flood damaged houses in Danville, NJ). Vicki Hyman / Steve Hyman, e-mailed back the requested information / answer.

TWELFTH OBJECTION

52. Montange complains about a lack of e-mails between Riffin and Forest City Rather Companies. Motion at 8-9. Short answer: Forest City Rather Companies are totally unaffiliated with the LLCs, or the Hymans. Forest City is re-developing the Metro Plaza parcel, which **is not** within the line segment Montange defined as the ‘Harsimus Branch.’ See ¶¶ 37, 39 above.

53. Longer answer: There is a ‘Kevin Coakley’ who works for the law firm ‘Connell Foley,’ which law firm does represent the Forest City Rather Companies. However, Riffin does not recall speaking with, or even seeing, the ‘Kevin Coakley’ whose picture is displayed on the Connell Foley webpage.

54. Riffin did go to the office of **G&S Investors**, in Manhattan (Forest City’s offices are in Brooklyn), and did speak with Gregg Wasser, the principal in G&S Investors. This visit occurred **after** Riffin had filed his Complaint against G&S Investors. The purpose of the visit, was to

offer Mr. Wasser a ‘courtesy copy’ of Riffin’s Complaint, in order to afford Mr. Wasser an additional few weeks within which to draft an ‘Answer’ to the Complaint. (An Answer must be filed within 20 days after service of a Complaint. Riffin, being a party, could not lawfully ‘serve’ Mr. Wasser, so any courtesy copy given to Mr. Wasser, would not have been proper ‘service.’) As it turned out, Mr. Wasser did not want a courtesy copy of the Complaint. He said to serve it the proper way, and his attorney(s) would deal with it.

55. And as for what Montange alleges Mr. Hyman told Mr. Coakley, Riffin can only reply: Riffin was not privy to the conversation, so can neither confirm nor deny Montange’s allegation.

56. Riffin has never been inside Forest City’s offices in Brooklyn, NY.

THIRTEENTH OBJECTION

57. Montange complains that Riffin is / intends to, ‘abuse the OFA process.’ Motion at 13.

58. Short answer: This proceeding is about discovery, not about the OFA process in 1189X.

59. Longer answer: Riffin is merely walking in the footsteps of Montange. Many years ago, Montange complained about Mr. Hyman’s demolition of two of the stanchions that held the trestle that carried the Harsimus over Newark Avenue, under the NJ Turnpike Extension. Montange asked Mr. Hyman to stop his demolition. Mr. Hyman stopped. Montange also asked Mr. Hyman **not** to demolish the Embankment portion. Mr. Hyman complied. (During the OFA process, the *status quo* of the line of railroad subject to abandonment, must be maintained.)

60. Forest City Rather and G&S Investors are in the process of changing the *status quo* of the portion of the Harsimus that traversed Metro Plaza. (They are removing / intend to remove, the paving in the Metro Plaza parking lot; are constructing / intend to construct, buildings on Conrail’s two record-title easements that traverse the Metro Plaza parking lot.) Riffin asked them to stop changing the *status quo* of the Harsimus line until the OFA process concluded. Just

as Montange asked Mr. Hyman to stop changing the *status quo* of the Harsimus line. Mr. Hyman stopped. Forest City and G&S Investors elected not to stop. So Riffin filed a Complaint, asking the court to enjoin them from changing the *status quo* until the OFA process in 1189X concluded.

61. Montange petitioned the STB, and the Special Court (D.D.C.), to determine the proper classification of the tracks that traversed the Harsimus between CP Waldo and the **West** side of Marin Blvd. The STB and the Special Court determined that the tracks that traversed that portion of the Harsimus between CP Waldo and the West side of Marin Blvd, were ‘lines of railroad,’ that could not be ‘abandoned’ without authority from the STB.

62. Montange elected **not** to seek a determination of the proper classification for the tracks that traversed the Metro Plaza parcel. (City et al. have limited their OFA interest to the portion of the Harsimus that lies between CP Waldo and the **West** side of Marin Blvd.)

63. Riffin seeks to OFA the Harsimus from CP Waldo to the **East** side of Metro Plaza (to the West side of the Light Rail line that parallels the East side of Metro Plaza). (Riffin seeks to OFA the tracks that traversed Metro Plaza. Riffin desires to use that land for a ‘wyé,’ to turn trains / rail cars around. The Harsimus West of Marin Blvd, is too narrow for a ‘wyé.’) Since the OFA process is only applicable to ‘lines of railroad,’ and since the tracks that traversed Metro Plaza have not been ‘classified,’ Riffin filed a Complaint in the District Court⁶, asking the District Court to determine the proper classification for the tracks that traversed the Metro Plaza parcel. Just as Montange sought a determination of the proper classification of the tracks that traversed the Embankment portion of the Harsimus.

⁶ In *U.S. v. Idaho*, 298 U.S. 105, 109 (1936), the Supreme Court held:

“For whether certain trackage is a ‘spur’ is a mixed question of fact and law left by Congress **to the decision of a court; not to the final determination of either the federal or a state commission.**” Bold added. See also: *New Orleans Terminal Co. v. Spencer*, 366 F.2d 160, at 164-165, (5th Cir. 1966), *cert. denied*, 386 U.S. 942 (1967), and *Illinois Commerce Commission v. U.S.*, 779 F.2d 1270 at 1271, 1272, and 1273 (7th Cir. 1985).

64. City et al. have repeatedly stated that they desire to preserve the ‘last rail corridor’ in Jersey City. So too does Riffin desire to preserve the ‘last rail corridor’ in Jersey City. All the way to the Light Rail line, as opposed to just the West side of Marin Blvd.

65. As stated above, Riffin is merely walking in the footsteps left by Montange. Since Montange does not feel that City et al. are ‘abusing’ the OFA process, Riffin argues that he to is not ‘abusing’ the OFA process. Montange appears to be trying to subject Riffin to a ‘double standard,’ by arguing that Riffin’s activities, which mimic Montange’s activities, are ‘abusive,’ while the exact same activities, when done by Montange, are not ‘abusive.’ Riffin argues that neither Montange’s, nor Riffin’s, efforts to preserve the Harsimus, are ‘abusive.’

FOURTEENTH OBJECTION

66. Montange seeks an order compelling Riffin to permit Montange to ‘inspect’ (for the second time) Riffin’s e-mail account. While Riffin feels that he has no obligation to permit Montange to inspect his e-mail account a second time, Riffin does not strongly object to Montange looking at Riffin’s e-mail account a second time. **Providing** the second look takes place in the presence of ALJ Dring, so that ALJ Dring can verify for himself, what Riffin has certified above.

FIFTEENTH OBJECTION

67. Montange seeks ‘attorneys fees.’ Motion at 104. Not just for him, but also for unknown, never revealed, ‘ghost’ attorneys, for as noted in ¶5 above, Montange seeks “**attorneys**” [plural in original] fees and costs associated with the motions to compel Riffin, hearings, and motion for sanctions, and any further hearing attendant thereto.”

68. Montange alleges that he has spent “**83 hours** preparing, serving and filing (1) a first motion to compel” [which Montange withdrew, (2), since he acknowledged that it was ‘moot,’ Motion at 3] ... (3) commenting on Riffin’s Motion to Strike Montange’s redundant, irrelevant

statements in his 1st Motion to Compel; “(4) a second motion to compel; (5) preparation for, travel to and from, and attendance at a hearing;” (5) review of Riffin’s e-mails; and (6) preparing his Motion to Compel.

69. Riffin argues that **if** he is liable for some of Montange’s expenses, he is certainly not chargeable for Montange’s preparation of a moot motion, nor for Montange trying to justify submitting redundant, irrelevant material. Nor is Riffin chargeable for Montange’s review of Riffin’s e-mails. In addition, **if** Riffin is liable for any of Montange’s expenses, Riffin would demand a full, audited accounting. (Taking 83 hours to do what Montange did, seems to Riffin like a really large number of hours for such a small amount of output. Does Montange only type with one finger? He certainly did not spend any time doing any ‘legal research,’ nor reviewing any legal documents. Had he done so, he would have realized that Riffin’s only obligation is to permit Montange **to inspect** relevant documents **in Cockeysville, MD.**) And Riffin would not be chargeable for copying moot motions or replies trying to justify filing redundant, irrelevant material.

SIXTEENTH OBJECTION – MISCELLANEOUS

70. Montange has offered no convincing argument, nor any legal precedent, to support his contention that communications between Steve Hyman and Riffin, Motion at 6, are in any way relevant to the issue **presently** before the STB: Should the Harsimus be subjected to Historic or Environmental post-abandonment conditions?

71. Montange **falsely represented**, Motion at 8, that Riffin had not sent any e-mails dated before 2015. See ¶23 (G) above.

72. Once Montange obtains desired documents, even if obtained from ‘another source,’ Riffin has no obligation to provide Montange with a duplicate copy of what he already has in his possession.

73. **Montange's rantings that the "OFA process is broken," Motion at 12, have no bearing on the discovery** issue before ALJ Dring. Furthermore, the only reason that the "OFA process is broken" ("broken" being defined by Montange as: No date has been set for submitting OFAs), is because Montange asked the STB to do a more detailed Historic and Environmental Review! Had he not argued so vigorously, and so incessantly, that the STB is **required** to do a more detailed Historic and Environmental review, the OFA process would have concluded several years ago. (Montange needs to keep in mind the old adage: Be careful what you ask for. You might get it.)

74. Montange made the observation, Motion at 12, that "efforts to 'control' Mr. Riffin's behavior" "results in ... bad law." Riffin would concur with this statement.

75. Whether Riffin is a 'frequent litigant,' Motion at 10, is irrelevant in this discovery proceeding. Montange too, is a 'frequent litigant.' In the 1189X proceeding, he has filed far more pleadings than Riffin has.

76. Montange complains that Riffin occasionally gets chastised for advocating his position too vigorously. Motion at 11. Riffin believes in vigorously advocating his position. Sometimes Riffin gets a bit too vigorous, and gets chastised.

77. What happened in EP 727 and EP 729, Motion at 12, and Riffin's disputes with Baltimore County, Motion at 14, have no relevance in this discovery proceeding.

78. Montange's rantings about Riffin's 'financial responsibility,' particularly Riffin's financial condition six years ago, Motion at 19, have no relevance in this discovery proceeding.

79. **Hearing:** Riffin has no objection to having a hearing in October, 2016.

CONCLUSION

80. Montange seeks severe sanctions against Riffin.

81. In the event that ALJ Dring, or the STB, determine that Riffin somehow ‘disobeyed’ ALJ Dring’s August 25, 2016 Order, Riffin asks that he be afforded a **Hearing**, so that he may cross-examine his accusers, and so that he may present evidence of his total and complete compliance with ALJ Dring’s August 25, 2016 Order.

82. In the event that ALJ Dring, or the STB, determine that the Sanctions Motions filed by Mr. Montange, on behalf of City et al., was unfounded, or created ‘needless litigation,’ or was done to ‘harass’ Riffin, Riffin would ask that ALJ Dring consider imposing an appropriate sanction against Mr. Montange, and against his clients, City et. al.

83. And for such other and further relief as would be appropriate.

84. I certify under the penalties of perjury, that the foregoing 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

I hereby certify that on or before the 26th Day of September, 2016, a copy of the foregoing Reply to City et al.’s Motion for Sanctions against Riffin, was served on all of the parties in this proceeding, either via e-mail, or via U.S. Postal Service, postage prepaid.

James Riffin