



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

June 17, 2008

John D. Heffner, Esq.
 1750 K Street, NW
 Suite 350
 Washington, DC 20006

**Re: Finance Docket No. 35141, U.S. Rail Corporation Construction and
 Operation of the Brookhaven Rail Terminal – Suffolk County, New York;
 Waiver of Six-Month Prefiling Notice**

Dear Mr. Heffner:

Pursuant to 49 CFR 1105.10(c), we are granting your request of March 26, 2008, for waiver of the six-month prefiling notice generally required for construction projects under 49 CFR 1105.10 (a)(1).

On March 17, 2007, the Surface Transportation Board's Section of Environmental Analysis (SEA) met and consulted with representatives of U.S. Rail Corporation (U.S. Rail) regarding the potential environmental impacts associated with the construction and operation of 11,000 feet of new rail line in Suffolk County, NY. Also attending this meeting were representatives of Sills Road Realty, LLC (Sills Road). The representatives of U.S. Rail and Sills Road explained that, if approved, U.S. Rail would construct and operate a new rail line for the sole purpose of transporting stone aggregate to a proposed new rail served facility, Brookhaven Rail Terminal (BRT), which would be owned and operated by Sills Road. The proposed new rail line, as well as BRT, would be constructed on a 28 acre parcel that is located within the Town of Brookhaven's North Belleport Empire Development Zone and owned by Sills Road.

If approved, the new rail line would ship to BRT between 5,000 and 6,000 carloads of aggregate stone, in bulk or as gabions (wire mesh baskets) annually for use by Sills Road. U.S. Rail would operate two trains per day (one train making a single daily roundtrip) comprising 40 carloads per trip. U.S. Rail and Sills Road have also indicated that the BRT may also be used for the temporary storage of intermodal containers.

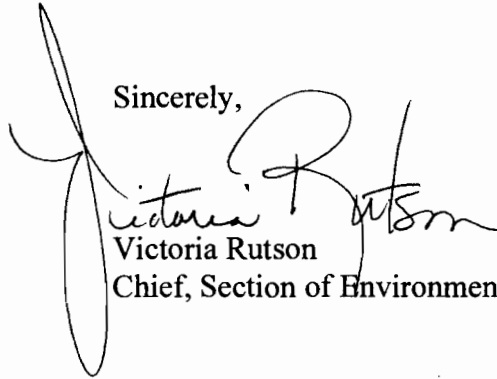
On April 21, 2008, the City of Brookhaven (City) submitted a letter requesting that SEA deny U.S. Rail's request for a waiver from the six-month prefiling requirement. In its submittal, the City makes the following assertions: 1) U.S. Rail has not fully described potential environmental impacts; 2) U.S. Rail's proposal is a subterfuge to allow the U.S. Rail and others to preempt state and local environmental laws; and 3) U.S. Rail and others are likely to use the new rail line (if permitted) to construction and debris materials from the BRT property.

In a letter dated April 29, 2008, U.S. Rail responded to the City's filing contesting the City's arguments.

SEA believes that it is inappropriate, at this preliminary juncture, to address the concerns raised by the City. Based on SEA's review of the criteria required by 49 CFR 1105.10(c), SEA believes that U.S. Rail has provided sufficient information to allow us to waive the six-month prefiling requirement. Moreover, SEA notes that once the environmental review process is underway, the City will have ample opportunity to be heard and to fully air its concerns.

If we can be of further assistance, please do not hesitate to contact me or Troy Brady of my staff at (610) 793-4301.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is stylized with a large, looped "V" and a cursive "Rutson".

Victoria Rutson
Chief, Section of Environmental Analysis