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Exhibit 1 Summary of Scoping and Early Consultation Letters

Throughout this study, the SEA consulted with federal and state regulatory and resource agencies, and the county and town in the project area. In early October 2008, scoping and consultation letters were mailed to federal, state, and local agencies, and special interest groups, in accordance with the procedural provisions of NEPA and the Board's requirements and policies for scoping and early consultation. Letters, accompanied by a map of the project site, and a description of the project were mailed to notify them of the study to be performed, request specific information, and encourage participation in the study by indentifying areas of initial concern. In response to these consultation letters, the federal, state, and local agencies did not identify any significant environmental issues associated with the proposed action.

Summary of Scoping and Early Coordination Letters

Agency/Organization	Information Received
US Army Corps of Engineers, NY District	No response received
USDA Natural Resources Conservation Service	No response received
US Environmental Protection Agency, Region 2 - Strategic Planning and Multi-Media Programs Branch	Concerns for terrestrial and aquatic environments, Nassau/Suffolk Sole Source Aquifer, pollution prevention, nonattainment area for ozone, truck vs. rail emissions, and environmental justice
US Fish and Wildlife Service, Long Island Field Office	Endangered, threatened, and rare plant and animal species
National Geodetic Survey, NOAA N/NGS2	No response received
National Park Service, Northeast Region	No response received
New York Department of Transportation	Concerns for transportation impacts, land use and zoning requirements, local employment and tax base impacts, noise and water/ecology impacts, and indirect and cumulative impacts
New York Natural Heritage Program	Endangered, threatened, and rare plant and animal species
New York State Geological Survey	Topography of the site; concerns for a spill or leak
New York State Historic Preservation Office	Effects on cultural resources
Interstate Environmental Commission	No response received
New York & Atlantic Rail Company	No response received
Suffolk County Department of Environment & Energy, Division of Recycling & Solid Waste Management	No response received
Suffolk County Department of Planning	No response received
Suffolk County Public Works Department	Concerns for traffic generated by project, nearby properties that could utilize the BRT, impact to current operations on the LIRR in Western Suffolk County
Long Island Power Authority	No response received
MTA Long Island Railroad	Concerns for water and biological resources, traffic, and land use
Town of Brookhaven Attorney	No response received
Town of Brookhaven, Planning, Environment and Land Management	Concerns for water and biological resources, traffic, and land use
South Yaphank Civic Association	Comments supporting the study

Exhibit 2 Sample Agency Consultation Letter



SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

October 14, 2008

[Name]
[Organization]
[Address]
[City, State, Zip Code]

**Re: Finance Docket No. 35141, U S Rail Corporation - Construction and
Operation Exemption – Brookhaven Rail Terminal**

Dear Ms. Williams,

On August 7, 2008, U S Rail Corporation (U S Rail) filed a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10901 to construct and operate a line of railroad and related rail facilities at a 28-acre site to be known as the Brookhaven Rail Terminal (BRT), in Brookhaven, Suffolk County, NY. According to U S Rail, the total length of the track to be constructed is about 11,000 feet and it would connect with an existing rail line of the Long Island Rail Road, over which freight service is provided by the New York & Atlantic Railway Company. The purpose of the proposed construction is to enable U S Rail to serve the BRT as a common carrier and to service the rail freight requirements of Sills Road Realty, LLC (which owns the underlying property), and its affiliates and related companies. A map of the proposed project is enclosed for your reference.

The Board is the Federal agency responsible for granting authority for the construction and operation of the proposed new rail line. The Section of Environmental Analysis (SEA) is the office within the Board responsible for preparing the appropriate National Environmental Policy Act (NEPA) documentation for railroad construction and operation cases that come before the Board.

The purpose of this letter is to request your input to the scoping process. SEA has not yet determined the level of environmental analysis appropriate for this proposal. Before making that decision, we would like to have your thoughts regarding potential environmental impacts, both beneficial and adverse, that this proposed action could cause to resource areas of interest to your agency.

Description of the Proposed Project

The proposed rail line and BRT would be located in the Town of Brookhaven, Suffolk County, NY. The proposed site for the BRT is a vacant, 28-acre parcel¹ located immediately southeast of Exit 66 off Interstate 495 (the 'Long Island Expressway'). The proposed site is bounded by I-495 to the north, County Road 101 (Patchogue-Yaphank Road) to the west, the Long Island Rail Road (LIRR) to the south, and a utility easement and a vacant parcel to the east. This proposed site has existing highway access onto County Road 101 and is zoned for industrial and commercial purposes. The proposed site is included within the Town of Brookhaven's Empire Development Zone.

According to U S Rail, the proposed rail line would connect with the LIRR, over which freight service would be provided by the New York & Atlantic Railway (NY&A). The proposed rail line would connect with the LIRR mainline at approximately milepost 58 near the Village of Yaphank, NY. This places the location of this site approximately 58 miles east of Penn Station, New York City, NY and approximately 34 miles west of the LIRR mainline terminus at the City of Greenport in eastern Suffolk County. From the point of the proposed connection with the LIRR, the rail line would extend north approximately 200 feet into the proposed BRT that would also be constructed by U S Rail. From this point, the proposed rail line would branch out into a series of yard tracks which would total approximately 11,000 feet in length.

The proposed rail line and related rail facilities, if approved and constructed, would handle approximately 5,000 – 6,000 inbound railcars annually of aggregate crushed stone needed for road and building construction customers on eastern Long Island. U S Rail proposes to move an average of four trains per week. Two trains would be inbound and would consist of approximately 40 to 50 railcars delivering aggregate stone to the BRT twice per week. Two empty trains would be outbound, leaving the BRT twice per week.

Current Operations

Currently, the major sources of aggregate for Long Island are gravel quarries on the western side of the upper Hudson River Valley. Movements of aggregate by rail are typically carried via the Canadian Pacific (CP) rail corridor from Saratoga, NY, across the Hudson River to Castleton, NY. From this point, rail freight travels south on the CSX Hudson Line until it reaches the New York metropolitan area, where freight traffic is routed to the Fresh Pond Junction with the NY&A. Freight cars bound for Long Island are then classified by destination and dispatched by the LIRR, with all train movements performed by NY&A crews and locomotives.

¹ SEA notes that in 2002, this very 28-acre parcel was approved for the construction and operation of a proposed 580 mega-watt combined cycle power generation facility. However, the project did not move forward.

Agency Consultation

We are requesting your preliminary comments regarding the proposed project. Any information you provide relating to the following issues will assist SEA in determining what environmental issues should be addressed in its environmental review:

The proposed rail line and related rail facilities.

The no-build alternative.

Other reasonable and feasible alternatives that may be identified.

Local and regional transportation systems, including safety of freight operations and effects on local and regional highway operations.

Local land use plans, including parks and refuges.

Air emissions and air quality impacts.

Noise impacts, including impacts to sensitive receptors and wildlife.

Historic, cultural and archaeological resources.

Native American populations, land, and cultures.

Impacts to prime, unique, and important farmland and soils.

Biological resources, including threatened or endangered species.

Water resources, including water quality and wetlands.

Impacts to environmental justice communities (low-income and minority populations).

Information on any additional issues or concerns that you consider appropriate would also be appreciated. Please respond by **November 18, 2008**, so that we can incorporate your response into the environmental review process, as appropriate, and schedule any meetings, site visits, survey, and conduct any necessary follow-up activities.

Please submit comments and responses to Gannett Fleming, Inc. (GF), SEA's independent third-party contractor in this case, at the following address:

Mr. William Plumpton
Gannett Fleming, Inc.
P.O. Box 67100
Harrisburg, PA 17106-7100
Attention: Finance Docket No. 35141 – Environmental Comments

SEA has retained GF to assist SEA in preparing the environmental document for this proposal. We have assigned an environmental team member from GF to provide any assistance you may need. The team member will contact you shortly to ensure your receipt of this letter and answer any questions you may have.

The environmental document will be either an environmental assessment (EA) or an environmental impact statement (EIS). SEA's decision on whether to prepare an EA or EIS will be based in part on comments received in response to this agency consultation letter. SEA will make the environmental document available for review by agencies and the public as required by NEPA and the Board's environmental rules (49 CFR 1105). In reaching its decision, the Board will take into account the environmental document and all environmental comments that are received.

I appreciate your assistance on this project. If you have questions, please do not hesitate to contact Mr. Troy Brady, SEA's Environmental Project Manager, at (202) 245-0301 (email: Troy.Brady@STB.DOT.GOV) or William Plumpton of Gannett Fleming, Inc. at (717) 763-7211 (email: wplumpton@gfnet.com).

Sincerely,



Victoria Rutson
Chief, Section of Environmental Analysis

Enclosure

Exhibit 3 Response from MTA Long Island Rail Road



Long Island Rail Road

November 28, 2008

Mr. William Plumpton
Gannett Fleming, Inc.
PO Box 67100
Harrisburg, PA 17106-7100
Attention: Finance Docket No. 35141 – Environmental Comments

Dear Mr. Plumpton:

Thank you for affording the Long Island Rail Road (LIRR) the opportunity to provide input on the scoping process regarding U.S. Rail Corporation's proposal to construct and operate a new rail facility in the Town of Brookhaven, Suffolk County, New York. The LIRR supports the efforts of private investment to divert heavy vehicular traffic from highways to rail.

The proposed facility is located along the LIRR Main Line, which is the primary artery for LIRR passenger trains operating between eastern Long Island and New York City. This line is also the primary route for the majority of freight customers on Long Island, who are served by the New York & Atlantic Railway ("NY&AR") operating on LIRR tracks.

Currently, there is no turnout on the Main Line to allow rail access to the proposed facility. Therefore, an agreement will be required to fund, at NY&AR's expense, the labor and materials for a main track turnout. Construction must be undertaken by the LIRR workforce as per the Freight Privatization agreement.

The LIRR has weight restrictions on a number of bridges. Therefore, the maximum gross weight normally allowed on the LIRR is 263,000 pounds (263K). This limit would apply to traffic either terminating or originating at the proposed facility. While efforts are underway to upgrade bridges and other infrastructure to handle 286K traffic, it is uncertain when the higher load limits will be allowed.

The portion of the Main Line adjacent to the proposed facility is currently served by a daily local freight, which equates to 10 freight movements per week (5 in each direction). The service to the new facility would add an additional 4 freight movements per week (2 in each direction).

The proposed trains operating to and from the new facility are expected to be between 40 and 50 cars in length. There is limited siding capacity on the single-track portion of the LIRR Main Line. Therefore, it may be necessary to operate the

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November 28, 2008
Mr. William Plumpton

train during the overnight period, when the move can be made continuously without conflict with scheduled passenger trains. As a result of the possibility of nighttime railroad operations, it would be prudent to not only study the noise impact of the area surrounding the yard but also to those areas adjacent to the right-of-way subject to the extra movements.

Please keep us apprised of the scoping process and schedule. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script, reading "Helena E. Williams". The signature is written in dark ink and is positioned above the printed name and title.

Helena E. Williams
President

Exhibit 4 Response from New York State Department of Transportation



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232
www.nysdot.gov

ASTRID C. GLYNN
COMMISSIONER

DAVID A. PATERSON
GOVERNOR

November 18, 2008

Mr. William Plumpton
Gannett Fleming, Inc.
P.O. Box 67100
Harrisburg, PA 17106-7100

RE: Finance Docket No. 35141 – Environmental Comments
US Rail Corp. – Construction and Operation Exemption
Brookhaven Rail Terminal
Town of Brookhaven, Suffolk County

Dear Mr. Plumpton;

The New York State Department of Transportation (NYSDOT) appreciates the opportunity to participate in the scoping process for the subject project. As noted in our formal filings in this proceeding with the Board, NYSDOT believes that the proposed Brookhaven Rail Terminal has the potential for considerable transportation, economic and environmental benefits, but that an appropriate environmental review must take place prior to construction of the facility. NYSDOT has identified the following issues to be addressed in such an analysis:

TRANSPORTATION IMPACTS:

The Environmental Analysis performed for the Brookhaven Rail Terminal should address the transportation impacts associated with the project. These include potential impacts to (1) commuter rail operations of the Long Island Rail Road, (2) freight operations of the New York & Atlantic Railway, (3) local highway impacts associated with trip generation from the Brookhaven Rail Terminal, and (4) regional highway impacts which may result from the diversion of freight from truck to rail. The analysis should also identify and consider any potential impacts to public transit (bus) and non-motorized transportation (bicycles & pedestrians).

SOCIAL IMPACTS:

The Environmental Analysis should document the project's consistency with local land use and zoning requirements. If the project is not consistent with local land use plans, the analysis should consider the project's impact on surrounding land use and development patterns.

ECONOMIC IMPACTS:

The Environmental Analysis should document the project's effects on local employment and tax base.

NYSDOT notes that the Brookhaven Rail Terminal may be eligible for a 10 year exemption from real property taxes pursuant to New York State Real Property Tax Law, Section 489-d(3-a). Whenever a railroad company makes any improvements, enhancements, or upgrades to any existing railroad real property in order to improve freight service or to provide improved or new passenger service, the cost of such project shall not be included in the calculation of any subsequent railroad ceilings for a period of 10 years from the date of completion of such project; provided that such project's improvements, enhancements, or upgrades were made pursuant to a capital project proposal approved by the Commissioner of the Department of Transportation.

In order to be eligible for this program, the project must be a construction project which modifies railroad facilities to substantially improve the efficiency, capacity, or safety of railroad freight or passenger transportation in one or more of the following manners:

- (i) a substantial enhancement in rail freight or passenger transportation performance, such as upgrading the class of the railroad track as track classes are defined in the track safety standards of the United States department of transportation;
- (ii) the construction of significant new facilities for rail freight or passenger transportation, such as the construction of new railroad lines, additional tracks along existing lines, sidings, structures, yards, stations, signal systems or switching facilities, and intermodal facilities, including, but not limited to, automotive, bulk transfer, trailer on flatcar, container on flatcar, and reload facilities; and
- (iii) major renovations to or expansions of components of railroad infrastructure, such as the reconstruction of bridges or the increase in bridge capacity, the expansion of railroad yards, or the substantial improvement of the technology or safety of signal systems.

ENVIRONMENTAL IMPACTS:

Victoria Rutson's letter of October 14th provides a comprehensive list of environmental issues to be addressed by the Board's SEA. NYSDOT suggests a few minor changes to the scope of these reviews as follows:

Noise

The noise item should be changed to: "*Noise analysis for highway and rail traffic as well as construction noise.*" Further, rather than just "sensitive" receptors, all developed receptors should be considered.

Water / Ecology

The analysis of impacts to Biological resources should be expanded to read "Biological resources, including threatened or endangered species *and invasive species management.*"

INDIRECT AND CUMULATIVE IMPACTS:

NYSDOT is advancing a project to construct a new intermodal rail terminal in the Town of Islip, Suffolk County (NYSDOT PIN 0339.12 – Long Island Truck-Rail Intermodal Terminal). The analysis of the Brookhaven Rail Terminal should assess the cumulative impact of these two facilities. The Draft Environmental Impact Statement prepared by NYSDOT and the Federal Highway Administration (FHWA) under the National Environmental Protection Act (NEPA) and New York's State Environmental Quality Review Act (SEQR) for the Long Island Truck-Rail Intermodal Terminal can be found at:

<https://www.nysdot.gov/portal/page/portal/regional-offices/region10/projects/long-island-intermodal/draft-eis>

NYSDOT received a great deal of public response to the DEIS and is in the process of addressing the numerous comments received.

NYSDOT Highway Work Permits

The preliminary site plan for the Brookhaven Rail Terminal available to NYSDOT depicts a driveway access to Patchague-Yaphank Road. Construction of or modification to driveway entrances to state highways, involving work on the highway right-of-way, may only be performed pursuant to a Highway Work Permit issued by NYSDOT. Therefore, we request that NYSDOT be included as a Cooperating / Involved Agency in the Board's review of the project under NEPA to ensure the environmental documentation will satisfy NYSDOT's obligations under New York's State Environmental Quality Review Act (SEQR).

Further information on NYSDOT's Highway Work Permit process can be found at:

<https://www.nysdot.gov/divisions/operating/oom/transportation-systems/traffic-operations-section/highway-permits>

If you have any questions or need further information, please feel free to contact me at (518) 457-8075 or via email at rhessinger@dot.state.ny.us.

Sincerely,



Raymond F. Hessinger, P.E.
Acting Director, Freight Bureau

cc: Troy Brady, Surface Transportation Board, Section of Environmental Analysis
Mary Ivey, Director, NYSDOT Office of Environment
Wayne Ugolik, Regional Planning & Program Manager, NYSDOT Region 10

**Exhibit 5 Response from New York State Department of Environmental
Conservation, Natural Heritage Program**

New York State Department of Environmental Conservation

Division of Fish, Wildlife & Marine Resources

New York Natural Heritage Program

625 Broadway, Albany, New York 12233-4757

Phone: (518) 402-8935 • FAX: (518) 402-8925

www.dec.state.ny.us



Alexander B. Grannis
Commissioner

November 1, 2008

William Plumpton
Gannett Fleming, Inc
PO Box 67100
Harrisburg, PA 17106-7100

Dear Mr. Plumpton:

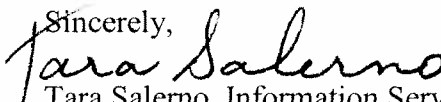
In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to an Environmental Assessment for the proposed Construction of 11,000 feet of track at the Brookhaven Rail Terminal, area as indicated on the map you provided, located in the Town of Brookhaven, Suffolk County.

Enclosed is a report of rare or state-listed animals and plants, significant natural communities, and other significant habitats, which our databases indicate occur, or may occur, on your site or in the immediate vicinity of your site. The information contained in this report is considered sensitive and should not be released to the public without permission from the New York Natural Heritage Program.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, at the enclosed address.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our databases. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environment impact assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

Sincerely,

Tara Salerno, Information Services
New York Natural Heritage Program



cc: Reg. 1, Wildlife Mgr.

Natural Heritage Report on Rare Species and Ecological Communities



NY Natural Heritage Program, NYS DEC, 625 Broadway, 5th Floor,
Albany, NY 12233-4757
(518) 402-8935

HISTORICAL RECORDS

The following plants and animals were documented in the vicinity of the project site at one time, but have not been documented there since 1979 or earlier.

There is no recent information on these plants and animals in the vicinity of the project site and their current status there is unknown. In most cases the precise location of the plant or animal in this vicinity at the time it was last documented is also unknown and therefore location maps are generally not provided.

If appropriate habitat for these plants or animals is present in the vicinity of the project site, it is possible that they may still occur there.

Natural Heritage Report on Rare Species and Ecological Communities



BUTTERFLIES and SKIPPERS

Erynnis persius persius

Persius
Duskywing

NY Legal Status: Endangered

NYS Rank: SH - Historical

Office Use
459

Federal Listing:

Global Rank: G5T1T3 - Critically imperiled

ESU

Last Report: ----05-17

EO Rank: Historical, no recent
information

County: Suffolk

M

Town: Brookhaven

Location: Yaphank

Directions: The specimen label reports the location as "Yaphank".

General Quality
and Habitat:

DRAGONFLIES and DAMSELFLIES

Anax longipes

Comet Darner

NY Legal Status: Unlisted

NYS Rank: S2 - Imperiled

Office Use
12585

Federal Listing:

Global Rank: G5 - Demonstrably secure

Last Report: 1908-07-26

EO Rank: Historical, no recent
information

County: Suffolk

Town: Brookhaven

Location: Yaphank

Directions: The dragonfly was seen in Yaphank in Brookhaven on Long Island.

General Quality
and Habitat: The dragonfly was observed in a small town on Long Island.

VASCULAR PLANTS

*Crataegus uniflora*

Dwarf Hawthorn **NY Legal Status:** Endangered
Federal Listing:
Last Report: 1907-07-14

NYS Rank: S1 - Critically imperiled
Global Rank: G5 - Demonstrably secure
EO Rank: Historical, no recent information

Office Use
4037

County: Suffolk
Town: Brookhaven
Location: Yapank
Directions: Specimen label: Yaphank.
General Quality and Habitat:

M

Lechea tenuifolia

Slender Pinweed **NY Legal Status:** Threatened
Federal Listing:
Last Report: 1912-09-01

NYS Rank: S2 - Imperiled
Global Rank: G5 - Demonstrably secure
EO Rank: Historical, no recent information

Office Use
3562

County: Suffolk
Town: Brookhaven
Location: Yapank
Directions: Specimen label: Yaphank.
General Quality and Habitat:

M

4 Records Processed

More detailed information about many of the rare and listed animals and plants in New York, including biology, identification, habitat, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.acris.nynhp.org, from NatureServe Explorer at <http://www.natureserve.org/explorer>, from NYSDEC at <http://www.dec.ny.gov/animals/7494.html> (for animals), and from USDA's Plants Database at <http://plants.usda.gov/index.html> (for plants).

USERS GUIDE TO NY NATURAL HERITAGE DATA

New York Natural Heritage Program, 625 Broadway, 5th Floor, Albany, NY 12233-4757 phone: (518) 402-8935



NATURAL HERITAGE PROGRAM: The NY Natural Heritage Program is a partnership between the NYS Department of Environmental Conservation (NYS DEC) and The Nature Conservancy. Our mission is to enable and enhance conservation of rare animals, rare plants, and significant communities. We accomplish this mission by combining thorough field inventories, scientific analyses, expert interpretation, and the most comprehensive database on New York's distinctive biodiversity to deliver the highest quality information for natural resource planning, protection, and management.

DATA SENSITIVITY: The data provided in the report are ecologically sensitive and should be treated in a sensitive manner. The report is for your in-house use and should not be released, distributed or incorporated in a public document without prior permission from the Natural Heritage Program.

EO RANK: A letter code for the quality of the occurrence of the rare species or significant natural community, based on population size or area, condition, and landscape context.

A-E = Extant: A=Excellent, B=Good, C=Fair, D=Poor, E=Extant but with insufficient data to assign a rank of A-D.

F = Failed to find. Did not locate species during a limited search, but habitat is still there and further field work is justified.

H = Historical. Historical occurrence without any recent field information.

X = Extirpated. Field/other data indicates element/habitat is destroyed and the element no longer exists at this location.

U = Extant/Historical status uncertain.

Blank = Not assigned.

LAST REPORT: The date that the rare species or significant natural community was last observed at this location, as documented in the Natural Heritage databases. The format is most often YYYY-MM-DD.

NY LEGAL STATUS – Animals:

Categories of Endangered and Threatened species are defined in New York State Environmental Conservation Law section 11-0535. Endangered, Threatened, and Special Concern species are listed in regulation 6NYCRR 182.5.

E - Endangered Species: any species which meet one of the following criteria:

- Any native species in imminent danger of extirpation or extinction in New York.
- Any species listed as endangered by the United States Department of the Interior, as enumerated in the Code of Federal Regulations 50 CFR 17.11.

T - Threatened Species: any species which meet one of the following criteria:

- Any native species likely to become an endangered species within the foreseeable future in NY.
- Any species listed as threatened by the U.S. Department of the Interior, as enumerated in the Code of the Federal Regulations 50 CFR 17.11.

SC - Special Concern Species: those species which are not yet recognized as endangered or threatened, but for which documented concern exists for their continued welfare in New York. Unlike the first two categories, species of special concern receive no additional legal protection under Environmental Conservation Law section 11-0535 (Endangered and Threatened Species).

P - Protected Wildlife (defined in Environmental Conservation Law section 11-0103): wild game, protected wild birds, and endangered species of wildlife.

U - Unprotected (defined in Environmental Conservation Law section 11-0103): the species may be taken at any time without limit; however a license to take may be required.

G - Game (defined in Environmental Conservation Law section 11-0103): any of a variety of big game or small game species as stated in the Environmental Conservation Law; many normally have an open season for at least part of the year, and are protected at other times.

NY LEGAL STATUS – Plants:

The following categories are defined in regulation 6NYCRR part 193.3 and apply to NYS Environmental Conservation Law section 9-1503.

E - Endangered Species: listed species are those with:

- 5 or fewer extant sites, or
- fewer than 1,000 individuals, or
- restricted to fewer than 4 U.S.G.S. 7 ½ minute topographical maps, or
- species listed as endangered by U.S. Dept. of Interior, as enumerated in Code of Federal Regulations 50 CFR 17.11.

T - Threatened: listed species are those with:

- 6 to fewer than 20 extant sites, or
- 1,000 to fewer than 3,000 individuals, or
- restricted to not less than 4 or more than 7 U.S.G.S. 7 and ½ minute topographical maps, or
- listed as threatened by U.S. Department of Interior, as enumerated in Code of Federal Regulations 50 CFR 17.11.

R - Rare: listed species have:

- 20 to 35 extant sites, or
- 3,000 to 5,000 individuals statewide.

V - Exploitably vulnerable: listed species are likely to become threatened in the near future throughout all or a significant portion of their range within the state if causal factors continue unchecked.

U - Unprotected; no state status.

FEDERAL STATUS (PLANTS and ANIMALS): The categories of federal status are defined by the United States Department of the Interior as part of the 1974 Endangered Species Act (see Code of Federal Regulations 50 CFR 17). The species listed under this law are enumerated in the Federal Register vol. 50, no. 188, pp. 39526 - 39527. The codes below without parentheses are those used in the Federal Register. The codes below in parentheses are created by Heritage to deal with species which have different listings in different parts of their range, and/or different listings for different subspecies or varieties.

(blank) = No Federal Endangered Species Act status.

LE = Formally listed as endangered.

LT = Formally listed as threatened.

C = Candidate for listing.

LE,LT = Formally listed as endangered in part of its range, and as threatened in the other part; or, one or more subspecies or varieties is listed as endangered, and the others are listed as threatened.

LT,PDL = Populations of the species in New York are formally listed as threatened, and proposed for delisting.

GLOBAL AND STATE RANKS (animals, plants, ecological communities and others): Each element has a global and state rank as determined by the NY Natural Heritage Program. These ranks carry no legal weight. The global rank reflects the rarity of the element throughout the world and the state rank reflects the rarity within New York State. Intraspecific taxa are also assigned a taxon rank to reflect the infraspecific taxon's rank throughout the world. ? = Indicates a question exists about the rank. Range ranks, e.g. S1S2, indicate not enough information is available to distinguish between two ranks.

GLOBAL RANK:

G1 - Critically imperiled globally because of extreme rarity (5 or fewer occurrences), or very few remaining acres, or miles of stream) or especially vulnerable to extinction because of some factor of its biology.

G2 - Imperiled globally because of rarity (6 - 20 occurrences, or few remaining acres, or miles of stream) or very vulnerable to extinction throughout its range because of other factors.

G3 - Vulnerable: Either rare and local throughout its range (21 to 100 occurrences), or found locally (even abundantly at some of its locations) in a restricted range (e.g. a physiographic region), or vulnerable to extinction throughout its range because of other factors.

G4 - Apparently secure globally, though it may be quite rare in parts of its range, especially at the periphery.

G5 - Demonstrably secure globally, though it may be quite rare in parts of its range, especially at the periphery.

GH - Historically known, with the expectation that it might be rediscovered.

GX - Species believed to be extinct.

NYS RANK:

S1 - Critically imperiled: Typically 5 or fewer occurrences, very few remaining individuals, acres, or miles of stream, or some factor of its biology making it especially vulnerable in New York State.

S2 - Imperiled: Typically 6 to 20 occurrences, few remaining individuals, acres, or miles of stream, or factors demonstrably making it very vulnerable in New York State.

S3 - Vulnerable: Typically 21 to 100 occurrences, limited acreage, or miles of stream in New York State.

S4 - Apparently secure in New York State.

S5 - Demonstrably secure in New York State.

SH - Historically known from New York State, but not seen in the past 15 years.

SX - Apparently extirpated from New York State.

SxB and SxN, where Sx is one of the codes above, are used for migratory animals, and refer to the rarity within New York State of the breeding (B)populations and the non-breeding populations (N), respectively, of the species.

TAXON (T) RANK: The T-ranks (T1 - T5) are defined the same way as the Global ranks (G1 - G5), but the T-rank refers only to the rarity of the subspecific taxon.

T1 through T5 - See Global Rank definitions above.

Q - Indicates a question exists whether or not the taxon is a good taxonomic entity.

Revised April,

Exhibit 6 Response from New York State Geological Survey

NEW YORK STATE GEOLOGICAL SURVEY

3140 Cultural Education Center

Albany, NY 12230

518/474-5816 • Fax 518/473-8724

New York State Education Department - New York State Museum

October 22, 2008

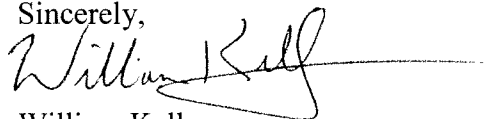
Mr. William Plumpton
Gannett Fleming, Inc
PO Box 67100
Harrisburg, PA 17106-7100
Attention: Finance Docket No. 35141-Environmental Comments

Dear Mr. Plumpton,

Pursuant to the letter of 14 October regarding Finance Docket No. 35141, U S Rail Corporation – Construction and Operation Exemption – Brookhaven Rail Terminal, I offer the following comments. Based upon the maps provided, the site appears to be on the west side of a Pleistocene drainage channel, currently occupied by the modern Carman's River. There is a forty to fifty foot scarp trending northwest to southeast immediately to the east of the proposed rail terminal and the site itself is on a gently eastward sloping bluff above the paleo-channel. Incised into this scarp are several gullies of 1000 or greater feet in length. These are generally oriented east-west and one of which exists immediately south of the proposed terminal site. Based upon the experience of the Geological Survey, the material comprising the scarp and bluff can be surmised to be outwash, which is to say water-laid, sand and gravel. As such the porosity and permeability of the site may be quite high.

The point of the above is that if there is spillage or leakage of fuel, hydraulic oil, or other fluids from any of the rail cars or engines of the four trains that U S Rail proposes to move into and out of the site weekly, those fluids might easily enter the ground, possibly contaminating the ground water. If the fluids ran along the surface, as currently configured, they would flow south and east into the gullies that breach the scarp and hence into the old drainage valley. Consequently, it will be important that erosion control and storm water runoff be addressed during the planning of the facility to prevent potentially contaminated water from leaving the site.

Sincerely,



William Kelly
State Geologist and Director

Exhibit 7 Response from New York State Historic Preservation Office



New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

David A. Paterson
Governor

Carol Ash
Commissioner

October 30, 2008

William Plumpton
Gannett Fleming Inc
PO Box 67100
Harrisburg, Pennsylvania 17106-7100

Re: STB
Brookhaven Rail Terminal/Yaphank
SE LIE exit 66/BROOKHAVEN, Suffolk
County
08PR05558

Dear Mr. Plumpton:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8).

Based upon this review, it is the SHPO's opinion that your project will have No Effect upon cultural resources in or eligible for inclusion in the National Registers of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont
Director

Exhibit 8 Response from Suffolk County Public Works Department

COUNTY OF SUFFOLK



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PUBLIC WORKS

THOMAS LAGUARDIA, P.E.
CHIEF DEPUTY COMMISSIONER

GILBERT ANDERSON, P.E.
COMMISSIONER

LOUIS CALDERONE
DEPUTY COMMISSIONER

November 18, 2008

William Plumpton
Gannett Fleming, Inc.
P.O. Box 67100
Harrisburg, PA 17106-7100

Attention: Finance Docket No. 35141 – Environmental Comments

Re: CR 101, Patchogue-Yaphank Road, at Long Island Avenue/Proposed U.S. Rail Facility, Yaphank

Dear Mr. Plumpton:

This correspondence is in response to your October 14, 2008 request for input towards the preparation of the National Environmental Policy Act documents relating to the proposed U.S. Rail Corporation Facility proposed for (Yaphank) Brookhaven, New York. We appreciate the opportunity to participate in this process and offer the following suggestions:

- Analyze anticipated traffic generated by this facility, including percentage and type of large vehicles. Use of data collected at similar sites is preferable.
- Forecasted Trip Distribution should identify impacts to lane and queue storage capacity on the nearby highway links and signalized intersections, respectively.
- Include potential uses of nearby properties that would utilize this facility's available westbound shipping capacity.
- Minimize the impact additional trains consisting of 40 to 50 freight cars will have on the main line of the Long Island Railroad that runs adjacent to major roadways and intersections in western Suffolk County.

If you should have any questions or require additional information concerning this matter, please do not hesitate to contact myself or Daniel J. Dresch, Jr., Director of Traffic Safety at 852-4081.

Very truly yours,

William Hillman P.E.
Chief Engineer

WH:DJD:dm

cc: Daniel J. Dresch, Jr., Director of Traffic Safety
Justin Hipperling, Traffic Engineer II
Paul G. Rogalle, Director of Planning, Town of Brookhaven

SUFFOLK COUNTY IS AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

**Exhibit 9 Response from Town of Brookhaven, Planning, Environment and
Land Management**



Town of Brookhaven Long Island

Brian X. Foley, Supervisor

November 13, 2008

Mr. William Plumpton
Gannett Fleming, Inc.
P.O. Box 67100
Harrisburg, PA
17106-7100

Reference: Finance Docket No. 35141 – Environmental Comments
Brookhaven Rail Terminal

Dear Mr. Plumpton:

On behalf of the Town of Brookhaven, I appreciate the opportunity to comment upon the above-referenced project.

The list of issues identified on page 3 of the letter from the Surface Transportation Board provides an adequate framework for assessing the environmental impacts associated with the proposed project. Following are more specific comments relating to the project that we request be considered in the formulation of the environmental assessment by the Section of Environmental Analysis of the Surface Transportation Board.

Water Resources – In 1980 the federal Environmental Protection Agency declared Long Island a sole source aquifer. This designation was made in recognition of the fact that the 2.6 million residents of Nassau and Suffolk Counties depend upon the groundwater aquifers, recharged through the land surface solely through precipitation, as their sole source of water. Many studies have documented that certain activities and land uses can adversely impact groundwater quality. More specifically, the facility is proposed within Hydrogeologic Zone III, the most important of the three deep-flow recharge zones on Long Island. Water recharging through these zones is the primary source for replenishing the drinking water aquifers upon which long Islanders depend for their water supply needs. Therefore, the assessment should discuss the extent to which the operation of the Rail Terminal might impact groundwater quality from fuel use, storage, and spills; leaching from railroad ties; and sanitary use.

In addition we would request the project's proposed water use during operations be assessed.

One map that was reviewed by Planning Staff illustrated the presence of three small wetlands in the proximity of the dirt road that traverses the property in an east/west orientation. The potential impact of the project on these wetlands should be included in the assessment. The project will require extensive clearing and grading that may create the potential for soil erosion and storm water runoff, both issues of which may result in significant impacts. Pursuant to local implementation of federal environmental law requirements the applicant will need to prepare and implement a Storm water Pollution Prevention Plan.

Ecological/Biological Resources - The site is situated within the Long Island Pine Barrens ecosystem and is dominated by a pine-oak forest. In addition to several other ecological functions, this community type provides habitat to a wide variety of wildlife species. These include numerous songbird species, many of which are protected under federal law, numerous mammal species, and reptile and amphibians. Additionally, the forest on site is composed of a variety of woody and herbaceous plant species. The assessment should document the flora and fauna that inhabit the site and the impact the project will have on the habitat upon which they depend.

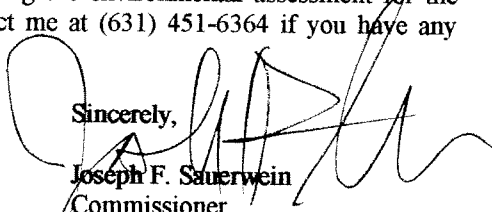
Department of Planning, Environment & Land Management
Joseph F. Sauerwein, Commissioner
One Independence Hill, Farmingville, NY 11738 • Phone (631) 451-6364 • Fax (631) 451-6419

Traffic and other Community Impacts- Due to the nature of the proposed project it is very likely to generate additional traffic, and create noise, dust, and perhaps lighting impacts to adjacent existing and future property owners and communities. The assessment should describe the qualitative nature of these potential impacts, assess their magnitude, and discuss strategies to mitigate impacts if significant. Please recognize the numerous elements of the Town of Brookhaven municipal code that will need to be complied with during site plan design and approval, these include but are not limited to limits of clearing, buffers, landscape requirements, building setbacks, structure height limits, grading and drainage, storm water pollution prevention requirements, noise production, etc.

Land Use Please note that this project appears to be consistent with the existing zoning and related permitted uses contained within the adopted 1996 Town of Brookhaven Town-wide land use plan.

I appreciate the opportunity to provide these comments regarding the environmental assessment for the proposed Brookhaven Rail Terminal. Please feel free to contact me at (631) 451-6364 if you have any questions regarding these comments.

Sincerely,


Joseph F. Sauerwein
Commissioner

CC: Hon. Brian X. Foley
Supervisor

Hon. Constance Kepert
Councilwoman, District 4

Karen M. Wilutis
Town Attorney

Brenda Prusinowski
Deputy Commissioner

Christine M. Preston
Chief Deputy Town Attorney

John Turner
Director of Environmental Protection

Paul G. Rogalle
Director of planning

Gregg Kelsey
Assistant Town Engineer

Lynn Weyant
Director of Traffic Safety

Mark A. Cuthbertson
Counsel

**Exhibit 10 Response from U.S. Environmental Protection Agency, Region 2 -
Strategic Planning and Multi-Media Programs Branch**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

DEC 18 2008

Mr. William Plumpton
Gannett Fleming, Inc.
P.O. Box 67100
Harrisburg, PA 17106-7100

Attention: finance Docket No. 35242- Environmental Comments

Dear Mr. Plumpton:

The Environmental Protection Agency (EPA) has reviewed the Scoping Document for the U.S. Rail Corporation's proposed Brookhaven Rail Terminal, in Brookhaven, New York. The project would include the construction and operation of 200 feet of rail line connecting the Long Island Rail Road to a 28-acre rail yard. The track in the yard would branch out into a series of tracks which would total approximately 11,000 feet.

The EPA would like to offer the following issues for consideration in the environmental analysis:

1. A full discussion of the purpose and need of the proposed project.
2. An evaluation of the alternatives to the proposed project, including reasonable alternatives not within the jurisdiction of the lead agency.
3. Descriptions of the terrestrial and aquatic environments to be impacted by each alternative during construction and operation. These descriptions should include appropriate air quality data, water quality data, the identification and delineation of all wetlands, the identification of flood plains and cultural resources, the identification and delineation of any area of contamination that may be disturbed by the rail construction, and the identification of other significant environmental resources adjacent to the project. As the project will be located over the Nassau/Suffolk Sole Source Aquifer, special consideration should be given to possible contamination to groundwater.
4. A comprehensive evaluation of cumulative, indirect, and secondary impacts.
5. In 1993, Council of Environmental Quality guidance, "Pollution Prevention and the National Environmental Policy Act", encouraged federal agencies to include the concepts of pollution prevention in environmental assessments/environmental impact statements. We would suggest that all pollution prevention practices for rail and yard construction and operations be discussed within the environmental document.

6. Suffolk County has been designated as moderate nonattainment for the 8 hour ozone standard and non-attainment for PM 2.5, therefore a general conformity determination must be prepared for this project. EPA also recommends that emission reduction strategies for construction equipment be evaluated. EPA's Clean Construction website at <http://www.epa.gov/cleandiesel/construction/strategies.htm> has information on several emissions reduction strategies and technologies.
7. The environmental document should include an analysis of mobile source air toxics and greenhouse gases. A comparison of emissions from truck versus rail should be made.
8. An environmental justice analysis should be prepared to determine whether any racial, ethnic, or socioeconomic group is bearing a disproportionate share of the negative environmental consequences resulting from the construction or operation of the rail yard. The EPA's Interim Environmental Justice Policy is available at <http://www.epa.gov/region02/community/ej/poltoc.htm> for informational purposes.

Thank you for the opportunity to comment. If you have any questions concerning this letter, please contact Lingard Knutson at (212) 637-3747.

Sincerely yours,



Grace Musumeci, Chief
Environmental Review Section
Strategic Planning and Multi-Media Programs Branch

cc: Troy Brady, STB

Exhibit 11 Response from US Fish and Wildlife Service, Long Island Field Office



United States Department of the Interior

FISH AND WILDLIFE SERVICE



New York Field Office
3817 Luker Road, Cortland, NY 13045
Phone: (607) 753-9334
Fax: (607) 753-9699

Long Island Field Office
3 Old Barto Rd., Brookhaven, NY 11719
Phone: (631) 776-1401
Fax: (631) 776-1405

Endangered Species Act List Request Response Cover Sheet

This cover sheet is provided in response to a search of our website* for information regarding the potential presence of species under jurisdiction of the U.S. Fish and Wildlife Service (Service) within a proposed project area.

Attached is a copy of the New York State County List of Threatened, Endangered, and Candidate Species for the appropriate county(ies). The database that we use to respond to list requests was developed primarily to assist Federal agencies that are consulting with us under Section 7(a)(2) of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*). Our lists include all Federally-listed, proposed, and candidate species known to occur, as well as those likely to occur, in specific counties.

The attached information is designed to assist project sponsors or applicants through the process of determining whether a Federally-listed, proposed, or candidate species and/or “critical habitat” may occur within their proposed project area and when it is appropriate to contact our offices for additional coordination or consultation. You may be aware that our offices have provided much of this information in the past in project-specific letters. However, due to increasing project review workloads and decreasing staff, we are now providing as much information as possible through our website. We encourage anyone requesting species list information to print out all materials used in any analyses of effects on listed, proposed, or candidate species.

The Service routinely updates this database as species are proposed, listed, and delisted, or as we obtain new biological information or specific presence/absence information for listed species. If project proponents coordinate with the Service to address proposed and candidate species in early stages of planning, this should not be a problem if these species are eventually listed. However, we recommend that both project proponents and reviewing agencies retrieve from our online database an *updated* list every 90 days to append to this document to ensure that listed species presence/absence information for the proposed project is *current*.

Reminder: Section 9 of the ESA prohibits unauthorized taking** of listed species and applies to Federal and non-Federal activities. For projects not authorized, funded, or carried out by a Federal agency, consultation with the Service pursuant to Section 7(a)(2) of the ESA is not required. However, no person is authorized to “take**” any listed species without appropriate authorizations from the Service. Therefore, we provide technical assistance to individuals and agencies to assist with project planning to avoid the potential for “take**,” or when appropriate, to provide assistance with their application for an incidental take permit pursuant to Section 10(a)(1)(B) of the ESA.

Additionally, endangered species and their habitats are protected by Section 7(a)(2) of the ESA, which requires Federal agencies, in consultation with the Service, to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. An assessment of the potential direct, indirect, and cumulative impacts is required for all Federal actions that may affect listed species.

For instance, work in certain waters of the United States, including wetlands and streams, may require a permit from the U.S. Army Corps of Engineers (Corps). If a permit is required, in reviewing the application pursuant to the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*), the Service may concur, with or without recommending additional permit conditions, or recommend denial of the permit depending upon potential adverse impacts on fish and wildlife resources associated with project construction or implementation. The need for a Corps permit may be determined by contacting the appropriate Corps office(s).*

For additional information on fish and wildlife resources or State-listed species, we suggest contacting the appropriate New York State Department of Environmental Conservation regional office(s) and the New York Natural Heritage Program Information Services.*

Since wetlands, ponds, streams, or open or sheltered coastal waters may be present in the project area, it may be helpful to utilize the National Wetlands Inventory (NWI) maps as an initial screening tool. However, they may or may not be available for the project area. Please note that while the NWI maps are reasonably accurate, they should not be used in lieu of field surveys for determining the presence of wetlands or delineating wetland boundaries for Federal regulatory purposes. Online information on the NWI program and digital data can be downloaded from Wetlands Mapper, http://wetlands.fws.gov/mapper_tool.htm.

Project construction or implementation should not commence until all requirements of the ESA have been fulfilled. After reviewing our website and following the steps outlined, we encourage both project proponents and reviewing agencies to contact our office to determine whether an accurate determination of species impacts has been made. If there are any questions about our county lists or agency or project proponent responsibilities under the ESA, please contact the New York or Long Island Field Office Endangered Species Program at the numbers listed above.

Attachment (county list of species)

*Additional information referred to above may be found on our website at:
<http://www.fws.gov/northeast/nyfo/es/section7.htm>

** Under the Act and regulations, it is illegal for any person subject to the jurisdiction of the United States to **take** (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species and most threatened fish and wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. "Harm" includes any act which actually kills or injures fish or wildlife, and case law has clarified that such acts may include significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife.



Suffolk County

Federally Listed Endangered and Threatened Species and Candidate Species

This list represents the best available information regarding known or likely County occurrences of Federally-listed and candidate species and is subject to change as new information becomes available.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
Kemp's [=Atlantic] ridley turtle ¹	<i>Lepidochelys kempi</i>	E
Green turtle ¹	<i>Chelonia mydas</i>	T
Hawksbill turtle ¹	<i>Eretmochelys imbricate</i>	E
Leatherback turtle ¹	<i>Dermochelys coriacea</i>	E
Loggerhead turtle ¹	<i>Caretta caretta</i>	T
Piping plover ²	<i>Charadrius melodus</i>	T
Roseate tern	<i>Sterna dougallii dougallii</i>	E
Sandplain gerardia	<i>Agalinis acuta</i>	E
Seabeach amaranth	<i>Amaranthus pumilus</i>	T
Shortnose sturgeon ³	<i>Acipenser brevirostrum</i>	E
Small whorled pogonia (<i>Historic</i>)	<i>Isotria medeoloides</i>	T

Status Codes: E=Endangered T=Threatened P=Proposed C=Candidate D=Delisted

¹Except for sea turtle nesting habitat, principal responsibility for these species is vested with the National Oceanic and Atmospheric Administration/Fisheries.

²Habitat is only found at the shoreline, on barrier islands, sandy beaches and dredged material disposal islands. Please see the [fact sheet](#) for more information.

³Primarily occurs in Hudson River. Principal responsibility for this species is vested with the National Oceanic and Atmospheric Administration/Fisheries. Please visit the following website for more information
<http://www.nmfs.noaa.gov/pr/species/esa.htm>.

Information current as of: 10/14/2008

**FEDERALLY LISTED ENDANGERED AND THREATENED
SPECIES AND CANDIDATE SPECIES LIKELY EXTIRPATED FROM NEW YORK**

This list represents the best available information and is subject to change as new information becomes available.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
ANIMALS		
American burying beetle	<i>Nicrophorus americanus</i>	E
Canada lynx	<i>Lynx canadensis</i>	T
Eastern cougar	<i>Puma (=Felis) concolor couguar</i>	E
Gray wolf	<i>Canis lupus</i>	E
Northeastern beach tiger beetle	<i>Cincindela dorsalis dorsalis</i>	T
PLANTS		
Northeastern bulrush	<i>Scirpus ancistrochaetus</i>	E
Swamp pink	<i>Helonias bullata</i>	T

Exhibit 12 Letter of Support from Canadian Pacific



**CANADIAN
PACIFIC**

Dave Craig
AVP Interline and
Network Strategy

Suite 500
Gulf Canada Square
401 - 8th Avenue SW
Calgary AB T2P 4Z4

Tel: (403) 319-7731
Fax: (403) 205-9142
email: dave_craig@opr.ca

January 15, 2009

Mr. Andrew Kaufman
Sills Road Realty LCC
485 Underhill Boulevard, Suite 103
Syosset, NY 11791

Dear Mr. Kaufman ,

I appreciate your taking the time this week to discuss the status of the Brookhaven Rail Terminal project with us. As you are aware Canadian Pacific has served the Long Island market for the past nine years. During that time it has become evident that one of the commodities with the largest growth potential is aggregates used in highway and building construction. With high fuel costs and deteriorating highway infrastructure, shippers are increasingly turning toward rail freight to provide cost effective, energy efficient and environmentally friendly service for aggregates. We have found that this growth potential has been hampered by the lack of adequate rail unloading facilities that can handle large unit shipments that are suited to rail service.

Canadian Pacific strongly supports the construction of any facility that will help alleviate this condition. We believe that Canadian Pacific is well positioned to serve this market with its access to certain upstate quarries and its regular service to Long Island. We look forward to the completion of the Brookhaven project and the opportunity to handle the aggregates as well as other commodities identified in your proposal that would be available through your transload facility.

Sincerely,

Dave Craig
AVP Interline and Network Strategy
Canadian Pacific

cc. Steve Lawrence
Bill Tuttle
Jim Stauch
Pete Deering



**CANADIAN
PACIFIC**
OFFICIAL SUPPORTER

Exhibit 13 Letter of Support from Long Island Association



Long Island Association, Inc.
300 Broadhollow Road • Suite 110W
Melville, NY 11747-4840

July 8, 2009

Hon. Mark Lesko, Supervisor
Members of the Brookhaven Town Council
Town Hall
1 Independence Hill
Farmingville, NY 11738

Dear Supervisor Lesko and Members of the Brookhaven Town Council:

The Long Island Association, Long Island's largest business organization, supports the proposal of Sills Road Realty to develop, along with U.S. Rail, a regional freight transportation facility in the Empire Zone in the Town of Brookhaven.

We support this project for several reasons. First, it will provide a regional freight rail service that is much needed on Long Island. Currently, Long Island only receives one percent of its freight by rail compared to the national average of 15 percent. This project will reduce truck traffic on Long Island, thereby reducing air pollution and the consumption of fossil fuels. It also will help free up our congested highways. Second, in this difficult economic environment, this facility will spur economic development activity in Brookhaven's Empire Zone.

National statistics tell us that on average an intermodal train delivers 455 tons of material/goods per gallon of fuel, compared to truck shipments, which only deliver 105 tons of material/goods per gallon of fuel. For this reason and many others, the Long Island Association has a long history of supporting rail freight intermodal facilities.

We urge the Town of Brookhaven to approve the settlement with Sills Road Realty and take a major step in furthering economic development and rail freight on Long Island.

Sincerely,

Matthew T. Crosson
President

Cc: B. Cullen
E. Austin
C. Strain
D. Perkins

Serving Long Island since 1926

631-493-3000 • FAX 631-499-2194 • www.liaonline.org

Exhibit 14 Letter of Support from South Yaphank Civic Association



South Yaphank Civic Association

P.O. Box 375, Yaphank, NY, 11980 (631) 205-9452 syca01@gmail.com www.focusyaphank.org

October 29, 2008

Supervisor Brian X. Foley
Town of Brookhaven
One Independence Hill
Farmingville, NY 11738

RE: Sills Road Rail Project

Dear Supervisor Foley,

I recently meet with three representatives of the Sills Road Rail Project; Andrew Kaufman, Gerard Drumm, and Judy White, to discuss this project. As this is a project of great concern to the Yaphank Community, I had numerous questions that needed to be answered. The representatives explained in great detail what is proposed, why it was proposed, the history of the project, the environmental, economic and safety benefits of the project and that no decision has been rendered by the National Safety Transportation Board. It was explained that if the board rules in favor of the Sills Road Rail, the project will be able to move forward. I was impressed with their answers to my questions and how willing the representatives were to working with the community.

After this meeting, I discussed the project with the members of the Civic Association. At this time, the South Yaphank Civic Association supports the project and looks forward to working with the representatives, should the NSTB give its approval.

Sincerely,

Johan McConnell
President

*The mission of the **South Yaphank Civic Association** is to provide residents of Yaphank and Brookhaven hamlets with a forum to address issues of concern to our community. Our goals are to advocate for residents' input in all decisions – whether state, county, town, or private – affecting our community, to ensure the safety of our neighborhoods, to enhance area property values, and to promote positive and strategic development of the area where appropriate and beneficial.*

Exhibit 15 Letter of Support from 84 Lumber Company



LUMBER COMPANY

Traffic Dept.

**1019 ROUTE 519, BUILDING #7 EIGHTY FOUR, PA 15330
(724) 228-8820**

November 6, 2009

U S Rail Corporation
7846 W. Central Avenue
Toledo, Ohio 43617

Sills Road Realty, LLC
485 Underhill Boulevard
Syosset, New York 11791

Gentlemen:

We understand that U S Rail Corporation plans to construct and operate a freight rail yard known as the Brookhaven Rail Terminal in Yaphank, New York.

Founded in 1956, 84 Lumber Company is the nation's leading privately- held building materials and services supplier to professional contractors. The company encompasses 319 locations nationwide and 5,000 associates who provide one-on-one service to every customer, ensuring an efficient and satisfying purchasing experience. 84 Lumber operates five locations on Long Island, employs thirty five associates locally and sells nearly \$25,000,000 of building materials and supplies to local contractors annually

We are interested in developing a rail served distribution facility for our products on Long Island to service our existing locations and to accommodate possible future expansion. Availability of rail service is crucial to our plans by ensuring lower transportation costs, and competitive wholesale pricing, for our products. We have discussed the benefits of the Brookhaven Rail Terminal as a potential site for such facility and believe it would uniquely serve our needs.

We look forward to working with you to develop our facility at the Brookhaven Rail Terminal.

Very truly yours,

Bob Foster
Logistics Director
84 Lumber Company