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December 9, 2014

Victoria Rutson, Director
Office of Environmental Analysis
and
Federal Preservation Officer
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

**RE: REQUEST TO PARTICIPATE AS CONSULTING PARTY
STB DOCKET: AB-167-1189-X and related matters
CONRAIL ABANDONMENT IN HUDSON COUNTY, N.J.**

Dear Ms. Rutson,

On November 14, 2014 we mailed you a letter requesting that we be granted status as Participants in the above matters. As of today, almost a month later, that letter is not to be found on the STB website under the category of "Environmental Correspondence". The most recent entries there are from 2009. Among those entries are two that also concern requests to participate in the environmental review process. One of those, STB Document EI-17790, is an e-mail from Charles Montange who represents the City and others in this matter. The other, STB Document EI-17793, is an e-mail from Rosemary McFadden, a former Deputy Mayor of Jersey City, indicating that the City's Corporation Counsel would participate on behalf of the City. Ms. McFadden's correspondence may be outdated and in conflict with the e-mail from Mr. Montange. I am sending copies of this letter to Mr. Montange, to counsel of record for Conrail, and to the City's present Corporation Counsel, Jeremy Farrell, so that they can work out any issues with how they wish to proceed.

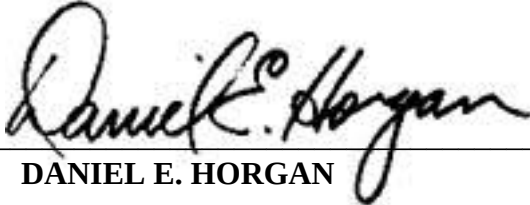
My first concern is that our prior request to participate does not appear in the electronic record of this case on the STB website, and I have received no acknowledgement that it has been received and noted. Therefore, I am re-sending it with this letter and filing it electronically as a "request to participate". I request some confirmation, either by website listing or other communication, so that there is no mistake and no oversight of our desire to participate, and to timely receive relevant communications from the STB regarding the environmental review process. We would also like to ensure that all environmental review correspondence is being made publicly available through the website, if that is not otherwise happening now.

Secondly, yesterday we filed a motion to compel discovery from the petitioner, Conrail, and from the three parties represented by Mr. Montange. Those are Jersey City, Rails to Trails Conservancy, and the Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition. That motion raises questions on the scope of Conrail's petition and whether it is improperly segmented and fragmented so as to frustrate proper review, including environmental review. Since the Board has directed on August 11, 2014 that environmental review proceed as the next step in these matters, and since we intend to ensure that the matter is not improperly segmented, we direct your attention to our most recent motion for whatever information and notice it provides to your current consideration and review. If the Board, or Director of Proceedings, delays a ruling on our motion (which is only one of the pending motions to compel discovery in these proceedings), we are likely to consider a formal motion to the Board to abate the current environmental review process until all relevant motions concerning involved issues are decided. We advise you of this to ensure that you are aware that the present process may likely be subject to challenge in the near future. A review of our motion, filed yesterday, will provide additional information.¹

Very truly yours,

WATERS, McPHERSON, McNEILL, P.C.

BY: _____


DANIEL E. HORGAN

CC: Charles Montange, Esq. – Attorney for City, et al
Robert M. Jenkins, III, Esq. – Conrail
Jeremy Farrell, Corporation Counsel – Jersey City

¹ We would normally provide you with the filing information, but are currently unable to do so. While we did receive an acknowledgement yesterday of electronic filing, the STB website today does not indicate the filing. We have made inquiry and understand that the problem is now being addressed. The motion should be available to you by the time you review this letter. If it is not, we will certainly provide a copy upon request.