

February 11, 2020

Ms. Victoria Rutson
Director
Office of Environmental Analysis
Surface Transportation Board
395 E. Street SW
Washington, DC 20423

Re: Docket No. FD 36312, Oakland Global Rail Enterprise
- Authority to Operate a Rail Line in Oakland, Cal.

Dear Director Rutson:

I am writing to you on behalf of my client the City of Oakland, California (“City”) regarding a letter dated January 9, 2020 (“January 9 Letter”) from your office concerning an impending request for authorization by Oakland Global Rail Enterprise (“OGRE”) to operate a rail line on the former Oakland Army Base (“OAB”) in Oakland, California. Although the service list attached to that letter lists the City as a recipient, no City office has a record of receiving it. Instead, the City only yesterday received the January 9 Letter from another interested party.

The City owns the property and right-of-way at issue. As the City has noted in previous proceedings before the STB, *see e.g.* Docket No. FD 36301, the City has terminated the lease to the Oakland Bulk & Oversize Terminal (“OBOT”), through which the OAB right-of-way is subleased to OGRE. OGRE therefore lacks the requisite property rights to operate within the OAB. Accordingly, the City asserts that it is premature and therefore inappropriate for the STB to consider OGRE’s application, including the environmental impacts, at this time. Further, the scope of the project the rail would serve is subject to litigation in state court in California (*see OBOT v. Oakland*, Case Nos. RG18930929 (Alameda Superior Court); A157330 (California Court of Appeal, First Appellate District)) and therefore it is not possible to adequately evaluate the environmental impacts.

We request in the future to be served with notice regarding any proceedings in this docket, including the environmental investigation your office is conducting. Please do not hesitate to contact me if you have any questions.

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Sincerely,

A handwritten signature in blue ink, appearing to read "Charles A. Spitulnik". The signature is fluid and cursive, with a long horizontal line extending from the end.

Charles A. Spitulnik

Counsel for City of Oakland, California