

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-1095 (Sub. No. 1)

**PAULSBORO REFINING COMPANY LLC
-- ADVERSE ABANDONMENT --
SMS RAIL SERVICE, INC. IN GLOUCESTER COUNTY, NJ**

**REPLY OF PAULSBORO REFINING COMPANY LLC
TO COMMENTS OF SMS RAIL SERVICE, INC.
TO ENVIRONMENTAL ASSESSMENT**

Eric M. Hocky
CLARK HILL THORP REED
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103-7041
(215) 640-8500

Attorneys for
Paulsboro Refining Company LLC

Dated: March 24, 2014

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-1095 (Sub. No. 1)

**PAULSBORO REFINING COMPANY LLC
-- ADVERSE ABANDONMENT --
SMS RAIL SERVICE, INC. IN GLOUCESTER COUNTY, NJ**

**REPLY OF PAULSBORO REFINING COMPANY LLC
TO COMMENTS OF SMS RAIL SERVICE, INC.
TO ENVIRONMENTAL ASSESSMENT**

On March 14, 2014, SMS Rail Service, Inc. ("SMS") filed Comments to the Environmental Assessment ("EA") issued by the Board's Office of Economic Analysis ("OEA") on February 12, 2014. The applicant Paulsboro Refining Company LLC ("PRC") hereby replies to the SMS Comments.

In the Environmental Assessment, OEA found that there will not be a diversion of traffic, and there will be no salvage. EA at 2. Accordingly, OEA found that the proposed adverse abandonment would not result in significant environmental impacts. EA at 3, 4.

While SMS argues that the current rail traffic will not be handled in the same manner (a contract switching operator will perform the plant switching instead of SMS), it does not, and cannot dispute the two basic findings of OEA that underlie its conclusion – there will be no diversion of traffic and there will be no salvage of the tracks.

SMS also makes arguments about possible deterioration in safety and the possible impacts on community and rural development. SMS made the same arguments in its Protest to the adverse abandonment application. PRC filed a Reply to the Protest demonstrating that SMS is not as safe an operator as it asserts, that there is no evidence

that service by an experienced contract operator (including Savage Services) will be any less safe than the service provided by a carrier, and that there will be no loss in rail service and no adverse impact on rural or community developments. *See* PRC Reply to Protest filed March 10, 2014.

Astonishingly, SMS argues that OEA and the Board do not have the authority to determine whether the proposed abandonment will have adverse environmental impacts. SMS Comments at 6. It makes this assertion despite the Board's longstanding regulations which require OEA to make an environmental assessment in every abandonment proceeding, and SMS's own arguments earlier in this proceeding. Decision served July 26, 2012, slip op. at 6-7 (denying PRC request for waiver of environmental and historic report requirements; requiring report where tracks may be leaving the Board's jurisdiction). *See also* 49 CFR Part 1105. There is no basis for the Board to consult with other agencies here. This is unlike any of the decisions cited by SMS, none of which involved abandonment proceedings, and all of which involved operations by a common carrier. As SMS has pointed out, if the abandonment is granted, neither the operations of the contract switching operator nor the tracks will be subject to the jurisdiction of the Board, and there is no need to consult with any other agencies about how those operations will be handled. SMS continues to take every action possible to delay the decision of the Board on the adverse abandonment application, and the Board should reject these efforts.

For the foregoing reasons there is no reason for the OEA or the Board to modify the EA or to consult with any additional agencies.

Respectfully submitted,



ERIC M. HOCKY
CLARK HILL THORP REED
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-8500

Attorneys for
Paulsboro Refining Company LLC

Dated: March 24, 2014

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of March, 2014, I served a copy of the foregoing Reply on the persons listed below by the method shown:

By email:

Fritz R. Kahn
1919 M Street, NW
7th Floor
Washington, DC 20036

David Ziccardi
Conrail
1717 Arch Street, 32nd Floor
Philadelphia, PA 19103

David Coleman
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510

Paul Hitchcock
CSX Transportation, Inc.
Law Department
500 Water Street, J150
Jacksonville, FL 32202

By US First Class Mail, postage prepaid:

Michael A. Carrocino, Facility Manager
Exxon Mobil Research and Engineering
Company
600 Billingsport Road
Paulsboro, NJ 08066

By:



Eric M. Hocky