

From: C. Montange <c.montange@frontier.com>
Sent: Wednesday, December 07, 2016 6:52 PM
To: Rutson, Vicki
Cc: Wayland, Joshua; Miller, Barbara; Kitay, Evelyn
Subject: Re: AB 167-1189X

Ms. Rutson, we are preparing a letter to STB OEA and ACHP concerning certain matters associated with this email chain, and in particular your statements to ACHP concerning discovery.

From: Rutson, Vicki
Sent: Wednesday, December 07, 2016 5:34 PM
To: C. Montange
Cc: Wayland, Joshua; Miller, Barbara; Kitay, Evelyn
Subject: RE: AB 167-1189X

Mr. Montange, to avoid possible confusion, I wanted to send a final response to the emails and calls you have directed to OEA recently regarding the scope of our analysis in the Harsimus case. With respect to the Board's historic review, as you know OEA is currently working on the APE Report, which sets out the scope of our analysis. I suggest that you rely on that report for information on the scope of our review. In early 2017, we plan to issue the APE Report to the public for review and comment. You and the other stakeholders will have ample opportunity to participate.

You have also raised questions to me about discovery. Because OEA has no role regarding discovery issues, I am not the person that can help you on discovery. Any discovery questions or concerns you might have should be raised with Administrative Law Judge Dring. I hope this information is of assistance.

Regards,

Vicki Rutson

From: C. Montange <c.montange@frontier.com>
Sent: Wednesday, November 30, 2016 3:42 PM
To: Rutson, Vicki
Cc: Wayland, Joshua; Miller, Barbara; Kitay, Evelyn
Subject: Re: AB 167-1189X

Thanks. I will treat this as indicating that OEA at least informally feels its environmental and historic reviews encompass any reasonable line endpoint east of Marin Blvd in 1189X.

On Wednesday, November 30, 2016 12:36 PM, "Rutson, Vicki" <Vicki.Rutson@stb.gov> wrote:

Mr. Montange, please feel free to make the arguments that you feel are warranted. Josh Wayland is the new project leader on Harsimus. I believe that you and he have already chatted.

Regards,

Vicki Rutson

From: C. Montange [mailto:c.montange@frontier.com]
Sent: Tuesday, November 29, 2016 6:09 PM
To: Rutson, Vicki <Vicki.Rutson@stb.gov>
Subject: Re: AB 167-1189X

Thanks. There are three issues that I wish to speak to you personally about. 1. Your letter of 21 Sept. tells ACHP that there is on-going discovery relating to 110(k). I was unaware that STB was making available an opportunity for same, but I will probably now seek some depositions on the issue. Before I do, I want to make certain that Office of Proceedings will allow such discovery, for my earlier impression was they would not. 2. Riffin has filed a declaratory proceeding relating to whether the so-called Hudson Street Industrial Trackage is a "line." That trackage was basically in or adjacent to the old yard at the base of the Harsimus, and if any "analysis" is needed for it, it should be part of 1189X. My recollection is that you guys are doing an historic review that should encompass that stuff and I wish for your opinion on this, very soon, due to the 20 day reply rule. I see no reason for yet another opportunity for Riffin or the LLCs to bog down this ten plus year ordeal. 3. I was unaware that Ms. Nadals had left the agency. I would like an update for my clients on where matters stand.

On Tuesday, November 29, 2016 2:41 PM, "Rutson, Vicki" <Vicki.Rutson@stb.gov> wrote:

Mr. Montagne, Cathy Nadals has left the agency. I'll let you know shortly who the new project leader will be.

Regards,

Vicki Rutson

From: C. Montange [mailto:c.montange@frontier.com]
Sent: Tuesday, November 29, 2016 4:25 PM

Cc: Rutson, Vicki <Vicki.Rutson@stb.gov>
Subject: AB 167-1189X

Ms. Nadals, I have been unable to reach anyone in OEA for a couple days. In order to respond to some filings by Riffin relating to 1189X (Harsimus in Jersey City), I wish to speak to you about the scope of OEA's environmental review. It will not take long. In addition, I desire some information about Ms. Rutson's letter to ACHP on Sept. 21, 2016, concerning 110(k).