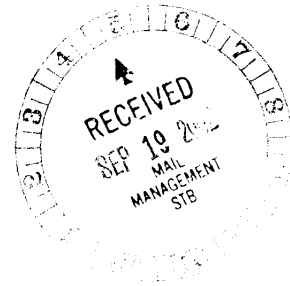


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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. ~~33040~~ ³⁴⁰⁴⁰

**RIVERVIEW TRENTON RAILROAD COMPANY
PETITION FOR EXEMPTION FROM 49 U.S.C. 10901
TO ACQUIRE AND OPERATE A RAIL LINE IN
WAYNE COUNTY, MICHIGAN**

NINETY-DAY STATUS REPORT OF CITY OF TRENTON

**ENTERED
Office of Proceedings**

SEP 19 2002

**Part of
Public Record**

Wallace G. Long,
City Attorney
City of Trenton
39400 Woodward Ave., Suite 101
Bloomfield Hills, MI 48304
(248) 723-0321

September 19, 2002



**BEFORE THE
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Finance Docket No. 33040

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Pursuant to the June 14, 2002 directive of the Surface Transportation Board requiring the parties to make additional efforts to resolve the issues involved through negotiations and report the progress within 90 days, the City of Trenton hereby reports the following developments:

1. The representatives of the parties had extensive, repeated meetings with RTRR beginning on July 8, 2002 and extending through September 6, 2002. During the negotiations, the governmental units including the City of Trenton, City of Riverview and Wayne County, repeatedly requested of RTRR to stipulate to a further extension of the negotiation time period based upon progress in the discussions, and the communities' need to identify the availability of alternate parcels in the immediate area and determine their suitability for rail operations. This request was denied.
2. During the course of negotiations each party exchanged proposals for a

compromise resolution of the dispute. RTRR's proposal was to develop the original 76-acre site along the Detroit River, acquired from DSC, as a truck and rail depot, perpetuating its industrial use. The RTRR Plan contemplates the relocation of a one-mile stretch of county highway along the Detroit River with a narrow band of green space between the highway and the River. (See Wayne County Exhibit).

3. The communities, in turn, proposed to RTRR relocation assistance to several alternate sites in the Southeast Michigan area which provided ready access to interstate highways, rail and/or water or air transportation. (These sites included the Port of Monroe, 15 miles to the south, the Kelsey-Hayes site on I-275 near Wayne County Metropolitan Airport, and the Port of Detroit). Consideration of each was summarily rejected by RTRR.
4. In order to provide other possible alternatives within the City of Trenton, the City contracted for a preparation of a comprehensive land use study to harmonize the City's development interests in its international waterfront with that of RTRR. The \$200,000 study (Smith Group Plan, a copy of which is attached to Wayne County reponse) contemplates relocating the 76-acre RTRR site across West Jefferson Avenue (a County highway), away from the waterfront and immediately adjacent to the same Class 1 Railroad Lines of Grand Trunk Railroad and Conrail. The site is nearly twice as large, consisting of 135 acres and encompasses a rail spur within its boundary. The City had proposed to acquire the site for RTRR and swap parcels with it in order to reclaim the 76-acre waterfront parcel. The new site fronts on a State highway (Fort), with links to the interstate freeway (I-75) at both the north and south ends. Because freight traffic could utilize the State

highway, there would be measurably less road deterioration than would occur using local roads.

5. This significant proposal by the cities offered as a compromise and an alternative, was summarily rejected by RTRR in the negotiations as being unrealistic and speculative, for the following reasons: the current land owner (DTE Energy) had not yet approved any such transaction, the absence of a sufficient straight line of rail to permit the assembly of a 100-car train (projected at a mile and a half), the absence of preexisting rail line on the property, the absence of connections and cross connections to the Class 1 railroads in the immediate area and the absence of a rail spur to the deep water port facility on the adjacent DSC property (from which RTRR acquired its parcel). RTRR also indicated that to relocate, the communities would have to absorb the expense of RTRR's new petition to the Surface Transportation Board for approval of the alternate site. In fact, the City was engaged in active negotiations to secure the alternative site; the site has a longer stretch of straight line rail than does RTRR's 76-acre site and when combined with the adjoining track, has over a mile of straight line track; and has cross connections to the Class 1 Railroads. Water access would be available by rail spur.
6. Noteworthy is the fact that the original RTRR plan, and the environmental assessment prepared in conjunction therewith, only contemplated use of the 76-acre site purchased from DSC in 2000 and rail spurs on the adjacent DSC property. According to the introduction appearing in ES 1 of the Environmental Assessment, the "petition was submitted with respect to RTRR's proposed acquisition and operation of a 1.5 mile railroad on the property RTRR owns in the

cities of Riverview and Trenton in Wayne County, Michigan." Yet during the course of the negotiations, the communities learned of RTRR's plan to acquire an additional 65 acres of property from DSC "to accommodate its business plans". No mention has ever been made in RTRR's application to STB of its intent to acquire additional acreage for its operations. Ostensibly, the purpose of acquiring the additional acreage is to permit the assembly of 1.5 miles of straight (not curved) rail line for the assembly of a 100-car train. An examination of the current 76-acre site indicate the absence of any such length of straight rail which according to RTRR, is a prerequisite to consideration of any alternate site.

7. Additionally, RTRR took the position in the negotiations that it would its operations would conform with the Environmental Assessment report compiled for the STB. That report conflicts with proposals originally submitted to the City for the operation in several material respects (*e.g.*, the presentation to the City proposes operations from 7 A.M. to 7 P.M. The provisions contained within the Environmental Assessment contemplate operations from 6 A.M. to 10 P.M.) (See Wayne County Exhibit - Proposal to City of Trenton).
8. While the counterproposal by the communities to relocate the RTRR facility within the City of Trenton does not alleviate all of the concerns identified by the City in its original response to the Environmental Assessment (*e.g.*, train and truck traffic), it does represent a compromise by the communities which permits the management of the additional burdens placed upon the community, and is therefore preferable to the unfettered discretion which RTRR would have on its operations should it secure STB approval for the existing site or the now disclosed expanded site.

RELIEF

The communities are confident that with additional time to explore the suitability and existence of alternate sites, as well as resources to fund RTRR's new demands, that an acceptable alternative will emerge. For these reasons, the City of Trenton requests the STB grant a further extension of time by 120 days.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

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Dated: September 19, 2002

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NINETY-DAY STATUS REPORT OF CITY OF TRENTON

CERTIFICATE OF SERVICE

Gina L. Barber, being first duly sworn, deposes and says that on the 19th day of September, 2002, she mailed a copy of **City of Trenton's Ninety-Day Status Report** in the above-captioned matter to:

David A. Hirsh
Harkins Cunningham
801 Pennsylvania Avenue, Suite 600
Washington, DC 20004-2664

via electronic mail; and

David H. Coburn
Steptoe & Johnson, LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036

Randal A. Pentiuk
Pentiuk, Couvreur & Kobiljak, P.C.
Suite 230, Superior Place
20300 Superior Street
Taylor, MI 48180

Mark J. Zausmer
Fink, Zausmer & Kaufman
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334-2374

Sean Finn
Myles L. Tobin
Grand Trunk Western Railroad, Inc.
455 North Cityfront Plaza Dr., 20th Floor
Chicago, IL 60611-5318

by depositing said documents into a United States Post Office receptacle with the above address and correct postage affixed thereto.

Gina L. Barber