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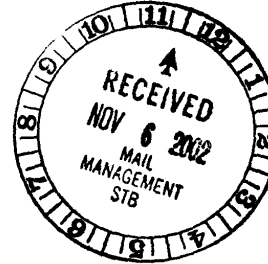
Wallace G. Long

email: WLong@howardandhoward.com

NOV 6 2002

October 31, 2002

Date of
Filing Record



The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, D.C. 20423-0001

**Re: Finance Docket No. 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**

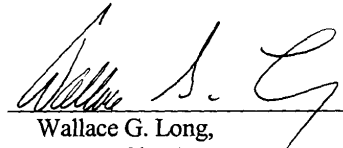
Dear Secretary Williams:

Enclosed for filing please find an original and 10 copies of the Reply of the City of Trenton to RTRR's Rebuttal, along with a Certificate of Service confirming service to all parties of record.

Thank you for your assistance in this matter.

Very truly yours,

HOWARD & HOWARD ATTORNEYS, P.C.

By: 
Wallace G. Long,
Trenton City Attorney

WGL/glb

Enclosure(s)

cc: David H. Coburn
Mark J. Zausmer
Randal A. Pentiuk
Sean Finn
David A. Hirsh

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BEFORE THE
SURFACE TRANSPORTATION BOARD

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NOV 2002

Part of
Public Record

Finance Docket No. ³⁴⁰⁴⁰ 33040



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

REPLY OF CITY OF TRENTON TO RTRR'S REBUTTAL

CERTIFICATE OF SERVICE

Gina L. Barber, being first duly sworn, deposes and says that on the 31st day of October, 2002, she mailed a copy of **Reply of the City of Trenton to RTRR's Rebuttal**, in the above-captioned matter to:

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

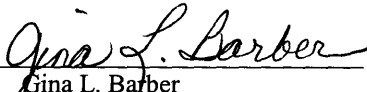
Mark J. Zausmer
Fink, Zausmer & Kaufman
31700 Middlebelt Road, Suite 150
Farmington Hills, MI 48334-2374

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

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

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

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


Gina L. Barber

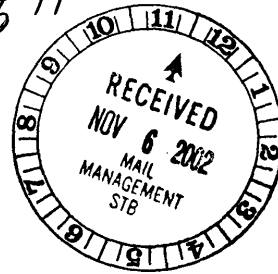
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BEFORE THE
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REPLY OF CITY OF TRENTON TO RTRR'S REBUTTAL

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

October 31, 2002

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 33040

**RIVERVIEW TRENTON RAILROAD COMPANY
PETITION FOR EXEMPTION FROM 49 U.S.C. 10901
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WAYNE COUNTY, MICHIGAN**

REPLY OF CITY OF TRENTON TO RTRR'S REBUTTAL

On October 19, 2002, the City of Trenton received a copy of a reply memo to the STB from RTRR regarding the City's response to RTRR's status filing. The RTRR reply claimed misrepresentations in the City's response and bad faith in negotiations, but was itself reprehensible, for its attack on the City and its officials, and was littered with inaccuracies and material omissions which, because of their severity, warrant a further response. Instead of attributing corresponding motives to RTRR for the new allegations, the City simply makes the following responses:

1) The City Was Having Ongoing Discussions With DTE at the Time of It's Filing with STB

Chief among the false allegations in the RTRR document is that the City misrepresented to the STB that it had been in discussions with DTE Energy over the use of its property. RTRR claims that the correspondence from one DTE official (Douglas Gibson), dated August 16, 2002, definitively demonstrated that DTE had no interest in disposing of its property and that the City knew of this lack of interest before its filing with the STB. Nothing could be further from the truth and the City submits confirming correspondence from DTE Senior Vice President for Corporate Affairs, that the parties were still discussing the matter in September, at the time of the

STB filing. What RTRR failed to disclose to the STB is that the exhibit letter which RTRR submitted as definitive evidence, was only the initial position of one division of DTE, not the Corporation, and was therefore, neither definitive nor final. Instead RTRR suggested that the DTE discussions with the City ended on August 16, and failed to disclose to the STB that both the County and the City further pursued its discussions with other DTE personnel well after August 16. Gardner had advised the City that DTE would not rule out a transaction involving the sale or lease of some of the 334 acres of DTE property (reserving for itself the quarry pit). Following those discussions, the City then began the process of attempting to satisfy DTE's conditions.

RTRR was advised at a September 6th meeting with the City, and again in correspondence dated September 27, that there had been several conversations with DTE officials. Despite being so advised, RTRR not only neglected to inform the STB of this fact in its latest filings, but affirmatively suggested to the STB that the final answer on behalf of DTE was set forth in the communication of August 16. (To support its position, RTRR states that it attempted to secure additional specific information concerning the time, date and individuals involved in the several DTE meetings through the City's legal counsel, but was unsuccessful, again neglecting to inform the Board that such inquiries were made after the filing deadline and negotiations had been suspended by RTRR). (The City had no affirmative obligation to itemize to RTRR the time, date and persons at DTE with whom it had spoken during this period. RTRR similarly spurned inquiries made to it by the City correspondence dated September 27th, attempting to similarly authenticate information provided by RTRR) (e.g., RTRR suggested that the City could not legitimately offer the DTE property for consideration because it did not yet control the property and because the property did not have sufficient track. The City sought to verify RTRR's need for 1½ miles of straight track as well as its full ownership and control of its

parcel, noting the existence of a disputed parcel traversing the RTRR parcel owned by Detroit Edison. RTRR stated it was not relevant and refused to answer).

2) RTRR Failed To Provide To The City Its Full List of Demands

Contrary to RTRR assertion, there was reason to believe further negotiations could yield a settlement in this proceeding, provided RTRR delivered the Communities the elusive "20% list" of its remaining needs (previously promised to the Communities but never provided), on a timely basis and did not further modify its requirements for operating on an alternate site.

3) No Delays in Meeting

The disingenuous suggestion by RTRR that the Communities delayed the negotiating process as evidenced by an eight week delay in setting up the initial joint meeting of the parties (See RTRR Reply, page 3, Section I) is an interesting suggestion to the STB because it ignores the fact that RTRR was able to meet with Trenton officials immediately after receiving the STB Order and later even wrote the Communities on August 7th indicating that it was perfectly prepared to meet jointly or individually.

4) Relocation Option Not Onerous

The initial proposal by the Communities for RTRR to relocate 15 miles to another site "outside the county", was hardly as onerous as RTRR portrays (the county line is only 10 miles away), and would hardly have a significant impact on RTRR's business, since according to its own Environmental Assessment, RTRR states its business needs to be in "regional proximity of automotive industry suppliers and assembly plants" which are scattered throughout southeast Michigan. This is particularly true in light of the fact that the Monroe County site has both modern port facilities, direct link (not through neighborhoods) to interstate I-75 and expanded acreage. (See attachment of Port of Monroe) Additionally, (and contrary to RTRR's assertion that the Communities "lacked the most basic information" as to site) the Port of Monroe site was

suggested to RTRR some 2 years previously, and materials on the site provided to RTRR at that time.

5) Abundance of Alternate Rail Evident.

In response to the Communities' suggestion that the DTE property (in combination with adjacent parcels), has sufficient rail and rail bed to accommodate RTRR's newly declared needs for one and one half miles of straight track to assemble a train, RTRR suggested to the STB that the existing rail (as evidenced by the existing rail crossing King Road), was merely a rail end terminating on the north side of King Road. (Oct. 1, 2002, correspondence by RTRR Attorney Coburn). In fact, RTRR's so called "rail end", extends well onto the Detroit Edison parcel before it is disassembled, but largely remains buildable rail bed in much the same condition as portions of the already deteriorating spurs on the RTRR property which will also require rehabilitation. (See attached site map).

RTRR's position to the STB had been that the Communities could supply no maps evidencing the existence of rail on either the Levy property to the south or DTE property to the north, suggesting by inference, that it did not exist. In fact, a mere visual observation of the site makes its existence obvious. A simple site visit would reveal the existence of rail line both to north and south (albeit overgrown) and several parallel spurs on south side of King Road, which aggregate to well over one mile in length, a fact which RTRR chose to simply ignore. (See attachment).

6) Failure To Provide Evidence In 90 Days.

RTRR then claims the Communities failed to "...offer any evidence of these points during the course of the 90 day settlement period...", suggesting by inference that the subject of the DTE property was on the table during the course of this entire 90 day period. It was not. This material was not demanded by RTRR until well into the 90 day period. The Communities,

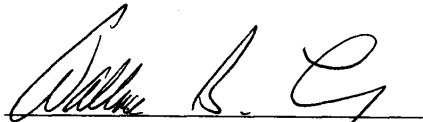
the concerns that have been outlined by the Local Governments", represents a new height in arrogance. The Communities have uniformly rejected the RTRR proposal not only because of the adverse impact on the roads, neighborhoods, and waterfront, but because RTRR has never demonstrated to the STB that it needs to be a railroad to operate its business. It just wants to be. Worse yet, potential exists for even greater expansion of the site, which RTRR foreshadows in each submission and intermittently, confirms and denies depending on the forum. RTRR dismisses this as speculative and inappropriate for STB consideration at this time, which if accepted, would leave the Communities in the position of having to later return to the STB with the proverbial "I told you so."

For all of these reasons, the STB should reject the RTRR petition for railroad designation at this site.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

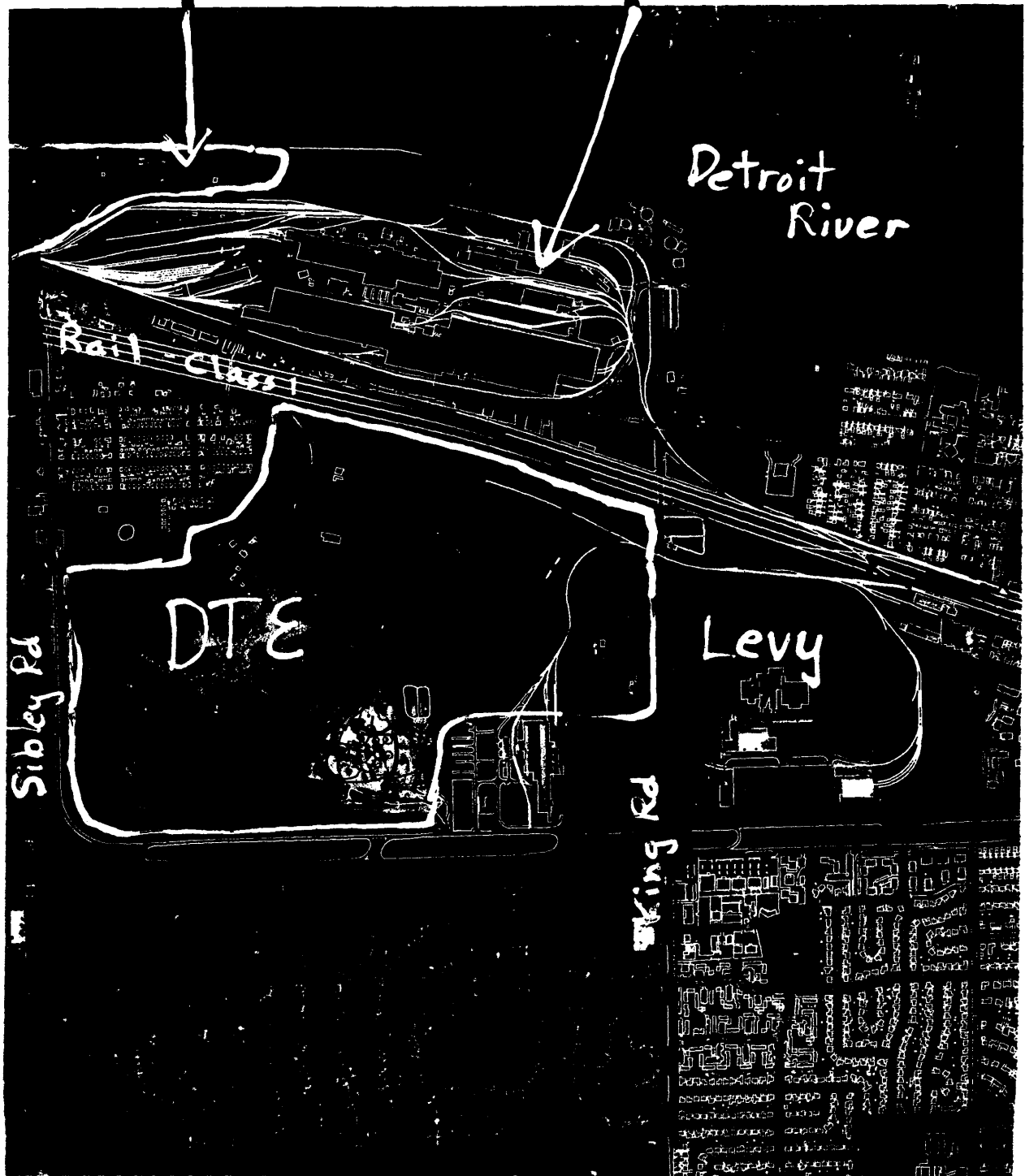
By:


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Dated: October 31, 2002

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RTRR ; DSC





Port of Monroe West

Port of Monroe, Michigan
2929 East Front Street, P.O. Box 585, Monroe, MI 48161
Telephone: 734.241.6480



Aerial photo of Port of Monroe West Industrial Park

- 76 acres available.
- Municipal water and sewer.
- Located at the intersection of I-75 and East Front Street @ Exit 13.
- Rail on site.
- Port facilities adjacent to the park.
- Zoning: Heavy Industrial

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Port of Monroe East

Port of Monroe, Michigan
2929 East Front Street, P.O. Box 585, Monroe, MI 48161
Telephone: 734.241.6480



Aerial photo of Port of Monroe East Industrial Park

- 28 acres available.
- Municipal water and sewer throughout park.
- Located at the intersection of I-75 and East Front Street @ Exit 13.
- Rail on site.
- Port facilities adjacent to the park.
- Zoning: Heavy Industrial



Exclusive marketing agent for
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Peter S. Rogers

peter_rogers@cushwake.com



Commercial Properties

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2929 East Front Street, P.O. Box 585, Monroe, MI 48161
Telephone: 734.241.6480

Click on the pictures below for more details about these industrial sites.



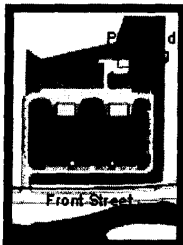
Port of Monroe,
East



Port of Monroe,
West

Port of Monroe Features

- 250 acres of vacant land.
- Class A roads.
- A logistics "dream land" with direct rail service by Norfolk Southern and Canadian National. A full highway interchange for direct access to I-75 @ Exit 13.
- Utilities Available
- Heavy Industrial Zoning
- A streamlined administrative process to approve building site plans and building permits.



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