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GOVERNMENT RELATIONS

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November 14, 2002

206 635



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

Re: Docket No. AB 596, *New York City Economic Development Corporation*
-- *Adverse Abandonment* -- *New York Cross Harbor Railroad, Inc.*

Dear Sir:

This is to reply to the letters from John D. Heffner, counsel for the New York Cross Harbor Railroad ("NYCH") dated November 12, 2002 ("November 12 Letter") and the supplement to that Letter dated November 13, 2002 ("November 13 Letter"), in this proceeding. Notwithstanding NYCH's statements to the contrary, New York City Economic Development Corporation ("NYCEDC") would like the Board to recognize the request to take this proceeding out of its abeyance status for what it really is: an attempt to bring closure to this proceeding now.

While many of the allegations in the November 12 Letter and the November 13 Letter do not merit a response, NYCEDC must correct several misstatements:

- 1) NYCEDC has done all it can do to comply with the promise to make it possible for NYCH to have access to the 65th Street Yard. The agreement which delegates to CP Rail the responsibility for operation and management of the 65th Street Yard requires it to grant access to the yard for users of the float bridge.
- 2) As a practical matter, NYCH cannot use the float bridges without access to the 65th Street Yard. NYCEDC has consistently stated and never has deviated from its position that when NYCH obtains an agreement with CP Rail or New York & Atlantic ("NY&A") to operate in the 65th Street Yard, NYCEDC will provide NYCH with the opportunity to contract for use of the float bridges at 65th Street.

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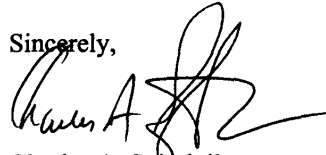
- 3) Despite repeated requests from NYCEDC, NYCH has produced no document that purports to be a signed agreement between NYCH and CP Rail or NY&A for use of the 65th Street Yard;
- 4) The delay in NYCH's ability to gain access to the float bridges at 65th Street is directly attributable to NYCH's failure to secure an agreement and then produce it to NYCEDC for use of the 65th Street Yard.
- 5) With respect to the November 13 Letter, two points bear emphasis. First, NYCEDC was never presented with evidence of a bona fide emergency situation that would call for consideration of a contract out of the normal process. Second, NYCEDC has never refused access to the facilities in question in the face of a bona fide emergency situation.

NYCEDC wants to make sure that NYCH has access to the 65th Street Yard before it expends the City's resources negotiating an agreement or managing the Vendex process that all contractors with the City or any of its agencies must complete. NYCH's inability to secure a written agreement for use of the 65th Street Yard during these many months suggests that the City's caution in this regard is well founded.

In view of all the facts, NYCEDC objects to further extensions or delays in this matter. Enough is enough.

I am enclosing an additional copy of this letter that I would ask you to date stamp and return to our messenger. Thank you for your attention to this matter.

Sincerely,



Charles A. Spitulnik

cc: All parties on the Certificate of Service